

NAHASDA Essentials

Participant Notebook

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ONAP TRAINING

NAHASDA Essentials



AGENDA

DAY 1

Times Mountain Time

9:00 a.m. - 12:00 p.m.

Opening Session:

Welcome and Participant Introductions

Review of NAHASDA ESSENTIALS Participant Workbook

Chapter 1-NAHASDA Overview

Provides background of Indian housing, NAHASDA of 1996, and the NAHASDA Reauthorization Act of 2008

Chapter 2-Formula

Describes the key components of the formula allocation process and mechanisms to challenge the data

Exercise- Reviewing the Response Formula Form

12:00p.m. - 1:00p.m.

LUNCH

1:00 p.m. – 4:00 p.m.

Chapter 3-Eligible Participants

Explains the various factors applied in determining participant eligibility

Exercise - Calculating Income to Determine Eligibility

Exercise - Calculating Adjusted Gross Income & TTP

Exercise - Non Low-Income Income

Chapter 4-Eligible Activities

Describes various activities and criteria for identifying eligible activities

Wrap-up

AGENDA *(continued)*

DAY 2

9:00 a.m. – 12:00 p.m.

Opening Session: Welcome and Recap

Chapter 5-Program Options: Rental Housing

Reviews various types of rental development and determining financial feasibility

Exercise – Operating Expenses

Chapter 6-Program Options: Home Purchase Assistance

Summarizes eligible home purchase assistance options under NAHASDA and program design options

12:00p.m. - 1:00p.m.

LUNCH

1:00 p.m. - 4:00 p.m.

Chapter 7-Program Options: Homeowner Rehabilitation

Describes Homeowner rehabilitation program options, eligible types of activities and costs, construction management methods, and housing quality standards

Chapter 8-Program Options: Housing Services, Housing Management and Crime Prevention

Provides a summary of eligible activities under NAHASDA and a description of program delivery options and other sources of funding

Exercise – Identifying Eligible Activities

Chapter 9-The Indian Housing Plan/APR

Describes the mechanics of developing an Indian Housing Plan

Exercise – Budgets: Needs, Sources, Uses

AGENDA *(continued)*

DAY 3

9:00 a.m. – 12:00 p.m.

Opening Session: Welcome and Recap

Chapter 9-The Indian Housing Plan/APR continued

Chapter 10-Grant Management

Outlines the steps required from grant agreement through close out

Chapter 11-Compliance with Administrative Requirements *Provides a general overview of the administrative requirements*

Chapter 12- Other Federal Requirements

Summarizes key federal requirements such as Indian Preference, environmental review, relocation, labor requirements, etc.

12:00p.m. - 1:00p.m.

LUNCH

1:00 p.m. – 4:00 p.m.

Chapter 13-Effective Financial Management

Provides an overview of the key financial management elements of managing NAHASDA funds

Chapter 14-Recordkeeping and Reporting

Explains programmatic and financial records a recipient must maintain, audit and monitoring requirements, and the Federal Financial Report SF425

Chapter 15-Unit Maintenance

Reviews the essentials of a well-designed maintenance program, covering work orders, budgeting, staffing, policies, etc.

CHAPTER 1: NAHASDA OVERVIEW

This chapter provides a history and overview of NAHASDA and its implementing regulations and contains a glossary of terms. It also highlights the key steps in receiving and implementing the IHBG grant.

HISTORY OF NAHASDA

[NAHASDA Sections 106 and 501-506]

The Native American Housing Assistance and Self-Determination Act (NAHASDA) was signed into law on October 26, 1996. NAHASDA:

- Streamlines the process for providing housing assistance to Native Americans, and
- Replaces several programs that previously provided housing assistance to Indian housing authorities (IHAs).

The strength of NAHASDA is that it gives tribes more responsibility and more flexibility. Tribes now have greater flexibility to determine:

- Who they serve,
- What types of products and services they offer, and
- How they will deliver programs and projects.

Tribes are still required to serve low-income families with exceptions as required under the U.S. Housing Act of 1937.

Repealed Programs

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.

NOTES

Chapter 1: NAHASDA Overview

NAHASDA also:

- Provides for an Indian Housing Block Grant (IHBG). Both the annual grant received by tribes and the program that directs the use of this grant are known as IHBG. IHBG is a formula-driven program that provides funding to eligible tribes nationwide.
- Makes the IHBG and other assistance directly available to Indian tribes rather than to IHAs. Tribes may run the program directly or may designate a tribally designated housing entity (TDHE) to administer it on their behalf. Throughout this manual, tribes and TDHEs will be referred to as “recipients.”

In order to interpret and implement NAHASDA, regulations were developed by HUD and tribes nationwide through negotiated rulemaking. The process of developing the regulations was mandated by Section 106(b) of the Statute. The regulations were developed using a 58-member Negotiated Rulemaking Committee. This Committee included tribal leaders from across the country, as well as HUD staff. This unusual way of writing regulations is significant because this was the first step in implementing the “self-determination” intention of NAHASDA. The IHBG regulations:

- Replace the U.S. Housing Act of 1937 (1937 Act) regulations at § 950, and
- Set forth the necessary policies and procedures for the administration of grants made to eligible recipients under the IHBG program.

OVERVIEW OF NAHASDA STATUTE, REGULATIONS, NOTICES, AND GUIDANCE

[NAHASDA Sections 2 and 201, § 1000.1 - § 1000.8]

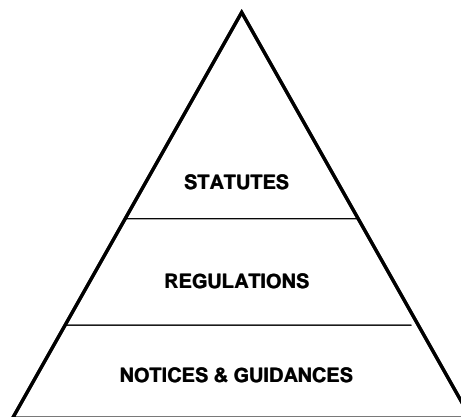
What is the difference between the NAHASDA Statute, the regulations and HUD guidance?

- Statutes are federal laws written by Congress.
 - Statutes can only be changed by an Act of Congress.
 - The Statute cannot be waived since it is a law instituted by Congress
 - A copy of the Statute may be found at the Appendix I.

NOTES

Chapter 1: NAHASDA Overview

- ❑ Regulations are written to implement statutes.
 - Regulations can be waived by a Departmental Secretary (the Secretary of HUD) so long as this waiver is not in conflict with the Statute. See IHBG regulation § 1000.8 for more information.
 - Regulations are usually administered by the federal agency that is designated in the statute to oversee the new program. In the case of NAHASDA, it is the U.S. Department of Housing and Urban Development (HUD) and more specifically HUD's Office of Native American Programs (ONAP) that is the designated federal agency.



- A copy of the IHBG program regulations may be found in Appendix II.
- ❑ Program Guidances and Public and Indian Housing (PIH) Notices are issued by HUD periodically and are available electronically. See Program Guidance 2010-08 *“Electronic Posting of Guidance Documents”* for more information.
 - HUD notices are official transmittals to recipients, typically regarding policy issues or procedural topics. Typically, information in HUD notices may be waived by the Assistant Secretary for Native American Programs, unless it relates to the regulations or statute.
 - Program Guidances assist tribes to implement the IHBG program or provide tools for program management. They also help clarify various technical topics. To the extent that program guidances are advisory and designed to help tribes implement their programs, no waiver is needed. When program guidances further explain the regulations or statute, the waiver provisions regarding these documents holds true.

The Statute, regulations, notices and program guidances work together to provide the full picture of each grant recipient's opportunities and responsibilities.

- ❑ 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.

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Chapter 1: NAHASDA Overview

- Thus, a program administrator must be able to refer to both the Statute and the regulations simultaneously to have a complete understanding of NAHASDA.
- Program Guidances and PIH Notices help to illustrate both the Statute and the regulations. An index of all Program Guidances and PIH Notes is included as Attachment 1-1

Summary of the Statute

NAHASDA, signed into law on October 26, 1996, was further amended on October 21, 1998; December 27, 2000; November 13, 2002; October 30, 2004; December 22, 2005; August 8, 2005; October 14, 2008; and October 12, 2010. Transition notices clarifying the changes required to transition from the 1937 Act to NAHASDA requirements are included in Appendix III. The Native American Housing Assistance and Self-Determination Reauthorization Act of 2008 (Pub. L. 110-411 (Appendix IV), approved October 14, 2008) (NAHASDA Reauthorization) reauthorizes NAHASDA through September 30, 2013, and amends section 106 of NAHASDA to provide that HUD shall initiate a negotiated rulemaking in order to implement aspects of the 2008 Reauthorization Act that require rulemaking. On January 5, 2010 ([75 FR 423](#)), HUD published a Federal Register notice announcing the 25 members of the negotiated rulemaking committee (the NAHASDA Reauthorization Rulemaking Committee). The amended NAHASDA final rule was published in the Federal Register on December 3, 2012 and became effective on January 2, 2014. Appendix II contains the final rule.

The Statute sets forth seven Congressional findings:

- The Federal government has a responsibility to promote the general welfare of the Nation.
- There exists a unique relationship between tribes and the Federal Government.
- The United States has undertaken a unique trust responsibility to protect and support Indian people.
- Congress has assumed a responsibility to improve housing and socio-economic conditions.
- The United States has a special role in providing affordable homes in a safe and healthy environment.
- The Federal Government shall work to assist in the development of private housing finance mechanisms on Indian land.

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Chapter 1: NAHASDA Overview

- Federal assistance shall be provided in a manner that recognizes Indian self-determination and tribal self-governance.

The primary objectives of NAHASDA are 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;
- Ensure better access to private mortgage markets for Indian tribes and their members and promote self-sufficiency of Indian tribes and their members;
- Coordinate activities to provide housing for Indian tribes and their members and promote self-sufficiency of Indian tribes and their members;
- Plan for and integrate infrastructure resources for Indian tribes with housing development for Indian tribes; and
- Promote the development of private capital markets in Indian country and allow such markets to operate and grow, thereby benefiting Indian communities.

The Statute contains seven title sections, including:

- Title I: Block Grants and Grant Requirements – Covers the Indian Housing Plan (IHP) and other Federal requirements;
- Title II: Affordable Housing Activities – Covers eligible activities, low-income targeting and other program requirements;
- Title III: Allocation of Grant Amounts – Covers the annual allocation and the formula;
- Title IV: Compliance, Audits, and Reports – Covers remedies for non-compliance, monitoring and performance reports;
- Title V: Termination of Assistance for Indian Tribes under Incorporated Programs – Covers repealed programs;
- Title VI: Federal Guarantees for Financing for Tribal Housing Activities – Covers the provisions for the loan guarantee program; and

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Chapter 1: NAHASDA Overview

- ❑ Title VII: Other Housing Assistance for Native Americans – Covers Section 184 and other housing assistance for Native Americans.

Summary of the IHBG Regulations

The IHBG regulations are written in a question/answer format to address the provisions of the statute necessary to implement NAHASDA. The IHBG Regulations (24 CFR Part 1000) became final on March 12, 1998 and have since been amended multiple times:

- ❑ The regulation was amended four additional times for minimum allocation for need on June 24, 2003; June 17, 2004; January 27, 2005; and April 20, 2007. See Chapter 2 for more information on the minimum funding rule.
- ❑ The regulation was also amended on September 28, 2001, to revise the way construction costs are restricted in the IHBG Program. The revised rule replaced the system of HUD-established Dwelling Construction and Equipment costs (DC&Es) with a choice between HUD-established Total Development Costs (TDCs) or standards established by the tribe/TDHE based on construction costs in its geographic area.
- ❑ The regulation was further amended on April 20, 2007, to include the revisions to the IHBG program formula allocation made by the Negotiated Rulemaking Committee.
- ❑ The regulation was amended on October 18, 2007, specifying that IHBG funds could be used for tenant-based or project-based rental assistance.
- ❑ The regulation was amended December 3, 2012, to reflect the 2008 NAHASDA Reauthorization amendments and other amendments to NAHASDA from 1998-2008.

The regulations are divided into six subparts:

- ❑ Subpart A - General restates NAHASDA's primary objectives. It also contains the legal authority of the regulation, other applicable Federal laws that impact NAHASDA and the conflict-of-interest provisions that apply under the IHBG program. Finally, Subpart A contains key terms used in the regulations.
- ❑ Subpart B- Affordable Housing Activities contains regulations and amendments to implement affordable housing activities and includes the following topics:
 - Eligible activities;

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Chapter 1: NAHASDA Overview

- Eligible beneficiaries;
 - Cost and Payment Limits; and
 - Existing housing stock.
- Subpart C- Indian Housing Plan (IHP) sets forth all requirements concerning the preparation, submission and review of a tribe's IHP. NAHASDA requires that a tribe submit an IHP prior to the receipt of IHBG funds.
 - Subpart D- Allocation Formula establishes the formula for allocating amounts available for a fiscal year under NAHASDA.
 - Subpart E- Federal Guarantees for Financing of Tribal Housing Activities establishes the terms and conditions by which HUD will guarantee the obligations issued by a recipient for the purposes of financing eligible affordable housing activities.
 - Subpart F- Recipient Monitoring, Oversight, and Accountability addresses monitoring of compliance, performance reports, HUD and tribal review, audits, and remedies for non-compliance.

Notices and Program Guidances

As noted above, HUD's ONAP publishes a series of notices and program guidances to clarify issues about implementing programs under NAHASDA. There have been various notices and program guidances published since the adoption of the IHBG regulations. A copy of all HUD program guidances and notices regarding NAHASDA can be found at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/regs

KEY IHBG PROGRAM ELEMENTS

[§ 1000 Subparts B and D]

Formula

The IHBG formula is used to allocate grant funding to Indian tribes and TDHEs. Tribes and TDHEs play an important role in reviewing, reporting, and verifying information. Formula data allows ONAP to allocate IHBG funds equitably and fairly to eligible recipients.

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Chapter 1: NAHASDA Overview

- ❑ Statutory requirements for the formula allocation are found in Title III of the NAHASDA Act of 1996.
- ❑ Regulatory requirements that implement the formula are found in Subpart D, Allocation Formula, §§ 1000.301-1000.340.

There are a number of key elements of the IHBG Program, including the formula, eligible activities, eligible beneficiaries, and program administration and financial requirements. These topics are summarized below.

As noted above, the IHBG is distributed through a formula. This formula is calculated annually, depending upon the annual IHBG appropriation from Congress.

The first annual IHBG formula run produces estimated allocations that are sent to both tribes and TDHEs, and is completed on June 1. Final allocations are completed after appropriations are announced and prior year carry-over is determined. The date of the final formula run varies each year depending on when the President signs the appropriations into law. The formula contains two key components: Current Assisted Stock (CAS) and Need.

- ❑ Formula Current Assisted Stock (FCAS) is comprised of two categories of housing: Current Assisted Stock (CAS), which consists of housing units owned or operated pursuant to an Annual Contributions Contract (ACC) and 1937 Act units in the development pipeline. The two elements of FCAS that are used to calculate the FCAS portion of the formula are operating subsidy and modernization allocation.
- ❑ There are several components used to calculate the need allocation. Each component is weighted when calculating overall need (§ 1000.324). More detail on these components is presented in Chapter 2.
- ❑ Data is drawn from the Census and from HUD sources. Tribes may challenge data through a specified process. More information on the formula and challenging formula data may be found in Chapter 2.
- ❑ The amount that any one tribe will receive is determined by their formula numbers and by the overall programmatic funding for that year.

NOTES

Chapter 1: NAHASDA Overview

Indian Housing Plan

The IHP is a planning document for the recipient that is required by HUD prior to awarding any IHBG funds to an eligible recipient. The IHP spells out how the recipient intends to use the funds it receives under its IHBG.

The key components of the IHP include:

- A One-Year Plan.
- The One-Year Plan is a plan of action for the use of that year's block grant allocation. In the One-Year Plan, the recipient will describe its existing housing stock, assess housing needs and determine how it will allocate its resources. Further information on the One-Year Plan is found in Program Guidance 2013-04 "*Guidance for the Indian Housing Plan/Annual Performance Report*".

Eligible Beneficiaries

It is important that recipients know who may be served with IHBG funds.

- NAHASDA regulations at § 1000.104 permit four types of participants:
 - Low-income Indian families. Low-income families are defined as families whose income does not exceed 80 percent of the median income for the area.
 - Non low-income families. Non low-income families are families whose income exceeds 80 percent of the median income for the area. However, under an exception in the Statute, these families may be assisted with NAHASDA funds under certain specific circumstances.
 - Essential families. Essential families may receive funding if that family's housing cannot be met without IHBG assistance and the recipient determines that the family's presence is essential to the well being of Indian families living on the reservation or in the Indian area.
 - Law enforcement officers who are employed as law enforcement officers full-time and that the recipient determines that the presence of the officer may deter crime.
- The regulations allow tribes to serve members who are within their Indian area and the tribe itself defines this area.

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Chapter 1: NAHASDA Overview

- ❑ Regulations §§ 1000.110-118 provide additional information about serving non-low-income families.

For more information about eligible households, see PIH Notice 2014-02 *“Providing Assistance to Non Low-Income Families under the Native American Housing Assistance and Self-Determination Act of 1996”* as well as Chapter 3 of this training manual and the IHBG regulations at 24 CFR Part 1000.

Eligible Activities

Section 202 of the statute permits a wide variety of activities to provide affordable housing and to assist low-income families living in affordable housing units.

- ❑ Eligible activities include:
 - Indian Housing Assistance: The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between HUD and an IHA.
 - Development: The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development and rehabilitation of utilities, necessary infrastructure, and utility services, conversion, demolition, financing, administration and planning, improvement to achieve greater energy efficiency, mold remediation, and other related activities.
 - Housing Services: The provision for housing-related services for affordable housing, such as housing counseling in connection with rental or homeownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities participating or seeking to participate in the program.
 - Housing Management Services: The provision of management services for affordable housing, including preparation of work specifications, loan processing, inspections, tenant selection, management of tenant-based rental assistance, the costs of operation and maintenance of units developed under NAHASDA and management of affordable housing projects.

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- **Crime Prevention and Safety Activities:** This covers a range of activities related to safety, security and law enforcement measures and activities to protect residents of affordable housing from crime.
- **Model Activities:** This category enables recipients to undertake housing activities within the goals of the Statute but is not expressly listed in the activities above.
- **Reserve Accounts:** This permits recipients to establish reserves for administration and planning purposes.
- **Administration and Planning:** Under Section 101(h) of NAHASDA and implementing regulations, recipients may also spend up to 20% (or 30% for smaller grantees) of their annual grant amount or annual planned expenditures (whichever is greater) on administering and planning IHBG activities.
- More information on eligible activities can be found in Chapters 4 through 8.

Program Administration and Financial Management

The IHBG regulations describe a number of requirements related to the financial and administrative management of the IHBG program.

Some of these requirements include:

- Program income, which is defined as certain specific income that is realized from the disbursement of IHBG funds;
- Conflict of interest, which requires that written standards be adopted to govern the procurement of property, supplies, equipment and services and prohibit a person with decision-making authority to obtain a personal or financial interest in, or benefit from, an IHBG funded activity;
- Indian preference, which requires recipients to make training, employment and contracting opportunities available to Indian persons to the *maximum extent feasible*.
- Required policies, which indicate what policies are required to be adopted by the recipient in order to ensure efficient administration of IHBG funds; and
- Insurance, which safeguards investments made through the IHBG program.

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These topics, including financial management and compliance with 2 CFR Part 200 are covered in Chapters 10, 11 and 13.

Recordkeeping and Reporting

The recipient is required to keep the following records, which are required by statute, regulation or grant agreement:

- Financial and programmatic records,
- Supporting documents, and
- Statistical records.

The recipient must maintain financial records for three years from the end of the tribal program year during which the funds were expended.

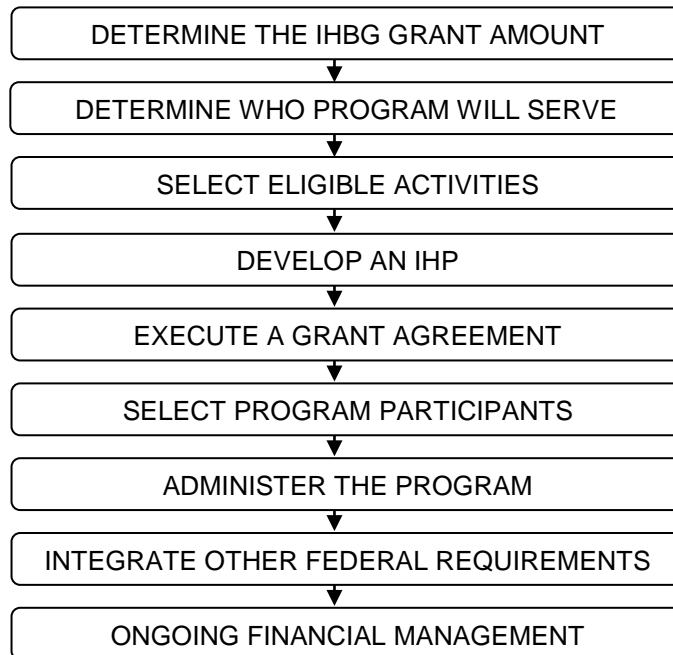
- If any claim, litigation, negotiation, audit or other action involving a record is begun before the end of the three-year period, the records must be retained until the completion and resolution of the action, or until the end of the three-year period, whichever is later.

See Chapter 14, *Recordkeeping and Reporting* for additional information.

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KEY STEPS IN THE GRANTS ADMINISTRATION PROCESS

In order to administer the IHBG process, there are a number of steps that a recipient will undertake, including:



Each of these topics will be covered in the following chapters.

OTHER RESOURCES

Additional sources of information include:

- Codetalk Website with ONAP Area Offices
 - <http://www.hud.gov/offices/pih/ih/codetalk>
- Calendar of Events
 - <http://www.hud.gov/offices/pih/ih/codetalk/calendar.cfm>

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Program Guidances and Notices

- <http://www.hud.gov/offices/pih/ih/codetalk/nahasda/>

Resources and Tools

- <http://www.hud.gov/offices/pih/ih/codetalk/resources.cfm>

IHBG Formula page

- http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/codetalk/onap/ihbgformula

GLOSSARY

[IHP Form HUD-52737, § 1000.10]

1937 Act: 1937 Act refers to the United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

Abatement: Measures to permanently (at least 20 years) control lead-based paint or lead-based paint hazards.

Adjusted Gross Income: Adjusted gross income is defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes.

Affordable Housing Resident (Resident): Any family or individual living in an affordable housing unit (either rental or homebuyer) that was developed under the United States Housing Act of 1937 (low rent, Mutual Help and Turnkey housing units), housing developed under NAHASDA, or other housing units that are not assisted under NAHASDA, but which meet the requirements of Title II of NAHASDA.

Affordable Housing Activities: Affordable housing activities identified in Section 202 of NAHASDA.

Allowable Expense Level (AEL): In rental projects, the per-unit, per-month dollar amount of expenses used to compute the operating subsidy used prior to October 1, 1997, for Low Rent units developed under the 1937 Act. The “AEL factor” is the relative difference between a local AEL and the national weighted average for AEL.

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Annual Contributions Contract (ACC): A contract under the 1937 Act between HUD and an IHA containing the terms and conditions under which HUD assists the IHA in providing decent, safe and sanitary housing for low-income families.

Annual Income: Annual income has one of the following meanings, as determined by the Indian tribe:

1. The definition of "Annual income," as defined for HUD's Section 8 programs in 24 CFR part 5, subpart F (except when determining the income of a homebuyer for an owner-occupied rehabilitation project, the value of the homeowner's principal residence may be excluded from the calculation of Net Family assets), or
2. Annual income as reported under the Census long form for the most recent available decennial Census. This definition includes: (i) Wages, salaries, tips, commissions, etc.; (ii) Self-employment income; (iii) Farm self-employment income; (iv) Interest, dividends, net rental income, or income from estates or trusts; (v) Social security or railroad retirement; (vi) Supplemental Security Income, Aid to Families with Dependent Children, or other public assistance or public welfare programs; (vii) Retirement, survivor, or disability pensions; and (viii) Any other sources of income received regularly, including Veterans' (VA) payments, unemployment compensation, and alimony.
3. Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes. This definition includes such adjustments as alimony paid, moving expenses, and individual retirement arrangement (IRA).

Area Office of Native American Programs (ONAP): An ONAP field office.

Assistant Secretary: The Assistant Secretary refers to the Assistant Secretary for Public and Indian Housing.

Building Codes (i.e. – CABO, UBC): A series of codes and standards that specify how rehabilitation work and new construction is to be carried out. Building codes inform contractors how to carry out the work and are used by inspectors when checking completed work. Council of American Building Officials (CABO) and Uniform Building Code (UBC) are models of these types of standards.

Clearance Examination: Clearance is performed after hazard reduction, rehabilitation or maintenance activities to determine if a unit is safe for occupancy. It involves a visual

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assessment, analysis of dust and soil samples and the preparation of a report. A certified risk assessor, paint inspector or lead sampling technician (called a clearance technician in the HUD regulation) performing clearance must be independent from the entity/individual conducting paint stabilization or hazard reduction.

College Housing: College housing is housing, the primary purpose of which is to provide housing for students who are attending post-high school educational facilities.

Cost Estimate: A summary of the expected cost of providing the materials, labor and equipment to complete a construction job.

Current Assisted Stock: Housing units owned or operated pursuant to an Annual Contributions Contract, including all low rent, Mutual Help, and Turnkey III housing units under management as of September 30, 1997.

Date of Full Availability (DOFA): The last day of the month in which substantially all the units in a housing development are available for occupancy.

Department or HUD: Department or HUD refers to the Department of Housing and Urban Development.

Dilapidated Housing: A dilapidated housing unit is a unit that does not provide safe and adequate shelter and in its present condition endangers the health, safety or well-being of a family; or a unit that has one or more critical defects, or a combination of intermediate defects in sufficient number or extent to require considerable repair or rebuilding. The defects may involve original construction, or they may result from continued neglect or lack of repair or from serious damage to the structure.

Downpayment/Closing Costs: This is the amount needed to be paid by homebuyers at closing. For many homebuyers, these up-front costs of purchasing a home are the biggest barrier to homeownership.

Elderly Family: The term “elderly family” means a family whose head (or his or her spouse), or whose sole member is an elderly person (at least 62 years of age). Such terms include two or more elderly persons living together and one or more such persons living with one or more persons determined under the IHP for the agency to be essential to their care or well-being.

Elderly Person: The term elderly person means a person who is at least 62 years of age.

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Fair Market Rent (FMR): Gross rent estimates, including all utilities except telephones. HUD estimates FMRs on an annual basis for 354 metropolitan areas and 2,355 non-metropolitan areas.

Family: The term, “family,” includes, but is not limited to, a family with or without children, an elderly family, a near-elderly family, a disabled family or a single person, as determined by the Indian tribe.

Formula Annual Income: A household’s total income as defined by the U.S. Census Bureau.

Formula Current Assisted Stock: Current Assisted Stock (defined above) plus 1937 Act units in the development pipeline when they became owned or operated by the recipient and are under management as indicated in the Formula Response Form. Formula Current Assisted Stock also includes Section 8 units when the current contract expires and the recipient continues to manage the assistance in a similar manner to the Section 8 program.

Formula Median Income: Is determined in accordance with section 567 of the Housing and Community Development Act of 1987 (42 U.S.C. 1437a note).

Formula Response Form: The form recipients use to report changes to their Formula Current Assisted Stock, formula area, and other formula related information before each year’s allocation.

Goal: A goal is a measure that is used to guide and motivate an organization toward achieving its mission.

Grant Beneficiary: The Indian tribe or tribes on whose behalf of which a grant is made under NAHASDA to a recipient.

Homebuyer: A family that is purchasing a home pursuant to a lease purchase agreement. Upon completion of all required homebuyer payments and transfer of title to the housing unit, the family becomes a homeowner.

Homebuyer Payment: This term means the payment of a family purchasing a home pursuant to a lease purchase agreement. Upon completion of all required homebuyer payments and transfer of title to the housing unit, the family becomes a homeowner.

Homeless Family: The term, “homeless family,” means a family that is without safe, sanitary and affordable housing, even though it may have temporary shelter provided by the community, or a family that is homeless, as determined by the Indian tribe.

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Homeless Housing: Homeless housing is any facility, the primary purpose of which is to provide temporary or transitional shelter for the homeless in general or for specific populations of the homeless.

Homeowner: An individual or family who has a mortgage, holds title to a housing unit, or will have a mortgage through NAHASDA assistance to a housing unit.

Housing Quality Standards (i.e. HUD's HQS): A series of standards that specify the basic living and structural conditions for existing properties.

IHBG: IHBG is the acronym for Indian Housing Block Grant.

Income: Annual income as defined in this glossary.

Indian: Any person who is a member of an Indian tribe.

Indian Area: Indian area refers to the area within which an Indian tribe operates affordable housing programs or the area in which a TDHE is authorized by one or more Indian tribes to operate affordable housing programs.

Indian Housing Authority (IHA)/tribally designated housing entity (TDHE) means an entity that is:

1. Authorized to engage or assist in the development or operation of low-income housing for Indians under the 1937 Act, and

Established by: (i) exercise of the power of self-government of an Indian tribe independent of state law, or (ii) operation of state law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.

Indian Tribe:

(A) IN GENERAL—The term “Indian tribe” means a tribe that is a federally recognized tribe or a State recognized tribe.

(B) FEDERALLY RECOGNIZED TRIBE—The term “federally recognized tribe” means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians

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because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975.

(C) STATE RECOGNIZED TRIBE:

(i) **IN GENERAL**--The term "State recognized tribe" means any tribe, band, nation, pueblo, village, or community—

(I) that has been recognized as an Indian tribe by any State; and

(II) for which an IHA has, before the effective date under section 705, entered into a contract with the Secretary pursuant to the United States Housing Act of 1937 for housing for Indian families and has received funding pursuant to such contract within the 5-year period ending upon such effective date.

Interim Controls: Set of measures to temporarily control lead-based paint hazards. Interim control methods must be completed by qualified workers using safe work practices. Follow-up monitoring is needed.

Internal Revenue Service's Adjusted Gross Income: Used to determine program eligibility from IRS form 1040 Series for Individual Federal Income tax purposes.

Jurisdiction: As used in NAHASDA, it shall mean "Indian Area," except where specific reference is made to the jurisdiction of a court.

Lead Hazard Screen: A limited risk assessment activity that can be performed instead of a risk assessment in units that meet certain criteria (e.g. good condition). The screen must be performed by a certified risk assessor. If the unit fails the lead hazard screen, a full risk assessment must be performed (40 CFR 745.227(c)).

Lead-Based Paint Hazards: Any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.

Lead-Based Paint Inspection: A surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation. It is performed by a certified paint inspector or risk assessor.

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Lead-Based Paint: Paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter (mg/cm²) or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

Lease-Purchase: An arrangement that assists lower-income homebuyers to purchase the home they currently rent. Through this arrangement, the future homebuyer accumulates a downpayment through a portion of each monthly rental payment.

Line of Credit Control System (LOCCS): A computerized cash management disbursement system that allows recipients to receive disbursements of grant funds via electronic wire transfer.

Low-Income Family: A family whose income does not exceed 80 percent of the median income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 percent of the median for the area on the basis of the findings of the Secretary or the agency that such variations are necessary because of prevailing levels of construction costs or unusually high or low family incomes.

Maximum Rents: The most that a family may pay in rents under NAHASDA. Low income families can pay no more than 30% of their adjusted income. However, recipients are permitted to set maximum rents lower than this.

Median Income: The definition of median income with respect to an Indian area is the greater of the median income for the Indian area, which the Secretary shall determine, or the median income for the United States.

Minimum Rents: A rent that a recipient may establish that represents the minimum payment a family may make.

Mission Statement: A mission statement is a concise, written statement that communicates an organization's reason for existence, its purpose.

NAHASDA: NAHASDA is the acronym for the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.), as amended.

Near-Elderly Family: The term near-elderly family means a family whose head (or his or her spouse), or whose sole member is a near-elderly person (at least 55 years of age and less than 62 years of age). Such terms include two or more near-elderly persons living together and one

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or more such persons living with one or more persons determined under the IHP for the agency to be essential to their care or well-being.

Objective: An objective is a step or activity undertaken to implement a goal within a specified period of time.

Office of Native American Programs (ONAP): This is the office of HUD, which has been delegated authority to administer programs under this part.

Overcrowded Conditions: Overcrowded means households with more than 1.01 persons per room.

Person with Disabilities: A person with disabilities is defined as a person who:

1. Has a disability as defined in section 223 of the Social Security Act,
2. Has a developmental disability as defined in section 102 of the Developmental Disabilities Assistance and Bill of Rights Act, or
3. Has a physical, mental or emotional impairment which: (i) is expected to be of long continued and indefinite duration, (ii) substantially impedes his or her ability to live independently, and (iii) is of such a nature that such ability could be improved by more suitable housing conditions.
4. The term "person with disabilities" includes persons who have the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agent for acquired immunodeficiency syndrome.
5. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities for purposes of eligibility for housing assisted under this part solely on the basis of any drug or alcohol dependence. The Secretary shall consult with Indian tribes and appropriate Federal agencies to implement this paragraph.
6. For purposes of this definition, the term "physical, mental or emotional impairment" includes, but is not limited to: (i) any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine, or (ii) any mental or psychological condition, such as mental retardation; organic brain syndrome; emotional or mental illness; and specific learning

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disabilities. The term “physical, mental or emotional impairment” includes, but is not limited to, such diseases and conditions as orthopedic; visual; speech and hearing impairments; cerebral palsy; autism; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; diabetes; Human Immunodeficiency Virus infection; mental retardation; and emotional illness.

Project: Defined under the 1937 Housing Act as a set number of single family units of low rent or mutual help (including scattered sites) which include infrastructure, roads, etc., which is built according to a specific plan.

Risk Assessment: A comprehensive evaluation for lead-based paint hazards that includes paint testing, dust and soil sampling, and a visual evaluation. The risk assessment report identifies lead hazards and appropriate lead hazard reduction methods. A certified risk assessor must conduct the assessment.

Single Room Occupancy (SRO): These are rental units that typically share a bathroom and kitchen facilities.

Standard Treatments: A complete set of interim control methods that, when used together, temporarily control all potential lead hazards in a unit. Because they address all conditions, a risk assessment or other evaluation is not needed. Standard treatments must be completed by qualified workers using safe work practices. As with interim controls, follow-up monitoring is needed.

Substandard Housing: Substandard housing is a housing unit that is dilapidated; does not have operable indoor plumbing; does not have a usable flush toilet inside the unit for the exclusive use of a family; does not have a usable bathtub or shower inside the unit for the exclusive use of a family; does not have electricity or has inadequate or unsafe electrical service; does not have a safe or adequate source of heat; should, but does not, have a kitchen; or has been declared unfit for habitation by an agency or unit of government.

Supportive Service Housing: Supportive service housing is housing, including housing units and group quarters that has a supportive environment and includes a planned supportive service component. A planned supportive service component includes services provided to residents of supportive service housing for the purpose of facilitating the independence of residents. Examples of services include case management, medical or psychological counseling and supervision, child care, transportation and job training.

Tenant Accounts Receivable (TAR): Rents or other funds owned by a tenant to the property owner.

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Total Development Cost (TDC): The sum of all costs for a project including administration, planning, site acquisition, demolition, construction or equipment and financing and other costs for carrying out the development of a project, including site based utility development. TDC is based on moderately designed housing and is determined by averaging current construction costs found in at least two nationally recognized residential construction cost indices. TDCs limit the amount of funds a tribe can spend to develop or rehabilitate a housing unit. This limit is meant to help ensure the unit's affordability. (§§ 1000.156 – 1000.162)

Transitional Housing: Transitional housing is temporary housing, the purpose of which is to facilitate the movement of homeless individuals and families to permanent housing within 24 months.

Underwriting: A comparison to ensure a homeowner/homebuyer can afford additional debt through an analysis of a homeowner's monthly income versus monthly housing expenses and/or total monthly debt.

Units Needing Rehabilitation: Units in need of rehabilitation are units that fail to meet the tribe's/TDHE's housing quality standards (HQS). The tribe's/TDHE's HQS must be at least as stringent as those used for the Section 8 program (see § 982.401), unless the Area ONAP approves less stringent standards based on a determination that local conditions make the use of the Section 8 standards infeasible.

Unit Inspection: A unit inspection is one of the first steps in any construction project. For rehabilitation projects, it helps determine feasibility, what work needs to be done, and whether that work can be financed with the available funding.

Useful Life: A period determined by the recipient that the home assisted with IHBG funds must be affordable and may have resale restrictions. Useful life is the term of affordability for a unit, as determined by the recipient in accordance with local conditions of the Indian area.

Visual Assessment: A visual assessment involves looking for, as applicable: (1) deteriorated paint; (2) visible surface dust, debris, and residue as part of a risk assessment or clearance examination; or (3) the completion or failure of a hazard reduction measure.

Voice Response System (VRS): Allows recipients to request funds from LOCCS using a touch-tone phone.

Work Write Up: A document prepared by the recipient's program staff responsible for inspecting and estimating project hard costs. It describes what construction work needs to be

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done in detail and specifies materials, methods and quantities. It is used as the basis for a cost estimate.

ACRONYMS LIST

1937 Act: The United States Housing Act of 1937

ACC: Annual Contributions Contract

ADA: Americans with Disabilities Act

AEL: Allowable Expense Level

AFDC: Aid to Families with Dependent Children

AGI – Adjusted Gross Income

AHP: – Affordable Housing Program (Federal Home Loan Bank)

AIAN: – American Indian and Alaskan Native

ANA: Administration of Native Americans

ONAP: Area Office of Native American Programs

APR: Annual Performance Report

BIA: Bureau of Indian Affairs

BLI: Budget Line Item

BOC: Board of Commissioners

CABO: Council of American Building Officials

CAS: Current Assisted Stock

CBDO: Community-Based Development Organization

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CDCs: Community Development Corporations

CDFI: Community Development Financial Institutions

CGP: Comprehensive Grant Program

CIAP: Comprehensive Improvement Assistance Program

CPD: Office of Community Planning & Development

CPSC: Consumer Product Safety Commission

CSBG: Community Services Block Grant

CWHSSA: Contract Work Hours and Safety Standards Act

DAS: Deputy Assistant Secretary

DBRA: Davis Bacon and Related Acts

DC&Es: Dwelling Construction and Equipment Costs

DOFA: Date of Full Availability

EA: Environmental Assessments

EGI – Effective Gross Income

EIS: Environmental Impact Statement

EITC: Earned Income Tax Credit

eLOCCS: Electronic Line of Credit Control System

EPA: U.S. Environmental Protection Agency

ERR: Environmental Review Record

FAC: Federal Audit Clearinghouse

FAQ: Frequently Asked Question

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FBI: Federal Bureau of Investigation

FCAS: Formula Current Assisted Stock

FEMA: Federal Emergency Management Agency

FFR: Federal Financial Record

FFY: Federal Fiscal Year

FHA: Federal Housing Administration

FHEO: Fair Housing and Equal Opportunity

FLSA: Fair Labor Standards Act

FMR: Fair Market Rent

FONSI: Finding of No Significant Impact

FY: Fiscal Year

GAAP: Generally Accepted Accounting Principals

GAO: Government Accountability Office

GE: Grants Evaluation

GIN: General Information Notice

GM: Grants Management

HIP: Housing Improvement Program

HOME: The HOME Investment Partnership Program

HPG: Housing Preservation Grant

HQS: Housing Quality Standards

HUD: U.S. Department of Housing and Urban Development

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ICDBG: Indian Community Development Block Grant

ICR: Indirect Cost Rate

IDA – Individual Development Account

IHA: Indian Housing Authority

IHBG: Indian Housing Block Grant

IHP: Indian Housing Plan

IHS: Indian Health Service

IPA: Independent Public Accountant

IRA: Individual Retirement Arrangement

IRS: Internal Revenue Service

LBP: Lead-Based Paint

LIHTC: Low Income Housing Tax Credit

LMI: Low- or Moderate-Income

LOCCS: Line of Credit Control System

LTV – Loan to Value

MH – The Mutual Help Homeownership Opportunity Program (HUD program)

MHOA: Mutual Help and Occupancy Agreement

NAHASDA: Native American Housing Assistance and Self-Determination Act of 1996

NOFA: Notice of Funding Availability

NOIRROF: Notice of Intent to Request for the Release of Funds

OIG: Office of Inspector General

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OLR: Office of Labor Relations

OMB: Office of Management and Budget

ONAP: Office of Native American Programs

OP: Operational Project

OSHA: Occupational Safety and Health Administration

PAS: Project Accounting System

PASS: Plan to Attain Self-Sufficiency

PBRA: Project Based Rental Assistance

PFS: Performance Funding System

PIH: Office of Public and Indian Housing

PILOT: Payment in Lieu of Taxes

PY: Program Year

RE: Responsible Entity

RFP: Request for Proposals

RHS: Rural Housing Service

ROSS: – Resident Opportunity and Self-Sufficiency Programs (HUD program)

RROF: Request for the Release of Funds

SEDS: Social Economic Development Strategies

SIB: State Identification Bureaus

SOW: Statement of Work

SRO: Single Room Occupancy

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TA: Technical Assistance

TANF: Temporary Assistance to Needy Families

TARS: Tenant Accounts Receivable

TBRA: Tenant Based Rental Assistance

TDC: Total Development Cost

TDD: Telecommunication Devices for the Deaf

TDHE: Tribally-Designated Housing Entity

TDW: Tribally Determined Wages

TRISP: Total Resident Indian Service Population

UBC: Uniform Building Code

UFAS: Uniform Federal Accessibility Standards

URA: Uniform Relocation Act

USDA: U.S. Department of Agriculture

VA: U.S. Department of Veteran's Affairs

VASH: Veteran's Affairs Supportive Housing

VRS: Voice Response System

NOTES

**ATTACHMENT 1-1:
INDEX OF PIH NOTICES AND PROGRAM GUIDANCES**

PIH NOTICES INDEX

| Notice Number | Subject | Issue Date |
|---------------------------|--|--|
| 2016 PIH | | |
| PIH 2016-07 | Extension — Total Development Costs (TDC) for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) - The purpose of this Notice is to extend the program requirements of PIH Notice 2015-09 dated June 4, 2015, and transmit the updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA. | Issued: May 4, 2016 Expires: This notice remains in effect until amended, superseded or rescinded |
| CPD 2016-02 | Guidance for Categorizing an Activity as Maintenance for Compliance with HUD Environmental Regulations, 24 CFR Parts 50 and 58. This Notice provides guidance on categorizing an activity as maintenance for purposes of compliance with HUD's environmental regulations, 24 CFR Parts 50 and 58. Under 24 CFR 50.19(b)(13) and 58.35(b)(3), maintenance is categorically excluded from environmental assessment under the National Environmental Policy Act (NEPA) and not subject to compliance requirements of the related federal environmental laws in 24 CFR 50.4 and 24 CFR 58.5, including the National Historic Preservation Act of 1966. Supersedes: March 28, 2006 CPD policy memorandum on this subject | Issued: February 8, 2016 Expires: This notice remains in effect until amended, superseded, or rescinded |
| 2015 PIH | | |
| PIH 2015-09 | Extension — Total Development Costs (TDC) for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) - The purpose of this Notice is to extend the program requirements of PIH Notice 2014-06 dated June 19, 2014, and transmit the updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA. | Issued: June 4, 2015 Expires: This notice remains in effect until amended, superseded, or rescinded |
| PIH 2015-08 (ONAP) | Administrative Requirements for Investing Indian Housing Block Grant (IHBG) Funds - This Notice establishes the basis upon which the Department will determine if a recipient of Indian Housing Block Grant (IHBG) funds has the administrative capacity to draw down IHBG funds for investment purposes as authorized under Section 204(b) of the Native American Housing Assistance and Self-Determination Act (NAHASDA). | Issued: May 8, 2015 Expires: This notice remains in effect until amended, superseded, or rescinded |
| SD 2015-01 | Transition to 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance – This HUD Transition Notice identifies and explains significant changes made in 2 CFR part 200, and provides transition guidance and links to additional resource materials. | Issued: Feb. 26, 2015 |

| Notice Number | Subject | Issue Date |
|--------------------|---|---|
| PIH 2015-01 | Indian Housing Block Grant (IHBG) Program: Guidance and Procedures for Environmental Reviews under Part 50 - This Public and Indian Housing (PIH) Notice rescinds Notice PIH 1999-37, issued August 19, 1999, and the three subsequent Notices that either extended or reinstated that Notice. | Issued: Jan. 9, 2015 Expires: This notice remains in effect until revoked, superseded, or rescinded |
| 2014 PIH | | |
| PIH 2014-16 | Extension — Total Development Costs (TDC) for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) - The purpose of this Notice is to extend the program requirements of PIH Notice 2013-05 dated January 30, 2013, and transmit the updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA. | Issued: June 19, 2014 Expires: This notice remains in effect until amended, superseded, or rescinded |
| PIH 2014-15 | Administrative and Planning Expenses in the Indian Housing Block Grant (IHBG) Program - This Notice provides specific guidance on administrative and planning expense requirements for recipients of IHBG funds. The regulatory requirements on IHBG administrative and planning expenses (24 CFR §§1000.236, 1000.238) changed on January 3, 2013. The regulation now identifies what percentage of the recipient's annual grant allocation or expenditures may be used for such purposes without prior HUD approval. This Notice replaces Notice PIH 2002-29. | Issued: June 19, 2014 Expires: This notice remains in effect until amended, superseded, or rescinded |
| PIH 2014-11 | Section 184 Indian Loan Guarantee Program Processing Guidelines - The purpose of this Notice is to provide information to lenders that service loans under the Section 184 Program about HUD's guidelines and procedures that must be followed in order to receive payment under the guarantee provided by HUD. | Issued: May 9, 2014 Expires: This notice remains in effect until amended, superseded or rescinded |
| PIH 2014-08 | Reinstatement and Revision of Accessibility Requirements for Native American Programs - The purpose of the Notice is to remind tribes and tribally designated housing entities (TDHE) who are recipients of Federal funds of their obligation to comply with pertinent laws and implementing regulations that provide for non-discrimination and accessibility in federally funded housing and non-housing programs for persons with disabilities. This Notice also revises some terminology in previous Notices. | Issued: April 30, 2014. This Notice remains effective until Amended, Superseded or Rescinded |
| PIH 2014-06 | Financial Audit Requirements for Tribal Participants in Public and Indian Housing Programs - This Notice rescinds and supersedes PIH Letter L-2007-03, issued June 29, 2007, to provide specific guidance on the financial audit requirements for the tribal participants in the following programs: the Indian Housing Block Grant (IHBG), the Indian Community Development Block Grant (ICDBG), the Native Hawaiian Housing Block Grant (NHHBG), Residential Opportunity and Self-Sufficiency (ROSS) Service Coordinators, the Rural Innovation Fund (RIF), and Rural Housing and Economic Development (RHED). The Notice incorporates revisions to the IHBG regulation at 24 CFR Part 1000, which became effective January 2, 2013. | Issued: April 16, 2014 Effective until revoked, superseded, or amended |

| Notice Number | Subject | Issue Date |
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| PIH 2014-02 | Providing Assistance to Non-Low-Income Families under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) – This Notice provides guidance on the requirements of Section 201(b) of NAHASDA, the recent revisions to the Indian Housing Block Grant (IHBG) regulations that became effective on January 3, 2013, and replaces PIH Notice 1999-6. | Issued: Jan. 24, 2014 Expires: This notice remains in effect until amended, revoked or superseded |
| 2013 PIH | | |
| PIH 2013-30 | Exclusion from Income of Payments under Recent Tribal Trust Settlements – The purpose of this notice is to provide guidance to PHAs, Indian tribes, tribally designated housing entities (TDHE), and other recipients of HUD programs on the treatment of certain trust settlement payments recently received by members of Indian tribes. This Notice covers how PHAs, Indian tribes, TDHEs, and other recipients of HUD programs should treat settlement payments received pursuant to the settlement in the case entitled <i>Elouise Cobell et al. v. Ken Salazar et al. (Cobell Settlement)</i> . This Notice also provides guidance on the exclusion of payments received pursuant to a number of other recent Tribal Trust Settlements with Indian tribes. | Issued: December 17, 2013 Expires: Effective until Amended, Superseded, or Rescinded |
| PIH 2013-29 | Providing Interim Funding to Recipients of Indian Housing Block Grants – This Notice provides instructions to tribes and tribally designated housing entities (TDHEs) on the process for requesting an advance on IHBG funds when there is limited funding under a CR. This Notice also provides instructions to Area Offices of Native American Programs (AONAPs) on how to review and process a request. Please note that HUD reserves the right to revise any terms of eligibility for interim funding based on any special terms of a future CR, including the availability of funding. | Issued: December 17, 2013 Expires: until rescinded |
| PIH 2013-22 | Micro-Purchase Process for Purchases of Less Than \$5,000 by Indian Housing Block Grant (IHBG) Recipients – The purpose of this Notice is to provide guidance to tribes and Tribally Designated Housing Entities (TDHEs) on Section 203(g) of the Native American Housing Assistance and Self-Determination Act (NAHASDA), which provides a De Minimis Exemption from competitive rules when IHBG recipients procure goods and services under \$5,000. | August 23, 2013 This notice remains in effect until amended, superseded or rescinded |
| PIH 2013-5 | Extension— Total Development Costs (TDC) for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) – The purpose of this Notice is to extend the program requirements of PIH Notice 2011-63, dated November 2, 2011, and transmit the updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA. | January 30, 2013 This notice remains in effect until amended, superseded or rescinded |
| PIH 2013-1 | Section 184 Indian Housing Loan Guarantee Program’s Maximum Loan Limits Effective January 1, 2013 – The purpose of this Notice is to update the mortgage loan limits for the Section 184 Indian Housing Loan Guarantee program (Section 184). HUD is authorized to set Section 184 maximum loan limits pursuant to 12 U.S.C. § 1715z-13a(b). | January 9, 2013 This notice remains in effect until amended, superseded or rescinded |
| PIH 2013-01 (TDHE) | Line of Credit Control System/Voice Response System (LOCCS/VRS) for the Indian Housing Block Grant Program – This Notice replaces Notice PIH 2011-21 and incorporates recent changes in the Indian Housing Block Grant (IHBG) program. | Issued: January 9, 2013 Expires: This notice remains in effect until amended, revoked or superseded |

| Notice Number | Subject | Issue Date |
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| 2012 | | |
| PIH 2012-49 (TDHEs) | Providing Interim Funding in Fiscal Year 2013 to Recipients of Indian Housing Block Grants – The Department is concerned that the delay in allocating FY 2013 IHBG funding may have an adverse effect on some tribes. This Notice provides instructions to tribes and tribally designated housing entities (TDHEs) on the process for requesting an advance on IHBG funds for FY 2013. | Issued: December 12, 2012 Expires: This notice remains in effect until amended, superseded or rescinded |
| PIH 2012-45 (TDHEs) | Recipient Inspection of Housing Units Assisted Under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) – This Notice modifies and updates the reporting instructions in PIH Notice 2008-32 to bring the information collection requirements current. | Issued: November 2, 2012 Expires: This notice remains in effect until revoked, superseded or rescinded |
| PIH 2012-37 (TDHEs) | Extension – Recipient Inspection of Housing Units Assisted under the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) and Those Assisted Under the United States Housing Act of 1937 – This Notice extends for another year Notice PIH 2011-49 (TDHEs), same subject, which will expire on August 31, 2012, for another year until August 31, 2013. | Issued: August 26, 2012 Expires: August 31, 2013 |
| PIH 2012-23 (ONAP) | Line of Credit Control System/Voice Response System (LOCCS/VRS) for the Indian Housing Block Grant Program – This Notice replaces Notice PIH 2011-21 and incorporates recent changes in the Indian Housing Block Grant (IHBG) program. | Issued: May 21, 2012 Expires: effective until amended, superseded, or rescinded |
| PIH 2012-12 | Indian Housing Plan/Annual Performance Report Form – Form HUD-52737 – The purpose of this Notice is to inform tribes and tribally designated housing entities (TDHE) of the new combined Indian Housing Plan/Annual Performance Report (IHP/APR) form that will replace the individual IHP (HUD-52735) and APR (HUD-52735-AS) forms beginning in Federal Fiscal Year (FFY) 2012 for the Indian Housing Block Grant (IHBG) program. | Issued: Feb. 22, 2012 Expires: EFFECTIVE UNTIL REVOKED, SUPERSEDED, OR AMENDED |
| PIH 2012-6 | Recapture Provisions for the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) Funds Authorized under the American Recovery and Reinvestment Act of 2009 – The purpose of this Notice is to provide tribes and tribally designated housing entities (TDHEs) with information on the Native American Housing Block Grant American Recovery and Reinvestmest Act of 2009 (ARRA) recapture provisions. [...] | Issued: Jan. 31, 2012 Expires: effective until revoked, superseded, or amended |
| PIH 2012-5 | Implementation of Statutory Change to the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) related to Income – The purpose of this Notice is to provide tribes and tribally designated housing entities (TDHE) who are recipients of federal funds with information about the exclusion of certain veteran's benefits from income calculations. [...] | Issued: Jan. 31, 2012 Expires: effective until revoked, superseded, or amended |
| 2011 | | |

| Notice Number | Subject | Issue Date |
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| PIH 2011-64 | Dun and Bradstreet Universal Numbering System (DUNS) Requirement – This Notice reminds tribes and tribally designated housing entities (TDHE) applying for Indian Housing Block Grant (IHBG) or Indian Community Development Block Grant (ICDBG) funds that they must obtain a Dun and Bradstreet Numbering System (DUNS) number and register with the Central Contractor Registration (CCR) prior to receiving IHBG or ICDBG funds. In addition, once a DUNS number is obtained, the CCR registration must be updated annually. | Issued: Nov. 30, 2011 Expires: EFFECTIVE UNTIL REVOKED, SUPERSEDED, OR AMENDED |
| PIH 2011-63 | Extension— Total Development Costs (TDC) for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) – The purpose of this Notice is to extend the program requirements of PIH Notice 2010-47 dated November 19, 2010, and transmit the updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA. | Issued: Nov. 2, 2011 Expires: EFFECTIVE UNTIL REVOKED, SUPERSEDED, OR AMENDED |
| PIH 2011-43 | Extension- Administrative Requirements for Investing Indian Housing Block Grant (IHBG) Funds – This Notice extends Notice PIH 2010-33 (TDHE) , same subject, which expires August 31, 2011. The purpose of this Notice is to establish the basis upon which the Department will determine if a recipient of Indian Housing Block Grant (IHBG) funds, as authorized by the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996 (Pub. L. 104-330, as amended), has the administrative capacity to draw down IHBG funds for investment purposes. | Issued: July 21, 2011 Expires: EFFECTIVE UNTIL AMENDED, SUPERSEDED, OR RESCINDED |
| PIH 2011-42 | Depository Agreements for Recipients of the Indian Housing Block Grant (IHBG) Program – The purpose of this Notice is to extend Notice PIH 2010-31 which transmitted the current depository agreement forms to be used when investing IHBG funds; form HUD-52736-A (10/2004) for banking accounts and form HUD-52736-B (10/2004) for brokers/dealers. Also, the Notice clarifies when to use depository forms and when tribes or tribally designated housing entities (TDHEs) may utilize brokers in the investment of Indian Housing Block Grant (IHBG) funds under 24 CFR 1000.58. | Issued: July 21, 2011 Expires: EFFECTIVE UNTIL AMENDED, SUPERSEDED, OR RESCINDED |
| PIH 2011-41 | Extension- Demonstration Program – Self-Determined Housing Activities for Tribal Governments – This Notice extends Notice PIH 2010-35 (TDHE) , same subject, which expires August 31, 2011. The purpose of this Notice is to establish requirements for tribes and tribally designated housing entities (TDHE) to participate in the Indian Housing Block Grant (IHBG) Demonstration Program authorized under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). | Issued: July 21, 2011 Expires: EFFECTIVE UNTIL AMENDED, SUPERSEDED, OR RESCINDED |
| PIH 2011-40 | Extension- Limiting Housing to Indian Families or Tribal Members when using Indian Housing Block Grant (IHBG) funds – This Notice extends Notice PIH 2010-32 (TDHE) , same subject, which expires August 31, 2011. The purpose of this Notice is to explain when tribes or tribally designated housing entities (TDHEs) may limit housing assistance to Indian families or tribal members. This Notice outlines how the requirements are different if only IHBG funds are used or if IHBG funds are leveraged or combined with funds from other sources. | Issued: July 21, 2011 Expires: EFFECTIVE UNTIL AMENDED, SUPERSEDED, OR RESCINDED |

| Notice Number | Subject | Issue Date |
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| PIH 2011-39 | Accessibility Requirements for Native American Programs: Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990; Architectural Barriers Act of 1968; and Fair Housing Amendments Act of 1988 – This Notice extends Notice PIH 2010-27 (TDHE) , same subject, which expires August 31, 2011. The purpose of this Notice is to remind tribes and tribally designated housing entities (TDHE) who are recipients of federal funds of their obligation to comply with pertinent laws and implementing regulations that provide for non-discrimination and accessibility in federally funded housing and non-housing programs for people with disabilities. | Issued: July 21, 2011 Expires: EFFECTIVE UNTIL AMENDED, SUPERSEDED, OR RESCINDED |
| PIH 2011-26 (TDHEs) | Extension—Establishing a Micro Purchase Process for Purchases Less Than \$5,000 for Indian Housing Block Grant (IHBG) Recipients – The purpose of this Notice is to reduce the burden of complying with the federal procurement process for goods and services of minimal cost. Specifically, Micro Purchasing allows a grantee to purchase goods and services costing less than \$5,000 without obtaining and documenting price quotes. | Issued: May 25, 2011 |
| PIH 2011-23 (HA) | Indian Housing Plan/Annual Performance Report Form – Form HUD-52737 – The purpose of this Notice is to inform tribes and tribally designated housing entities (TDHE) of the new combined Indian Housing Plan/Annual Performance Report (IHP/APR) form that will replace the individual IHP (HUD-52735) and APR (HUD-52735-AS) forms beginning in Federal Fiscal Year (FFY) 2012 for the Indian Housing Block Grant (IHBG) program. Grants funded under the American Recovery and Reinvestment Act of 2009 (ARRA) are excluded from this Notice (see page 6, paragraph 16). | Issued: April 28, 2011 Expires: April 30, 2012 |
| PIH 2011-21 (ONAP) | Line of Credit Control System/Voice Response System (LOCCS/VRS) for the Indian Housing Block Grant Program – This Notice reissues, with a few minor additions, PIH Notice 2009-49 and provides specific guidance on the use of the Line of Credit Control System (LOCCS) and the Voice Response System (VRS) for the Indian Housing Block Grant (IHBG) program. | Issued: April 22, 2011 Expires: April 30, 2012 |
| PIH 2011-15 (ONAP) | Implementation of Statutory Change to the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) related to Income – The purpose of this notice is to provide tribes and tribally designated housing entities (TDHE) with information about the exclusion of certain veteran's benefits from income calculations. | Issued: March 18, 2011 Expires: March 31, 2012 |
| PIH 2011-9 (TDHEs) | Recapture Provisions for Native American Housing Block Grant (NAHBG) Funds Authorized under the American Recovery and Reinvestment Act of 2009 – The purpose of this notice is to provide tribes and tribally designated housing entities (TDHEs) with information on the NAHBG American Recovery and Reinvestment Act of 2009 (ARRA) recapture provisions. | Issued: Feb. 8, 2011 Expires: Feb. 28, 2012 |
| PIH 2011-6 (TDHEs) 2011-6 | Native American Housing Assistance and Self-Determination Act (NAHASDA) Interim Funding for Tribes or Tribally Designated Housing Entities (TDHE) in Fiscal Year (FY) 2011 – The Department is concerned that the delay in allocating FY 2011 IHBG funding may have an adverse effect on some tribes. This Notice provides instructions to tribes and tribally designated housing entities (TDHE) on the process for requesting an advance on IHBG funds for FY 2011. This Notice also provides instructions to Area Offices of Native American Programs (AONAP) on how to review and process a request. | Issued: Jan. 27, 2011 Expires: Jan. 31, 2012 |

| Notice Number | Subject | Issue Date |
|----------------------------|---|---------------------------------------|
| 2010 | | |
| PIH 2010-47 (TDHEs) | Total Development Costs (TDC) for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) – This Notice supersedes Notice PIH 2009-27 (TDHEs) , same subject, dated August 10, 2009. This Notice transmits the updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA. The requirement for the development and implementation of these limits is found at 24 CFR 1000.156 through 1000.162 of the Indian Housing Block Grant (IHBG) regulations published in the Federal Register on September 28, 2001, and effective October 29, 2001. | Issued: 11/19/10 Expires: 11/30/11 |
| PIH 2010-38 (TDHEs) | Income exclusion under temporary employment by U.S. Census Bureau – This notice clarifies the exclusion of temporary employment payments by the U.S Census Bureau pursuant to 24 CFR 5.609I(9). | Issued: 9/22/10 Expires: 9/30/11 |
| PIH 2010-36 (TDHEs) | Extension – Recipient Inspection of Housing Units Assisted under the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) and Those Assisted Under the United States Housing Act of 1937 – This Notice extends for another year Notice PIH 2009-30 (TDHEs) , same subject, which will expire on August 31, 2010, for another year until August 31, 2011. | Issued: 8/31/10 Expires: 8/31/11 |
| PIH 2010-35 (TDHEs) | Demonstration Program – Self-Determined Housing Activities for Tribal Governments – The purpose of this Notice is to establish the requirements for tribes and tribally designated housing entities (TDHE) to participate in the Indian Housing Block Grant (IHBG) Demonstration Program authorized under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), as amended. | Issued: 8/17/10 Expires: 8/31/11 |
| PIH 2010-33 (TDHEs) | Reinstatement – PIH Notice 2009-6 (TDHEs) – Administrative Requirements for Investing Indian Housing Block Grant (IHBG) Funds – This Notice establishes the basis upon which the Department will determine if a recipient of Indian Housing Block Grant (IHBG) funds, as authorized by the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996 (Pub. L. 104-330, as amended), has the administrative capacity to draw down IHBG funds for investment purposes. | Issued: 8/6/10 Expires: 8/31/11 |
| PIH 2010-32 (TDHEs) | Limiting Housing to Indian Families or Tribal Members when using Indian Housing Block Grant (IHBG) funds – This Notice reissues Notice PIH-2009-04 (TDHEs) and explains when tribes or tribally designated housing entities (TDHEs) (referred to in this Notice as ‘Tribe’) may limit housing assistance to Indian families or tribal members. This Notice outlines how the requirements are different if only IHBG funds are used or if IHBG funds are leveraged or combined with funds from other sources. | Issued: 8/6/10 Expires: 8/31/11 |
| PIH 2010-31 (TDHEs) | Reinstatement – PIH Notice 2009-7 (TDHEs) – Depository Agreements for Recipients of the Indian Housing Block Grant (IHBG) Program – This Notice transmits the current depository agreement forms to be used when investing IHBG funds; form HUD-52736-A (10/2004) for banking accounts and form HUD-52736-B (10/2004) for brokers/dealers. Also, the Notice clarifies when to use depository forms and when tribes or tribally designated housing entities (TDHEs) may utilize brokers in the investment of Indian Housing Block Grant (IHBG) funds under 24 CFR 1000.58. | Issued: 8/6/10 Expires: 8/31/11 |

| Notice Number | Subject | Issue Date |
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| PIH 2010-27 (TDHE) | Reinstatement of <u>PIH Notice 2009-05, Accessibility Requirements for Native American Programs: Section 504 of the Rehabilitation Act of 1973; Americans with Disabilities Act of 1990; Architectural Barriers Act of 1968; and Fair Housing Amendments Act of 1988</u> – The purpose of this Notice is to remind tribes and tribally designated housing entities (TDHE) who are recipients of federal funds of their obligation to comply with pertinent laws and implementing regulations that provide for non-discrimination and accessibility in federally funded housing and non-housing programs for people with disabilities. [...] | Issued: 7/27/10 Expires: 7/31/11 |
| PIH 2010-17 (TDHE) | Extension-Establishing a Micro Purchase Process for Purchases Less Than \$5,000 for Indian Housing Block Grant (IHBG) Recipients – This Notice extends <u>Notice PIH 2009-14 (TDHE)</u> , same subject, which expires on May 31, 2010 for another year, until May 31, 2011. | Issued: 5/7/10 Expires: 5/31/11 |
| 2009 | | |
| PIH 2009-50 (ONAP) | The purpose of this Notice is to provide information on how HUD will address amendments made to the Native American Housing Assistance and Self-Determination Act (NAHASDA) by the Native American Housing Assistance and Self-Determination Reauthorization Act of 2008, and earlier statutory amendments to NAHASDA. | Issued: 12/3/09 Expires: 12/31/10 |
| PIH 2009-49 (ONAP) | This Notice reissues, with a few minor additions, <u>PIH Notice 2007-32</u> and provides specific guidance on the use of the Line of Credit Control System (LOCCS) and the Voice Response System (VRS) for the Indian Housing Block Grant (IHBG) program. This Notice includes guidance for both the grant recipient and the Office of Native American Programs (ONAP) staff. This Notice includes changes to the previous Notice to bring the information current. | Issued: 12/2/09 Expires: 12/31/10 |
| PIH 2009-46 | The purpose of this guidance is to inform tribes, tribally designated housing entities (TDHE), and the Department of Hawaiian Home Lands (DHHL) of the new Federal form that must be used to submit financial information on Federal grants. Attachments are included. | Issued: 11/16/09 Expires: 11/30/10 |
| PIH 2009-30 (ONAP) | This Notice extends for another year <u>Notice PIH 2008-32 (ONAP)</u> , <i>Recipient Inspection of Housing Units Assisted under the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) and Those Assisted Under the United States Housing Act of 1937</i> , which will expire on August 31, 2010. | Issued: 8/19/09 Expires: 8/31/10 |
| PIH 2009-27 (TDHEs) Related Attachment | This Notice supersedes <u>Notice PIH 2008-34 (TDHEs)</u> , same subject, dated August 20, 2008. This Notice transmits the updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA. The requirement for the development and implementation of these limits is found at 24 CFR 1000.156 through 1000.162 of the Indian Housing Block Grant (IHBG) regulations published in the Federal Register on September 28, 2001, and effective October 29, 2001. | Issued: 8/10/09 Expires: 8/31/10 |
| PIH 2009-17 (FR) | Through this notice, HUD seeks to ensure that individuals or entities that participate in HUD programs or with whom HUD interacts through its programs are aware of obligations imposed on immediate successors of interest in any residential property pursuant to a foreclosure to provide tenants residing in such property, including but not limited to tenants with section 8 rental assistance, with at least 90 days advance notice of the need to vacate the property, where the successor desires to have the tenants vacate. In addition, except for purchasers who will occupy [...] | [Docket Number FR-5335-N-01] Dated: 6/18/09 |

| Notice Number | Subject | Issue Date |
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| PIH 2009-14 (TDHEs) | The purpose of the Notice is to implement a Micro Purchase threshold for the IHBG program. | Issued: 5/18/09 Expires: 5/31/10 |
| PIH 2009-7 (TDHEs) | This Notice reissues Notice PIH 2006-28 (TDHEs) , same subject, which transmitted the depository agreements forms to be used when investing IHBG funds; form HUD-52736-A (10/2004) for banking accounts and form HUD-52736-B (10/2004) for brokers/dealers. The Notice clarified when to use depository forms and when tribes or tribally designated housing entities may utilize brokers in the investment of IHBG funds under 24 CFR 1000.58. | Issued: 3/5/09 Expires: 3/31/10 |
| PIH 2009-5 (TDHEs) | The purpose of this Notice is to remind tribes and tribally designated housing entities (TDHEs) who are recipients of federal funds of their obligation to comply with pertinent laws and implementing regulations that provide for non-discrimination and accessibility in federally funded housing and nonhousing programs for people with disabilities. Additionally, this Notice clarifies certain information in Notice PIH 2002-01 (HA), Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968; and the Fair Housing Act of 1988, as it applies to HUD's Native American programs specifically. Both PIH 2002-01(HA) and this Notice are equivalent in their instructions; however, this Notice outlines the provisions of PIH 2002-01 that apply only to HUD's Native American Programs. | Issued: 1/26/09 Expires: 1/31/10 |
| PIH 2009-6 (TDHEs) | This Notice reissues Notice 99-4 , which establishes the basis upon which the Department will determine if a recipient of Indian Housing Block Grant (IHBG) funds, as authorized by the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996 (Pub. L. 104-330, as amended), has the administrative capacity to draw down IHBG funds for investment purposes. | Issued: 3/5/09 Expires: 3/31/10 |
| PIH 2009-4 (TDHEs) | This Notice reissues Notice PIH-2006-34 (TDHEs) and explains when tribes or tribally designated housing entities (TDHEs) (referred to in this Notice as 'Tribe') may limit housing assistance to Indian families or tribal members. This notice outlines how the requirements are different if only IHBG funds are used or if IHBG funds are leveraged or combined with funds from other sources. | Issued: 1/26/09 Expires: 1/31/10 |
| 2008 | | |
| [Revised] PIH 2008-42 (ONAP) PIH 2008-42 (ONAP) | This Notice extends Notice PIH-2007-32 , same subject, which will expire on November 30, 2008, for another year until December 31, 2009. Notice 2007-32 provides guidance on the use of the LOCCS system for the IHBG program. LOCCS is a payment system used by varying HUD programs that provides grant recipients a system for requesting funds while providing ONAP a method to establish payment thresholds and review grant payment history. The extension of the Notice adds a reference to another PIH Notice regarding investments of IHBG funds. | Issued: Dec. 24, 2008 Expires: Dec. 31, 2009 |
| PIH 2008-34 (TDHEs) Related Attachment | Total Development Costs (TDC) for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) – This Notice Supersedes Notice PIH 2007-11 (TDHEs) same subject. | Issued: Aug. 20, 2008 Expires: Aug. 31, 2009 |
| PIH 2008-32 (ONAP) | Recipient Inspection of Housing Units Assisted Under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) and those Assisted Under the United States Housing Act of 1937. This Notice reissues, with minor edits, Notice PIH 2006-19, of the same subject. | Issued: Aug. 8, 2008 Expires: Aug. 31, 2009 |

| Notice Number | Subject | Issue Date |
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| PIH 2008-08 (ONAP) | This Notice reissues Notice PIH-2006-34 (TDHEs) and explains when tribes or tribally designated housing entities (TDHEs) (referred to in this Notice as 'Tribe') may limit housing assistance to Indian families or tribal members. This notice outlines how the requirements are different if only IHBG funds are used or if IHBG funds are leveraged or combined with funds from other sources. | Issued: 1/25/08 Expires: 1/31/09 |
| PIH 2008-06 (ONAP) | The purpose of this Notice is to remind tribes and tribally designated housing entities (TDHEs) who are recipients of federal funds of their obligation to comply with pertinent laws and implementing regulations that provide for non-discrimination and accessibility in federally funded housing and non-housing programs for people with disabilities. | Issued: 1/23/08 Expires: 1/31/09 |
| PIH 2008-05 (TDHEs) | The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) was enacted on October 26, 1996, and became effective on October 1, 1997. Under NAHASDA, grants are provided to Indian tribes to carry out affordable housing activities. Fiscal Year (FY) 2008 appropriations for HUD (and other federal departments and agencies) were signed into law on December 26, 2007. This may result in some administrative delay in allocating the 2008 IHBG formula to recipients. | Issued: 1/22/08 Expires: 1/31/09 |
| 2007 | | |
| PIH 2007-32 (ONAP) | This Notice reissues, with a few additions and updates, PIH Notice 2006-40 and provides specific guidance on the use of the Line of Credit Control System (LOCCS) and the Voice Response System (VRS) for the Indian Housing Block Grant (IHBG) program. This Notice includes guidance for both the grant recipient and the Office of Native American Programs (ONAP) staff. This Notice includes changes to the previous Notice to bring the information current. | Issued: 11/13/07 Expires: 11/30/08 |
| PIH 2007-24 (TDHEs) | This Notice reissues Notice 99-4 , which establishes the basis upon which the Department will determine if a recipient of Indian Housing Block Grant (IHBG) funds, as authorized by the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996 (Pub. L. 104-330, as amended), has the administrative capacity to draw down IHBG funds for investment purposes. | Issued: 8/10/07 Expires: 8/31/07 |
| PIH L 2007-02 | This PIH Letter extends Notice PIH 2006-28 (TDHEs) , which transmits the current depository agreement forms to be used when investing IHBG funds; form HUD-52736A (10/2004) for banking accounts and form HUD-52736B (10/2004) for brokers/dealers. Also, the Notice clarifies when to use depository forms and when tribes or tribally designated housing entities may utilize brokers in the investment of Indian Housing Block Grant (IHBG) funds under 24 CFR 1000.58. | Issued: 6/18/07 |
| PIH 2007-12 (HA) | The purpose of this Notice is to inform public housing agencies (PHAs) and Tribally Designated Housing Entities (TDHEs) to reference materials on Integrated Pest Management (IPM) located in Maintenance Guidebook Seven: Termite, Insect and Rodent Control and reference material located at paragraph 7 of this notice. PHAs and TDHEs (Has) may choose to share this information with families and property owners participating in their programs. | Issued: 5/24/07 Expires: 5/31/08 |
| PIH 2007-11 (TDHEs) | This Notice extends Notice PIH 2006-17 (TDHEs) , same subject, which expires April 17, 2007, for another year until April 17, 2008. Attached is a copy of the Total Development Cost Limits for affordable housing under NAHASDA. | Issued: 4/30/07 Expires: 4/30/08 |
| PIH 2007-2 (TDHEs) | The Department is concerned that the delay in FY 2007 IHBG funding may have an adverse effect on some tribes. This Notice provides instructions to tribes and tribally designated housing entities (TDHE) on the process for requesting an advance of IHBG funds for FY 2007. | Issued: 1/23/07 Expires: 1/31/08 |

| Notice Number | Subject | Issue Date |
|----------------------------|---|---------------------------------------|
| | It also provides instructions to Area Offices of Native American Programs (AONAP) on how to review and process a request. | |
| 2006 | | |
| PIH 2006-39 (TDHEs) | Line of Credit Control System/Voice Response System (LOCCS/VRS) for the IHBG Program. This Notice reissued Notice PIH 2003-13 (with minor changes), and provides specific guidance on the use of the LOCCS/VRS for the IHBG program. | Issued: 10-18-06 Expires: 10/31/07 |
| PIH 2006-39 (TDHEs) | This Notice and its attachment provide guidance on the fixed asset depreciation requirements and related issues for recipients of Indian Housing Block Grant (IHBG) Program funds administered by the Office of Native American Programs (ONAP). Specifically this Notice will clarify the differences between depreciation and capitalization requirements of Generally Accepted Accounting Principles (GAAP) and costs allowed under Federal grants by Office of Management and Budget (OMB) Circular A-87. The attachment provides information on depreciation and related issues in a question and answer format. | Issued: 10/19/07 Expires: 10/31/07 |
| PIH 2006-38 (TDHEs) | The purpose of this Notice is to remind tribes and tribally designated housing entities (TDHEs) who are recipients of federal funds of their obligation to comply with pertinent laws and implementing regulations that provide for non-discrimination and accessibility in federally funded housing and non-housing programs for people with disabilities. [...] | Issued: 10/16/07 Expires: 10/31/07 |
| PIH 2006-34 (TDHEs) | This Notice reissues Notice PIH-2005-19 (TDHEs) and explains when tribes or tribally designated housing entities (TDHEs) (referred to in this Notice as 'Tribe') may limit housing assistance to Indian families or tribal members. This notice outlines how the requirements are different if only IHBG funds are used or if IHBG funds are leveraged or combined with funds from other sources. | Issued: 9/27/07 Expires: 9/30/07 |
| PIH 2006-28 (TDHEs) | This Notice extends Notice PIH 2005-23 (TDHEs) , same subject, which will expire on July 31, 2006, for another year until July 31, 2007. Notice PIH 2005-23 transmitted the current depository agreements forms to be used when investing IHBG funds; form HUD-52736A (10/2004) for banking accounts and form HUD-52736B (10/2004) for brokers/dealers. Also, the Notice clarified when to use depository forms and when tribes or tribally designated housing entities may utilize brokers in the investment of IHBG funds under 24 CFR 1000.58. | Issued: 4/26/07 Expires: 4/31/07 |
| PIH 2006-20 (TDHEs) | This Notice reiterates Notice PIH-2002-17 which was reinstated by PIH Notice 2003-28 , and provides specific guidance on the financial audit requirements for the participants in the Indian Housing Block Grant (IHBG), Indian Community Development Block Grant (ICDBG) and other HUD programs that are available to Native American recipients, such as the Rural Housing and Economic Development Program, and the Public and Indian Housing Drug Elimination Program. | Issued: 6/07/07 Expires: 6/30/07 |
| PIH 2006-19 (TDHEs) | This notice serves to clarify the requirements for recipient inspection of housing assisted under NAHASDA (the Act) and those assisted under the 1937 Housing Act. Questions have been received by HUD concerning the applicability of inspection requirements found in Section 403(b) of the Act to the various types or categories of housing assistance provided and the required frequency of such inspections. | Issued: 6/5/06 Expires: 6/30/07 |
| PIH 2006-17 (TDHEs) | This Notice supersedes Notice PIH 2003-16 (TDHEs) , <i>Total Development Costs (TDC)</i> , dated June 19, 2003. This Notice transmits the updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA. The requirement for the development and implementation of these limits is found at 24 CFR | Issued: 4/17/07 Expires: 4/31/07 |

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| | 1000.156 through 1000.162 of the Indian Housing Block Grant (IHBG) regulations published in the Federal Register on September 28, 2001, and effective October 29, 2001. | |
| PIH 2006-11 (HA) | The purpose of this Notice is to inform public housing agencies (PHAs) and Tribally Designated Housing Entities (TDHEs) of the additional reference materials on Integrated Pest Management (IPM) beyond Maintenance Guidebook Seven: Termite, Insect and Rodent Control. PHAs and TDHEs (Has) may choose to share this information with families and property owners participating in their programs. | Issued: 2/1/06 Expires: 2/28/07 |
| PIH 2006-04 (TDHEs) | The Department is concerned that the delay in FY 2006 Indian Housing Block Grant (IHBG) funding may have an adverse effect on some tribes. This Notice provides instructions to tribes and tribally designated housing entities (TDHE) on the process for requesting an advance of IHBG funds for FY 2006. It also provides instructions to Area Offices of Native American Programs (AONAP) on how to review and process a request. | Issued: 1/12/06 Expires: 1/31/07 |
| PIH 2006-02 (TDHEs) | This Notice extends Notice PIH 2004-25 (TDHEs) , same subject, which expires December 31, 2005, for another year until December 31, 2006. | Issued: 1/3/06 Expires: 1/31/07 |
| 2005 | | |
| PIH 2005-23 (TDHEs) | This Notice transmits the current depository agreement forms to be used when investing IHBG funds; form HUD-52736A (10/2004) for banking accounts and form HUD-52736B (10/2004) for brokers/dealers. Also, the Notice clarifies when to use depository forms and when tribes or tribally designated housing entities may utilize brokers in the investment of Indian Housing Block Grant (IHBG) funds under 24 CFR 1000.58. | Issued: 7/07/05 Expires: 7/31/06 |
| PIH 2005-21 (TDHEs) | This Notice reinstates Notice PIH 2003-26 (TDHEs) , <i>Accessibility Notice for Native American Program: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968; and the Fair Housing Amendments Act of 1988</i> , which expired October 31, 2004, for another year until June 30, 2006. | Issued: 6/22/05 Expires: 6/30/06 |
| PIH 2005-19 (TDHEs) | This Notice explains when tribes or tribally designated housing entities (TDHEs) (referred to in this Notice as 'Tribe') may limit housing assistance to Indian families or tribal members. This notice outlines how the requirements are different if only IHBG funds are used or if IHBG funds are leveraged or combined with funds from other sources. Note: This notice cancels Notice PIH 2005-8 (TDHEs), issued 2/25/05. | Issued: 6/21/05 Expires: 6/30/06 |
| PIH 2005-8 (TDHEs) | This Notice explains when tribes or tribally designated housing entities (TDHEs) (referred to in this Notice as 'Tribe') may limit housing assistance to Indian families or tribal members. This notice outlines how the requirements are different if only IHBG funds are used or if IHBG funds are leveraged or combined with funds from other sources. Cancelled. | Issued: 2/25/05 Expires: 2/28/06 |
| 2004 | | |
| PIH 2004-26 | This Notice reiterates Notice PIH 2003-13 and provides specific guidance on the use of the Line of Credit Control System (LOCCS) and the Voice Response System (VRS) for the Indian Housing Block Grant (IHBG) program. The Notice includes guidance for both the grant recipient and the Office of Native American Programs (ONAP) staff. This Notice includes minor changes to the previous notice to bring the information current. | Issued: 12/16/04 Expires: 12/31/05 |

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|----------------------------|--|---------------------------------------|
| PIH 2004-25 (TDHEs) | This notice reminds recipients of Indian Housing Block Grant (IHBG) funding of the reporting requirements under the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996. These requirements are found at 24 CFR 1000.26 and Part 85.411. | Issued: 12/10/04 Expires: 12/31/05 |
| PIH 2004-21 (TDHEs) | This Notice extends <u>Notice PIH 2003-14 (TDHEs)</u> , Administrative Requirements for Investing Indian Housing Block Grant Funds, which expired May 31, 2004, for another year until September 30, 2005. | Issued: 9/30/04 Expires: 9/30/05 |
| PIH 2004-17 | This notice serves to clarify the requirements for recipient inspection of housing assisted under NAHASDA (the Act) and those assisted under the 1937 Housing Act. Questions have been received by HUD concerning the applicability of inspection requirements found in Section 403(b) of the Act to the various types or categories of housing assistance provided and the required frequency of such inspections. | Issued: 8/18/04 Expires: 8/31/05 |
| CPD 2004-08 | The Notice describes the procedures to follow in cases where HUD is requested to waive statutory environmental review requirements. The purpose of this Notice is to provide further guidance on waiving statutory requirements for the Indian Housing Block Grant (IHBG) Program, as authorized by Section 105(d) of the Native American Housing Assistance and Self-Determination Act (NAHASDA, 25 U.S.C. 4115(d)) if the Tribe has assumed environmental review responsibilities under 24 CFR Part 58, —“Environmental Review Procedures for Entities Assuming HUD Environmental Responsibilities” (Part 58). | Issued: 8/10/04 Expires: 8/10/05 |
| 2003 | | |
| PIH 2003-31 | This Notice updates Notice PIH 2002-01 , which expired January 31, 2003. The purpose of this Notice is to remind recipients of Federal funds of their obligation to comply with pertinent laws and implementing regulations; which provide for non-discrimination and accessibility in Federally funded housing and non-housing programs for people with disabilities. Additionally, this Notice provides information on key compliance elements of the relevant regulations and examples and resources to enhance recipients' compliance efforts, however, specific regulations must be reviewed in their entirety for full compliance. | Issued: 11/26/03 Expires: 11/30/04 |
| PIH 2003-28 (TDHEs) | This Notice reinstates <u>Notice PIH 2002-17 (TDHEs)</u> , same subject, for another year until October 31, 2004. The Notice expired June 30, 2003. | Issued: 10/24/03 Expires: 10/31/04 |
| PIH 2003-26 (TDHEs) | The purpose of this Notice is to remind tribes and tribally designated housing entities (TDHEs) who are recipients of federal funds of their obligation to comply with pertinent laws and implementing regulations that provide for non-discrimination and accessibility in federally funded housing and non-housing programs for people with disabilities. Additionally, this Notice clarifies certain information in <u>Notice PIH 2002-01 (HA)</u> , Accessibility Notice: Section 504 of the Rehabilitation Act of 1973; the Americans with Disabilities Act of 1990; the Architectural Barriers Act of 1968; and the Fair Housing Act of 1988, as it applies to HUD's Native American programs specifically. Both <u>PIH 2002-01(HA)</u> and this Notice are equivalent in their instructions; however, this Notice outlines the provisions of PIH 2002-01 that apply only to HUD's Native American Programs. | Issued: 10/24/03 Expires: 10/31/04 |
| PIH 2003-16 (TDHEs) | This Notice supersedes <u>Notice PIH 2001-42 (TDHEs)</u> , Total Development Costs (TDC), dated November 30, 2001. This Notice transmits the updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA. | Issued: 6/19/03 Expires: 6/30/04 |
| PIH 2003-15 | Extension – <u>Notice PIH 2002-11 (TDHEs)</u> , Performance Reporting | Issued: 5/23/03 |

| Notice Number | Subject | Issue Date |
|----------------------------|--|---|
| (TDHEs) | Requirements and Grant Close-Out Procedures for the Indian Housing Drug Elimination Program (IHDEP). | Expires: 5/31/04 |
| PIH 2003-14 (TDHEs) | Reinstatement – <u>Notice PIH 2001-21 (TDHEs)</u> , Administrative Requirements of Investing Indian Housing Block Grant Funds. | Issued: 5/23/03 Expires: 5/31/04 |
| PIH 2003-13 (ONAP) | Reinstatement – <u>Notice PIH 2001-39 (ONAP)</u> , Line of Credit Control System (LOCCS/VRS) for the Indian Housing Block Grant Program. | Issued: 5/23/03 Expires: 5/31/04 |
| PIH 2003-08 (HA) | The purpose of this Notice is to: a) Explain procedures for establishing public housing development cost limits consistent with the Quality Housing and Work Responsibility Act of 1998, b) Transmit the updated schedule of unit Total Development Cost (TDC) limits, and c) This Notice does not apply to Native American housing. | Issued: 3/27/03 Expires: 3/31/04 |
| PIH 2003-6 (TDHEs) | This Notice provides guidance on generally accepted accounting principals (GAAP) and on the financial statement presentation requirements for participants in the Indian Housing Block Grant (IHBG) Program, Indian Community Development Block Grant (ICDBG) Program and other programs administered by the Office of Native American Programs (ONAP). This Notice also serves to clarify and/or correct advice that recipients may have received regarding applicability of GAAP to their costs and accounting systems. | Issued: 2/19/03 Expires: Indefinite |
| PIH 2003-4 (TDHEs) | The Department is concerned that the delay in FY 2003 IHBG funding may have an adverse effect on some tribes. This Notice provides instructions to tribes and tribally designated housing entities (TDHE) on the process for requesting an advance of IHBG funds for FY 2003. It also provides instructions to Area Offices of Native American Programs (AONAP) on how to review and process a request. | Issued: 1/30/03 Expires: 1/31/04 |
| PIH 2003-3 (TDHEs) | Implementation of Statutory Change to the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) related to Labor Standards. | Issued: 1/30/03 Expires: Indefinite |
| PIH 2003-2 (TDHEs) | Implementation of Statutory Changes to the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). | Issued: 1/30/03 Expires: Indefinite |
| 2002 | | |
| PIH 2002-29 (TDHEs) | This Notice provides specific guidance on the Administrative and Planning expense requirements for the participants in the Indian Housing Block Grant (IHBG) program. In the Office of Inspector General's report titled Nationwide Audit of Implementation of the Native American Housing Assistance and Self-Determination Act of 1996 issued on August 2, 2001, they identified confusion by tribes and tribally designated housing entities (TDHEs) over what constitutes allowable Administrative and Planning expenses and recommended the regulations be clarified. | Issued: 12/30/02 Expires: Indefinite |
| PIH 2002-25 (TDHEs) | This Notice reinstates <u>Notice PIH 2001-31 (TDHEs)</u> , same subject, indefinite. The Notice expired August 31, 2002. | Issued: 12/13/02 Expires: Indefinite |
| PIH 2002-24 (TDHEs) | This Notice reinstates <u>Notice PIH 2001-30 (TDHEs)</u> , same subject, indefinite. The Notice expired August 31, 2002. | Issued: 11/29/02 Expires: Indefinite |
| PIH 2002-19 (TDHEs) | This Notice extends <u>Notice PIH 2001-23 (TDHEs)</u> , same subject, indefinitely. <u>Notice PIH 2001-23 (TDHEs)</u> expires July 31, 2002. | Issued: 8/02/02 Expires: Indefinite |
| PIH 2002-17 (TDHEs) | This Notice provides specific guidance on the financial audit requirements for the participants in the Indian Housing Block Grant (IHBG), Indian Community Development Block Grant (ICDBG) and other Office of Native American Programs (ONAP) grant programs, such as Rural Housing and Economic Development, and Public and Indian Housing Drug Elimination Program. | Issued: 6/28/02 Expires: 6/30/03 |
| PIH 2002-16 (HA) | Extension <u>Notice PIH 2001-14 (TDHEs)</u> which provides guidance on accounting for program income under the Native American Housing Assistance and Self-Determination Act (NAHASDA). Issued April 23, | Issued: 6/10/02 Expires: Indefinite |

| Notice Number | Subject | Issue Date |
|----------------------------|--|-------------------------------------|
| | 2001; Expires May 31, 2002. | |
| PIH 2002-11 (TDHEs) | This Notice extends Notice PIH 2001-19 (TDHEs), same subject, which expires June 30, 2002, for another year until May 31, 2003. (this is about IHDEP) | Issued: 5/24/02 Expires: 5/31/03 |
| 2001 | | |
| PIH 2001-42 (TDHEs) | Total Development Costs (TDC) for Affordable Housing under the Native American Housing and Self-Determination Act of 1996 (NAHASDA). | 11/30/01 |
| PIH 2001-39 | Extension – Notice PIH 2000-44 (ONAP) , Line of Credit Control System (LOCCS/VRS) for the Indian Housing Block Grant Program and updates for Form HUD-272-I and Form HUD-27054. | 11/30/07 |
| PIH 2001-31 (TDHEs) | Extension – Notice PIH 2000-37 (TDHEs), Indian Housing Block Grant Program: Guidance and Procedures if Tribes Do Not Assume Environmental Review Responsibilities under 24 CFR Part 58. | 8/15/01 |
| PIH 2001-30 (TDHEs) | Extension – Notice PIH 2000-26 (TDHEs), Native American Housing Assistance and Self-Determination Act (NAHASDA) – Indian Housing Block Grant (IHBG) Program – Performance Measure for the Obligation of Funds. | 8/9/01 |
| PIH 2001-23 (TDHEs) | Reinstatement – Notice PIH 2000-10 (TDHEs), Providing Assistance to Non Low-Income Indian Families under the Native American Housing Assistance and Self-Determination Act NAHASDA). | 7/12/01 |
| PIH 2001-21 (TDHEs) | Extension – Administrative Requirements for Investing Indian Housing Block Grant Funds. This Notice extends Notice PIH 2000-21(TDHEs), same subject, which expired May 31, 2001, for another year until July 31, 2002. | 7/12/01 |
| PIH 2001-16 (HA) | Reinstatement – Notice PIH 2000-47 (HA), Public Housing Development Total Development Cost (TDC) and Cost Control Policy. | 5/2/01 |
| PIH 2001-14 (TDHEs) | Extension – Notice PIH 2000-18(TDHEs) which provides guidance on accounting for program income under the Native American Housing Assistance and Self-Determination Act (NAHASDA). | 4/23/01 |
| PIH 2001-7 (HA) | Reinstatement – Notice 99-48 (HA), Required HA Cash Management and Investment Policies and Procedures. | 2/13/01 |
| 2000 PIH | | |
| 2000-54 (TDHEs) | Revised Annual Performance Report, form HUD-52735-A. | 12/18/00 |
| 2000-47 (HA) | Extension – Notice PIH 2000-25 (HA), Public Housing Total Development Cost (TDC) and Cost Control Policy. | 10/16/00 |
| 2000-44 (TDHEs) | Line of Credit Control System/Voice Response System (LOCCS/VRS) for the Indian Housing Block Grant Program. | 9/19/00 |
| 2000-37 (TDHEs) | Extension – Notice PIH 99-37 (ONAP), Indian Housing Block Grant Program: Guidance and procedures if Tribes do not assume environmental review responsibilities under 24 CFR Part 58. | 8/21/00 |
| 2000-33 (TDHEs) | Extension – Notice PIH 99-29 (TDHEs), Form HUD-272-I – Federal Cash Transactions Report ONAP. | 8/16/00 |
| 2000-30 (TDHEs) | Dwelling Construction and Equipment (DC&E) Costs for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). | 8/14/00 |
| 2000-26 (TDHEs) | Native American Housing Assistance and Self-Determination Act (NAHASDA) – Indian Housing Block Grant (IHBG) Program – Performance Measure for the Obligation of Funds. | 7/26/00 |
| 2000-21 (TDHEs) | Reinstatement – Notice PIH 99-4 (TDHEs), Administrative Requirements for Investing Indian Housing Block Grant Funds. | 5/24/00 |
| 2000-18 (TDHEs) | Accounting for Program Income under the Native American Housing Assistance and Self-Determination Act (NAHASDA). Attachments. | 5/30/00 |

| Notice Number | Subject | Issue Date |
|-------------------------|--|------------|
| 2000-10 (TDHEs) | Providing Assistance to Non Low-Income Indian Families under the Native American Housing Assistance and Self-Determination Act of 1996. | 3/15/00 |
| 1999 PIH | | |
| 99-48 (HA) | Extension of Notice 98-46 (HA), Required HA Cash Management and Investment Policies and Procedures. | 11/17/99 |
| 99-37 (ONAP) | Indian Housing Block Grant Program: Guidance and Procedures If Tribes Do Not Assume Environmental Review Responsibilities under 24 CFR Part 58. | 8/19/99 |
| 99-36 (ONAP) | Reinstatement – Notice PIH 98-36 (ONAP), Line of Credit Control System/Voice Response System (LOCCS/VRS) for the Indian Housing Block Grant Program. | 8/19/99 |
| 99-29 (ONAP) | Form HUD-272-I – Federal Cash Transactions Report ONAP. | 7/26/99 |
| 99-6 (TDHE) | Providing Assistance to Non Low-Income Indian Families under the Native American Housing Assistance and Self-Determination Act of 1996. | 2/6/99 |
| 99-5 (TDHEs) | Transfer from an Indian Housing Authority to the Tribe or Tribally Designated Housing Entity of the United States Housing Act of 1937 Program Funds that Remain in the Line of Credit Control System. | 2/4/99 |
| 99-4 (TDHEs) | Administrative Requirement for Investing Indian Housing Block Grant Funds. | 2/3/99 |
| 1998 PIH | | |
| 98-54 (HA) | Lead-Based Paint (LBP) Disclosure requirements for Public and Indian Housing and Section 8 Rental Programs. | 11/5/98 |
| 98-47 (ONAP) | Annual Performance Report. | 9/4/98 |
| 98-46 (HA) | Reinstatement of Notice 96-33 (HA), Required HA Cash Management and Investment Policies and Procedures. | 9/1/98 |
| 98-38 (ONAP) | Procedures to Avoid Displacement of Section 8 Program Participants Receiving Rental Assistance from Indian Housing Authorities. | 7/9/98 |
| PIH 98-36 (ONAP) | Line of Credit Control System/Voice Response System (LOCCS/VRS) for the Indian Housing Block Grant Program. | 6/26/98 |
| 98-17 (IHA) | Native American Housing Assistance and Self-Determination Act Advance Funding for Tribes or Tribally Designated Housing Entities with an Indian Housing Authority having a Fiscal Year End Date of December 31, 1997, March 31, 1998, and June 30, 1998. | 3/12/98 |
| 1997 PIH | | |
| 97-25 (HUD) | Extension of Notice PIH 96-26 (HUD), Policies and Procedures on Maximum Allow. | 5/15/97 |
| 1996 PIH | | |
| 96-33 (HA) | Required HA Cash Management and Investment Policies and Procedures. | 6/4/96 |
| 96-26 (HA) | Policies and Procedures on Maximum Allowable Total Development Cost (TDC) for the HUD-assisted Indian Housing Program. | 5/15/96 |

NAHASDA GUIDANCE INDEX

| Guidance Number | Subject | Issue Date |
|-----------------|---|--------------------|
| 2017 | | |
| 2017-07 | FY 2017 ICDBG NOFA Guidance | April 7, 2017 |
| 2017-03 | Certifying Officers for ER under 24 CFR Part 58 Published. | February 15, 2017 |
| 2017-02 | 2016 IHBG Compliance Supplement Amendment | February 13, 2017 |
| 2017-01 | Indian Community Development Block Grant (ICDBG) Imminent Threat (IT) program. | January 11, 2017 |
| 2016 | | |
| 2016-06 | Indian Community Development Block Grant (ICDBG) Imminent Threat (IT) program | October 28, 2016 |
| 2016-05 | Tribal HUD VASH Record Keeping at Initial Occupancy | October 14, 2016 |
| 2016-04 | Tribal HUD VASH Rental Assistance Payments (RAP) Contract Requirements | June 22, 2016 |
| 2016-03 | Posting of Fiscal Year 2016 Notice of Funding Availability for the Indian Community Development Block Grant Program | April 14, 2016 |
| 2016-02 | Income Limits under the Native American Housing Assistance and Self-Determination Act of 1996 | April 1, 2016 |
| 2016-01 | Using of IHBG, Title VI, and ICDBG to Fund Broadband Activities | February 24, 2016 |
| 2015 | | |
| 2015-05 | ICDBG FY 2015 NOFA Guidance | September 10, 2015 |
| 2015-04 | Updated reporting requirements for the SF-425 Federal Financial Report (FFR) | July 31, 2015 |
| 2015-03 | Discontinuation of Word Version of the Indian Housing Plan/Annual Performance Report (HUD-52737) | May 20, 2015 |
| 2015-02 | Mold NOFA Guidance | April 20, 2015 |
| 2015-01a | Income Limits under the Native American Housing Assistance and Self-Determination Act of 1996- Amends the calculation chart for Alaska | April 6, 2015 |
| 2015-01 | Income Limits under the Native American Housing Assistance and Self-Determination Act of 1996 | April 6, 2015 |
| 2014 | | |
| 2014-12 | Consolidation of OMB Circulars | September 29, 2014 |
| 2014-11 | Guidance for the Word and Excel Versions of the Indian Housing Plan/Annual Performance Report plus Attachment | September 22, 2014 |
| 2014-10 | Reserve Accounts for Administration and Planning | August 14, 2014 |
| 2014-09 | Useful Life and Binding Commitments | August 13, 2014 |
| 2014-08 | The Voice Response System (VRS) of the Line of Credit Control System (LOCCS) is being replaced by the Electronic Line of Credit System (eLOCCS) throughout Housing and Urban Development (HUD). | August 12, 2014 |
| 2014-07 | Federal Financial Report - Standard Form 425 Instructions and Guidance for IHBG Program | July 21, 2014 |
| 2014-06 | Fiscal Year 2014 Notice of Funding Availability for the Indian Community Development Block Grant Program | June 13, 2014 |
| 2014-04 | Federal Financial Report - Standard Form 425 Instructions and Guidance for IHBG Program | March 25, 2014 |
| 2014-03 | Insurance Requirements | March 20, 2014 |

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| 2014-02 | Preparing to Submit Grant Applications | February 26, 2014 |
| 2014-01 | Income Limits | January 30, 2014 |
| 2013 | | |
| 2013-08 | Criminal History Guidance | August 9, 2013 |
| 2013-07 | Indian and Tribal Preference in Employment and Contracting in IHBG | July 11, 2013 |
| 2013-06 | Useful Life and Binding Commitments | May 10, 2013 |
| 2013-05 | Calculating Annual Income for Purposes of Eligibility under NAHASDA Attachment | May 6, 2013 |
| 2013-04 | Guidance for the Indian Housing Plan/Annual Performance Report (Attachment) | April 25, 2013 |
| 2013-03 | Income Limits | April 19, 2013 |
| 2013-02 | Voluntary Use of eLOCCS | March 18, 2013 |
| 2013-01 | Fiscal Year 2013 Notice of Funding Availability for the Indian Community Development Block Grant (ICDBG) Program | January 22, 2013 |
| 2012 | | |
| 2012-05 | General Section to HUD's FY2013 NOFAs for Discretionary Programs | August 20, 2012 |
| 2012-04 | Income Limits | May 4, 2012 |
| 2012-03 | Monitoring Plans for Recipients | January 19, 2012 |
| 2012-02 | Federal Financial Report (FFR) - Standard Form 425 (Attachment) | January 5, 2012 |
| 2012-01 | Federal Financial Report (FFR) - Standard Form 425 for Indian Housing Block Grant Program (Attachment (FFR Instructions)) | January 4, 2012 |
| 2011 | | |
| 2011-07 | Revised Guidance for the Indian Housing Plan/Annual Performance Report (Attachment) | |
| 2011-06 | Notice of Funding Availability for ICDBG Program | October 14, 2011 |
| 2011-05 | General Section to HUD's FY 2012 NOFAs for Discretionary Programs | September 30, 2011 |
| 2011-04 | Income Limits | July 14, 2011 |
| 2011-03 | Indian Housing Plan/Annual Performance Report (Attachment) | May 11, 2011 |
| 2011-02 | Notice of Funding Availability for ICDBG Program | April 25, 2011 |
| 2011-01 | General Section to HUD's FY 2011 NOFAs for Discretionary Programs | April 15, 2011 |
| 2010 | | |
| 2010-10 | Federal Financial Report | December 23, 2010 |
| 2010-09 | Federal Supply Resources Guidance | 10/12/10 |
| 2010-07 | Notice of Funding Availability for ICDBG Program | 8/24/10 |
| 2010-06 | Environmental Protection Agency (EPA) - Renovation, Repair, and Painting (RRP) Rule – Correction/Update | 6/30/10 |
| 2010-05 | General Section to HUD's FY 2010 NOFAs for Discretionary Programs | 6/17/10 |
| 2010-04 | Income Limits under the Native American Housing Assistance and Self- | 6/4/10 |

| Guidance Number | Subject | Issue Date |
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| | Determination Act of 1996 | |
| 2010-03 | Affordable Housing Activities and Administrative Expenses - This guidance updates Native American Housing Assistance and Self-Determination Act (NAHASDA) Guidance 2009-02, NAHASDA Affordable Housing Activities and Administrative Expenses. | 5/7/10 |
| 2010-02 | New ICDBG Reporting Requirements | 5/7/10 |
| 2010-01 | EPA - Renovation, Repair, and Painting (RRP) Rule | 5/5/10 |
| 2009 | | |
| 2009-11 | Annual Reporting Under the American Recovery and Reinvestment Act | 12/2/09 |
| 2009-10 | Procedures for Amending Competitive Applications | 10/5/09 |
| 2009-9 | Reporting Requirements under the American Recovery and Reinvestment Act | 9/30/09 |
| 2009-8 | Posting Signs and Recovery Act Project Sites | 9/9/09 |
| 2009-7 | Applicability of Buy American and Davis-Bacon Requirements to Recovery Act Programs | 7/7/09 |
| 2009-6 | Notice of Funding Availability for the ICDBG Program | 5/28/09 |
| 2009-5 | Notice of Funding Availability for NAHBG Recovery Act Program | 5/27/09 |
| 2009-4 | Notice of Funding Availability for ICDBG Recovery Act Program | 5/22/09 |
| 2009-3 | Income Limits under the Native American Housing Assistance and Self-Determination Act | 3/26/09 |
| 2009-2 | Affordable Housing Activities and Administrative Expenses | 3/4/09 |
| 2009-1 | Preparing to Submit Grant Applications | 3/4/09 |
| 2008 | | |
| 2008-04 | Accounting for Fixed Asset Depreciation and Related Issues | 10/9/08 |
| 2008-03 | Imminent Threat guidance ▶ Imminent Threat Application Checklist | 11/13/2008 |
| 2008-02 | Income Limits | 4/16/08 |
| No Number | FY 2008 ICDBG SuperNOFA | 5/16/2008 |
| 2008-01 | Low Income Housing Tax Credit (LIHTC) Ruling | 2/11/08 |
| 2007 | | |
| 07-08 | Recipient Self-Monitoring | 12/31/07 |
| 07-07 | Useful Life Guidance with Attachments | 9/7/07 |
| 07-06 | Sample Subrecipient Agreement | 8/27/07 |
| 07-05 | Revised Annual Performance Report Due Date - IHBG | 8/15/07 |
| 07-03 | All HUD Programs: Fiscal Year (FY) 2007 Super Notice of Funding Availability (NOFA), Supplementary Information and Technical Corrections | 5/18/07 |
| 07-02 | IHBG: Income Limits under the Native American Housing Assistance and Self-Determination Act of 1996 | 4/17/07 |

| Guidance Number | Subject | Issue Date |
|-----------------|---|------------|
| 07-01 | ICDBG: Publication of Fiscal Year 2007 Super Notice of Funding Availability for the Indian Community Development Block Grant (ICDBG) Program | 4/03/07 |
| 2006 | | |
| 06-06 | IHBG: Minimum Funding | 10/26/06 |
| 06-05 | ICDBG: Notice of HUD's Fiscal Year (FY) 2006 Notice of Funding Availability (NOFA), Policy Requirements and General Section to the SuperNOFA for HUD's Discretionary Grant Programs | 5/02/06 |
| 06-04 | IHBG: Income Limits under the Native American Housing Assistance and Self-Determination Act of 1996 | 4/04/06 |
| 06-03 | All Programs: FY 2006 Super Notice of Funding Availability for the Indian Community Development Block Grant Program | 4/03/06 |
| 06-02 | ICDGB: Publication of Fiscal Year 2006 Super Notice of Funding Availability for the Indian Community Development Block Grant (ICDBG) Program | 3/09/06 |
| 06-01 | Programs Covered by Fiscal Year (FY) 2006 SuperNOFA: Electronic Submission of Grant Applications | 2/01/06 |
| 2005 | | |
| 05-10 | Useful Life and Binding Commitments | 11/18/05 |
| 05-09 | Suggestions For Procuring an Independent Public Accounting Review | 10/20/05 |
| 05-08 | All Programs: FY 2005 NOFA | 4/14/05 |
| 05-07 | ROSS: FY 2005 NOFA | 4/11/05 |
| 05-06 | RHED: FY 2005 NOFA | 4/11/05 |
| 05-05 | ICDBG: FY 2005 NOFA | 4/11/05 |
| 05-04 | IHBG: Recipient Self-Monitoring | 3/16/05 |
| 05-03 | ICDBG: Minority Business Enterprise Report | 3/1/05 |
| 05-02 | IHBG: Income Limits | 2/24/05 |
| 05-01 | IHBG: Minimum Funding | 2/8/05 |
| 2004 | | |
| 04-16 | All Programs: Labor Relations Letters | 12/17/04 |
| 04-15 | IHBG: Implementation of DUNS Numbers - Final Rule | 12/17/04 |
| 04-14 | All Programs: Participation by Faith-based Organizations | 11/26/04 |
| 04-13 | IHBG: Notice of Funding Availability for the Fiscal Year 2004 Indian Community Development Block Grant (ICDBG) Program | 10/12/04 |
| 04-12 | All Programs: OMB Circulars A-21, A-87 and A-122 | 9/8/04 |
| 04-11 | IHBG: Update of NAHASDA Guidance 98-18 and 2001-01; Instructions for Obtaining FBI Criminal History Record Information | 9/8/04 |
| 04-10 | IHBG: Minimum Funding | 8/10/04 |
| 04-09 | All Programs: Reporting Requirements | 7/15/04 |
| 04-08 | ROSS: FY04 ROSS Tech Corrections | 6/28/04 |
| 04-07 | ROSS: Fiscal Year 2004 Super Notice of Funding Availability for the Resident Opportunities and Self Sufficiency Program | 6/4/04 |
| 04-06 | IHBG: Drug-Free Workplace Requirements | 5/28/04 |
| 04-05 | RHED: NOFA for FY 2004 | 4/28/04 |
| 04-04 | IHBG: Annual Performance Report - Clarification of Submission Options | 4/15/04 |
| 04-03 | IHBG: Income Limits | 2/10/04 |
| 04-02 | IHBG: Total Development Costs, Questions and Answers | 1/21/04 |
| 04-01 | All Programs: Revisions to OMB Circular A-133 | 1/12/04 |
| 2003 | | |
| 03-13 | Amendments and Clarifications to Environmental Review Procedures Effective Date - October 29, 2003 | 12/12/03 |
| 03-12 | Web Clinics for HUD Partners | 12/8/03 |

| Guidance Number | Subject | Issue Date |
|-----------------|---|------------|
| 03-11 | Grants.gov (E-Grants) Initiative; Use of a Universal Identifier (DUNS Number) for Application for All Federal Grants | 12/8/03 |
| 03-10 | Technical Corrections to ICDBG NOFA | 8/28/03 |
| 03-09 | Minimum Funding | 6/24/03 |
| 03-08 | Super NOFA - ROSS | 5/23/03 |
| 03-07 | Conversion to and Implementation of Generally Accepted Accounting Principles | 5/23/03 |
| 03-06 | Super Notice of Funding Availability for FY 2003 | 4/30/03 |
| 03-05 | Income limits Under NAHASDA | 3/31/03 |
| 03-04 | Application of Tribally Determined Wage Rates | 2/5/03 |
| 03-03 | Applicability of Davis Bacon Wage Rates Under NAHASDA | 2/4/03 |
| 03-02 | Local Cooperation Agreements | 2/5/03 |
| 03-01 | Fire Safety | 1/7/03 |
| 2002 | | |
| 02-14 | ICDBG: Minority Business Enterprise Reports | 8/16/02 |
| 02-13 | IHBG: Conflict of Interest in IHBG Housing Admissions | 7/25/02 |
| 02-12 | IHBG: Accounting for Program Income | 7/9/02 |
| 02-11 | IHBG: Policies under NAHASDA | 6/24/02 |
| 02-10 | 1937 Housing Act: Income Verification | 6/24/02 |
| 02-09 | IHBG: Bad Debts | 6/24/02 |
| 02-08 | FY 2002 SuperNOFA: Corrections | 5/24/02 |
| 02-07 | All Programs: Charging for Labor Costs | 5/2/02 |
| 02-06 | All Programs: Charging Indirect Costs to Federal Grants | 5/2/02 |
| 02-05 | FY2002 SuperNOFA: Eligible Program for Tribes & TDHEs | 3/28/02 |
| 02-04 | IHBG&1937 ACT: Income Limits | 2/13/02 |
| 02-03 | IHBG: Investment of IHBG Funds | 2/08/02 |
| 02-02 | All Programs: Government Accounting Standards | 2/01/02 |
| 02-01 | IHBG: Total Development Cost | 12/04/01 |
| 2001 | | |
| 01-12T | Annual Performance Report (APR), Calculating the Obligation of Funds | 5/24/01 |
| 01-10T | New Format for ONAP Issued Program Guidance | 5/24/01 |
| 01-09T | Income Limits under the Native American Housing Assistance and Self-Determination Act of 1996 | 4/17/01 |
| 01-08T | Status of Notice on Obligating Funds for Replacement Reserves under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) | 3/23/01 |
| 01-07T | Eligible Programs for Tribes and TDHEs | 3/7/01 |
| 01-05T | Lead Based Paint: New HUD Regulations | 10/27/00 |
| 01-04T | Reporting Requirements | 1/9/01 |
| 01-03T | Accounting for Program Income: Frequently Asked Questions regarding Accounting for Program Income under the Indian Housing Block Grant (IHBG) Program | 10/11/00 |
| 01-02T | NAHASDA ELIGIBLE ACTIVITIES: Eligible Affordable Housing Activities & Administrative Expenses | 11/20/00 |
| 01-01T | FBI CRIMINAL HISTORY RECORD INFORMATION: Revision of NAHASDA Guidance 98-18 | 10/04/00 |
| 2000 | | |
| 00-11T | <i>This number was not used. This Guidance was not signed until after the start of FY 2001 and was issued under number 01-05T.</i> | |
| 00-10T | Performance Measure: Clarification of Performance Measures and Their Uses | 9/11/00 |

| Guidance Number | Subject | Issue Date |
|-----------------|---|------------|
| 00-09T | Maintenance of 1937 Housing Act Units: Regulatory and statutory requirements for maintenance of 1937 Housing Act units | 8/15/00 |
| 00-08t | Screening for Eligibility for the IHBG Program under the NAHASDA and the BIA's HIP: Coordination between HUD and the BIA in Providing New Housing in Indian Areas | 7/10/00 |
| 00-07t | IHDEP FY 2000 Funding: Amendment | 6/13/00 |
| 00-06t | IHBG Program Income: Accounting for Program Income under NAHASDA | 5/11/00 |
| 00-05t | Indian Housing Drug Elimination Program (IHDEP): FY 2000 Funding & Application Process | 5/11/00 |
| 00-04t | NAHASDA: Income limits | 5/11/00 |
| 00-03t | APR: Submittal of APRs for FFY 98 & 99 | 3/22/00 |
| 00-02t | APR: Past due APRs | 3/23/00 |
| 00-01t | AUDITS: Combining audits | 5/15/00 |
| 1999 | | |
| 99-12t | Annual Performance Report: Second Year Submittal of the Annual Performance Report (APR) | 8/20/99 |
| 99-11t | No guidance issued for this number | - |
| 99-10t | LOCCS: Toll Free Numbers for Grantees | 9/20/99 |
| 99-09t | Public and Indian Housing Drug Elimination Grant Program (PIHDEP): Formula Allocation for FY 1999 | 3/03/99 |
| 99-08t | No guidance issued for this number | - |
| 99-06t | Cost Limits: DC&E's | 6/15/99 |
| 99-05t | Investment of IHBG funds: Administrative Requirements | 2/09/99 |
| 99-04t | Income Limits: Income Limits for FY 99 | 2/11/99 |
| 99-03t | NAHASDA: Legislation Amended October 21, 1998 | 12/16/98 |
| 99-02t | Annual Income: Calculating Annual Income under NAHASDA | 12/15/98 |
| 99-01t | Indian Housing Plan: Goals, Objectives and Performance Objectives in the 1-year Plan Section of the IHP | 12/15/98 |
| 1998 | | |
| 98-19t | Reviewing Formula Current Assisted Stock (FCAS): Regulatory requirements regarding FCAS as Listed on a Tribe's Formula Response Form | 9/30/98 |
| 98-18t | Accessing Information: Instructions for Obtaining FBI Criminal History Record Information | 9/24/98 |
| 98-17t | Wage Standards: Guidance in Fulfilling Statutory and Regulatory Labor Standards | 9/2/98 |
| 98-16t | Indian Housing Plan: IHP Submission Date for Indian Housing Plans for Federal Fiscal Year 1999 and Thereafter | 8/13/98 |
| 98-15t | Section 184 Loan Guarantee Program: Section 184 Indian Loan Guarantee and Down Payment Assistance under NAHASDA | 7/01/98 |
| 98-14t | Income Limits: Income Limits under NAHASDA | 6/22/98 |
| 98-13t | Allowable Costs: Board of Commissioners Stipends | 6/18/98 |
| 98-12t | NAHASDA: Important Dates to Remember | 3/12/98 |
| 98-11t | Indian Housing Plan: Updated Correction to Download the IHP from the Internet (correction to 98-08) | 1/30/98 |
| 98-10t | Insurance: Transition Guidelines for Insurance Requirements | 12/05/97 |
| 98-09t | Reporting: Revision to PIH 97-60 (HA), dated 12/4/97; Responsibility for | 1/21/98 |

| Guidance Number | Subject | Issue Date |
|-----------------|--|------------|
| | Completion of form HUD-50058, Family Report | |
| 98-08t | Indian Housing Plan: Preparation and Submission of 1 st IHP | 1/23/98 |
| 98-07t | Line of Credit Control System: Accessing the IHBG Funds in LOCCS | 2/27/98 |
| 98-06t | Line of Credit Control System: Process for Setting up a New Recipient Accessing the Funds and Assets Held by an Umbrella IHA | 12/11/97 |
| 98-05t | Line of Credit Control System: Process for Setting up a New Grantee Accessing the Funds & Assets Held by a Former IHA in LOCCS | 12/11/97 |
| 98-04t | Reporting: Reporting Requirements for IHBG & USHA Funds | 3/06/98 |
| 98-03t | Line of Credit Control System: Requirements for Drawdowns of Program Funds | 12/08/97 |
| 98-02t | Modernization: Revised Requirements for Modernization Reporting | 12/08/97 |
| 98-01t | Indian Housing Plan: Extension of Submission Deadline for IHP | 12/08/97 |

CHAPTER 2: INDIAN HOUSING BLOCK GRANT (IHBG) FORMULA

This chapter will cover the following topics related to your formula allocation:

- **Components of the formula allocation: Formula Current Assisted Stock (FCAS), Need, 1996 Minimum, and the Undisbursed IHBG Funds Factor (UDFF);**
- **Other factors affecting tribes' allocations;**
- **How to review and submit corrections, and**
- **Where to find more information and support concerning your formula allocation.**

This chapter addresses the following statutory and regulatory citations:

- **Title III of NAHASDA, Section 1000.301-1000.340 of the regulation, and Appendices A and B.**

THE PURPOSE AND BACKGROUND OF THE IHBG FORMULA

[24 CFR 1000.301 – § 1000.340]

- The formula is used to allocate IHBG funding to Indian tribes and tribally designated housing entities (TDHEs). Accurate formula data allows the Office of Native American Programs (ONAP) to allocate IHBG funds equitably and fairly to eligible tribes/TDHEs.
- The Negotiated Rulemaking Committee developed the IHBG formula in 1997. Tribes from diverse geographic locations and of varying sizes were represented in the development of the formula.
- Subsequent Negotiated Rulemaking processes were convened in 2003-2004, and again in 2013-2016, to review the formula regulations and propose rule changes.
- On April 20, 2007, and November 22, 2016, HUD published a final rule which included revisions to the regulations for the IHBG program allocation formula.
- For additional information on the overall changes affecting the IHBG formula based on the most recent final rule, please refer to Program Guidance (IHBG) No. 2017-06(R) "Changes to the IHBG Formula Regulations."

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THE FORMULA RESPONSE FORM

[§ 1000.315, § 1000.332 – § 1000.336]

- ❑ In accordance with §1000.332, each year HUD is required to notify tribes/TDHEs by June 1 of data to be used in calculating the upcoming year's IHBG formula allocation and to provide them with an estimate of their upcoming year's allocation. This notification is done through the Formula Response Form. The Formula Response Form contains all the data used to compute a tribe/TDHE's estimate allocation and final allocation. Tribes are asked to review all of their data elements and submit updates/corrections. The Formula Response Form is the only mechanism that a tribe/TDHE shall use to report changes to their FCAS. Attachment 2-1 provides a sample Formula Response Form. See § 1000.315 for the requirement to report changes to the FCAS on the Formula Response Form.

- ❑ The key sections of the Formula Response Form are:
 - Formula Current Assisted Stock (FCAS)
 - Adjustment Factors
 - Formula Area
 - Overlapping Formula Areas
 - Tribal Enrollment and Formula Area Population Cap
 - Needs Data
 - Preliminary Grant Amount
 - Formula Response Form Appendices

- ❑ Tribes/TDHEs are responsible for reviewing the information on the Formula Response Form and reporting any updates/corrections to HUD. All requests for corrections concerning the tribe's/TDHE's FCAS, Formula Area, Overlapping Formula Area, TRSAIP, Tribal Enrollment and Formula Area Population Cap, TDC, FMR, and U.S. Census Bureau Population Estimates must be submitted by August 1, which is 60 days from the date the Formula

Q: What are the adjustment factors?

A: The adjustment factors are Allowable Expense Level (AEL), Fair Market Rent (FMR), and Total Development Cost (TDC).

NOTES

Chapter 2: IHBG Formula

Response Form is published, for the request to be included in the upcoming year's final allocation. Challenges to US Census data must be submitted by March 30.

- ❑ HUD runs the final formula calculations after Congress passes the budget and HUD is notified of the appropriation of IHBG funds.

COMPONENTS OF THE FORMULA

[§ 1000.310 – § 1000.316, § 1000.318 – § 1000.325, § 1000.340, § 1000.342]

- ❑ There are four components of the IHBG formula: FCAS, Need, 1996 Minimum, and Undisbursed IHBG funds factor (UDFF).
- ❑ Appendices A and B of the regulation provide detailed information about the formula mechanisms used to calculate each tribe's/TDHE's allocation.

Formula Current Assisted Stock Component of the Formula Allocation

- ❑ FCAS is comprised of the following types of housing:
 - Current assisted stock (CAS), which consists of housing units owned or operated pursuant to an Annual Contributions Contract (ACC). CAS includes all Low Rent, Mutual Help, and Turnkey III housing units under management as of September 30, 1997, as indicated on the Formula Response Form.
 - 1937 Act units in the development pipeline when they become owned and operated by the tribe/TDHE and are under management as indicated in the Formula Response Form.
 - Section 8 units when their contract expired, so long as the tribe continues to manage the assistance in a manner similar to the Section 8 program, as reported on the Formula Response Form.

Q: A TDHE wishes to convert 1937 Act rental units to Mutual Help. How does this affect the formula allocation?

A: If a recipient converts 1937 Act rental units to Mutual Help after October 1, 1997, the units are still funded as rental units under the formula since they were originally built with 1937 Act funds. However, they will be treated as Mutual Help units for the purpose of determining continued eligibility. The TDHE would need to report when the units became conveyance eligible and conveyed.

Q: Can a tribe convert a Mutual Help unit to a non-dwelling unit?

A: Yes. However the unit would no longer count under the formula.

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❑ The following units are NOT counted as FCAS:

- Units that are not built pursuant to an ACC.
- Units built with NAHASDA, HOME, or ICDBG funds.
- Units built with BIA, State, or tribal funds.

Q: Will new units being built with IHBG funds count in the formula for Tribes/TDHEs?

A: If new units are built or acquired with IHBG funds, the units are not eligible to be included in the formula calculation.

- Units built over the number specified in the original ACC for Projects with a Date of Full Occupancy (DOFA) after October 1, 1997.
- Units used for non-dwelling purposes. For example, if a rental property has been converted to office space, the tribe/TDHE cannot count the unit because it is no longer a dwelling unit.
- Vacant units, unless the tribe/TDHE provides the date each unit was last occupied and actions the tribe/TDHE has taken to make the unit available for occupancy.
- A unit that is conveyance eligible and/or conveyed. If a legal impediment prevented the conveyance, the tribe/TDHE needs to make reasonable efforts to overcome the legal impediment as required in §1000.318(b).
- Units that are conveyance eligible based on the project's DOFA unless the tribe/TDHE identified necessary information to support the units' continued eligibility. These units are removed on the Formula Response Form as conveyance eligible based on 25 years having elapsed since the DOFA.
- Demolished units are not eligible unless the tribe/TDHE rebuilds the units within one year of demolition. However, in accordance with §1000.318(e), a tribe may request a one-year one-time extension.

❑ There are two sets of calculations to determine the FCAS portion of the formula: operating subsidy and modernization allocation.

- The Operating Subsidy calculation starts with the National per unit subsidy amount which was in place for each different type of unit when the IHBG program started (LR= \$2,440, MH and TK III= \$528 and Section 8 = \$3,625). The per unit subsidies are adjusted to reflect national inflation and multiplied by the number of eligible units. Tribes'

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allocations are then adjusted up or down to reflect differences in local area costs. This adjustment is based on the AEL or FMR factor (as defined in § 1000.302), whichever is greater. The AEL factor is the ratio of the local area Allowable Expense Level (AEL) to the national weighted average for AEL (NAEL). The FMR factor is the ratio of the local area Fair Market Rent (FMR) to the national weighted average for FMR.

- The Modernization allocation is calculated using two different methods. The two amounts are compared and tribes receive the better of the two calculations.
 - The first method is for all tribes and considers the total number of Low-Rent, Mutual Help and Turnkey III FCAS units. Each unit is provided a subsidy based on the national per unit modernization amount in 1996 (\$1,974) adjusted for national inflation and local area costs. In this case, the local cost adjustment factor is the ratio of the local area Total Development Cost to the National Weighted Average Total Development Cost.
 - A second method of calculating the modernization subsidy is allowed for tribes that had an IHA that owned or operated fewer than 250 public housing units on October 1, 1997. The annual average amount actually received on behalf of the tribe for FYs 1992 through 1997 under the assistance program authorized by section 14 of the 1937 Act (not including emergency assistance) is adjusted for local area costs (Total Development Cost divided by the National Weighted Average Total Development Cost).

Q: What is TDC?

A: Total Development Cost: The sum of all costs for a project, including all undertakings necessary for administration, planning, site acquisition, demolition, construction or equipment and financing, and for otherwise carrying out the development of the project excluding off-site water and sewer.

Reviewing FCAS Data

- After receiving the Formula Response Form, a tribe/TDHE should carefully review the FCAS section for accuracy. Program Guidance (IHBG) No. 2017-05(R) "IHBG Formula FCAS Data" provides additional information on reviewing FCAS data on the Formula Response Form.
- A tribe/TDHE should report any corrections to unit counts, unit types and actual or expected DOFA. When reviewing the data in the Formula Response Form, consider:

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- Are Mutual Help or Turnkey III units that are conveyance eligible or have been conveyed accurately reported?
 - Are there any units that were converted, e.g., from rental to Mutual Help or vice-versa, accurately captured? Units converted prior to October 1, 1997 will be counted as the type of unit to which they were converted (for formula allocation purposes). If the conversion occurred after October 1, 1997, the unit is considered to be the same type of unit as originally designated (for formula allocation purposes). Regardless of how the unit is counted for allocation purposes, all converted units will be treated as the type of unit to which they were converted for purposes of determining ongoing FCAS eligibility. For example, a LR unit converted to MH will no longer be eligible as FCAS after it becomes conveyance eligible.
 - Has the Form correctly recorded the DOFA for new units?
- A tribe/TDHE must submit its request for any corrections to HUD's FCAS data within 60 days of the date of the Formula Response Form, which is currently by August 1 of the current fiscal year. For example, a submission must be postmarked by August 1, 2017 to be included in the FY 2018 final allocation. Corrections should be submitted to the IHBG Formula Customer Service Center using the Formula Response Form Appendices (contact information provided on p. 13).
- A tribe/TDHE must provide documentation to verify its corrections. A tribe/TDHE should consult with the IHBG Formula Customer Service Center to determine documentation requirements.
- 24 CFR 1000.319 describes what will happen if a tribe/TDHE misreports or fails to correct FCAS information on the Formula Response Form.
- Overfunding will require repayment.
 - Back funding will not be provided for any units the tribe/TDHE failed to report in a timely manner.
 - HUD has three years from the date a Formula Response Form is sent out to take action against a tribe/TDHE that fails to correct or make appropriate changes on the Formula Response Form.

The Needs Component of the Formula Allocation

- The final rule published November 22, 2016 updated §1000.330, explains the data

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sources used to compute the Needs component in the allocation. Before the final rule went into effect, Needs data was drawn from the U.S. Decennial Census data and adjusted annually using the Indian Health Service birth and death rates. Under the new rule, beginning in Fiscal Year (FY) 2018, the American Indian and Alaska Native (AIAN) data for the person count Needs variable will still be drawn from the Decennial Census, but it now will be updated annually using the U.S. Census Bureau Population Estimates. It also will be adjusted for statistically significant undercounts on Reservations, Trust lands, and Remote Alaska (§1000.330 (b)(1)). For all other Needs variables, there is a new data source: the American Community Survey (ACS) 5-year estimates (§1000.330 (b)(2)) which are released annually by the Census Bureau. These sources of data will be used unless the Tribe has submitted and HUD has approved a Census challenge.

- ❑ IHBG funds remaining after the FCAS component is calculated are allocated based on need. Seven variables are used to calculate the Needs component of the allocation (see chart below). Each variable is weighted when calculating overall need.

| Needs Variables | Weight factor |
|---|----------------------------|
| American Indian and Alaska Native (AIAN) persons. | Eleven percent (11%). |
| AIAN households with an annual income less than 30 percent of the formula median income. | Thirteen percent (13%). |
| AIAN households with an annual income between 30 and 50 percent of the formula median income. | Seven percent (7%). |
| AIAN households with an annual income between 50 and 80 percent of the formula median income. | Seven percent (7%). |
| AIAN households which are overcrowded and/or without a complete kitchen or plumbing. | Twenty-five percent (25%). |
| AIAN households with a housing cost burden greater than 50 percent of formula annual income | Twenty-two percent (22%). |
| AIAN households with an annual income less than or equal to 80 percent of formula median income minus the sum of CAS and units developed under NAHASDA. | Fifteen percent (15%). |

- ❑ Since 2006, based on direction provided in the annual appropriations, the Needs allocation has been calculated using two data sets -- one reflecting the needs of people who report they are AIAN only (single race AIAN) on the Census, and one reflecting the needs of all AIAN persons – those who say they are either AIAN alone or in combination with other races (multi-race AIAN). The Needs allocation for a tribe is based on the data set which provides them with the higher amount.

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- ❑ The initial Needs allocation is adjusted up or down to reflect relative differences in local area costs, as measured by the ratio of TDC to a weighted national average TDC.
- ❑ In accordance with § 1000.328, the minimum allocation in any fiscal year to an Indian tribe under the need component of the IHBG Formula shall equal 0.007826 percent of the available appropriations for that fiscal year after set asides. Eligibility for the minimum requires that an Indian tribe must:
 - Receive less than \$200,000 under the FCAS component of the IHBG Formula for the fiscal year; and
 - Certify the presence of any households at or below 80 percent of median income in the IHP. Tribes must report minimum need eligibility in Section 7, item 2 of the IHP.
- ❑ In accordance with §1000.331, a limited volatility control was established to mitigate fluctuations in the IHBG grant allocation resulting solely from the introduction of the new data sources, namely, the new Decennial Census and the ACS. If solely as a result of the introduction of a new data source, a tribe's Needs component of the formula is less than 90 percent of the amount it received for Needs in the previous FY, it will receive an adjustment to bring its Needs component to 90 percent of the previous FYs Needs allocation. To cover this adjustment, the Needs allocation of tribes which benefitted from the introduction of the new data source will be reduced. The volatility control adjustment schedule will be adjusted downward if the amount available for Needs in any given year falls below the amount available for Needs in the year prior to the introduction of the new data source.
- ❑ For additional information on the implementation of the new data in the IHBG formula based on the final rule, please refer to Program Guidance (IHBG) No. 2017-04(R) "IHBG Formula Needs Data."

Challenging Need Data

- ❑ Each year, Census challenges are due March 30th to be considered for the upcoming FY allocation. However, the first time that tribes will receive their Needs data under the new data sources will be June 1, 2017, which is after the March 30, 2017, deadline to submit challenges for FY 2018. In an effort to provide tribes with a similar amount of time as they had in prior FYs to review their data, the General Deputy Assistant Secretary has issued a waiver extending the deadline for submitting the FY 2018 Needs data challenges to March 30, 2018.

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- ❑ A tribe that has data that it contends is more accurate than data contained in the U.S. Decennial Census, and if the data were collected in a manner acceptable to HUD, may submit the data with proper documentation to HUD. Refer to Attachment 2-3, Challenging U.S. Decennial Census Data: Guidelines for the IHBG Formula for detailed questions and answers on steps HUD is requiring for a tribe to challenge Census data.
- ❑ A successful Census challenge will be retained in the IHBG Formula for five FYs starting with the first allocation from which it is applied. For example, if a Census challenge is accepted for FY 2018, it will be retained in the formula from FY 2018 through FY 2022 unless the tribe informs HUD otherwise. During that five-year period, a tribe may ask HUD to use the Census Needs data planned for general use in the Formula rather than their successful challenge data. However, once a tribe decides to return to Census' Needs data, it may no longer use the previously approved Census challenge data. It may, however, submit a new Census challenge.
- ❑ HUD has 45 days after the submittal of the data by a tribe to either approve or challenge the data.
 - HUD and the tribe should make a good faith effort to resolve any discrepancies in the data.
 - If the dispute is not resolved before the FYs allocation is made, the dispute is carried forward to the next FYs funding and is resolved in accordance with dispute resolution procedures. See § 1000.336 for dispute resolution procedures.

Formula Area

[§ 1000.302 and § 1000.326]

- ❑ The Formula Area is the geographic area used by HUD to calculate the tribe's Needs allocation.
- ❑ A Formula Area can include but is not limited to:
 - A reservation;
 - Trust land;
 - Department of the Interior Near-Reservation Service Area;

Remember

Formula Area and Service Area may be different. Service Area is defined by the recipient. Formula Area is used to determine the IHBG formula allocation and is based on regulatory requirements.

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- Former Indian Reservations in Oklahoma Indian Areas as defined by the U.S. Census Bureau as Oklahoma Tribal Statistical Areas (OTSAs);
 - Congressionally Mandated Service Area;
 - State Tribal Areas as defined by the Census as State Designated American Indian Statistical Areas;
 - Tribal Designated Statistical Areas (TDSAs);
 - California Tribal Jurisdictional Areas established or reestablished by federal court judgment; and
 - Alaska formula areas described in § 1000.302.
- ☐ To request Formula Areas within the nine categories described above, tribes should use Appendix B1 and provide a copy of a map and legal documents for each specific geographic area they want to add to their Formula Area.
- For a Near Reservation Service Area, include the Federal register notice designating the geography as a Department of Interior Near-Reservation Service Area.
 - For a Congressionally Mandated Service Area include the Public Law document legislating the Congressionally Mandated Service Area.
- ☐ Formula areas may include additional geographic areas if the tribe demonstrates that it is providing substantial housing services in accordance with §1000.302 Formula area (2) & (3) and §1000.302 substantial housing services. To add areas based on service provision, the tribe must submit a request to HUD on the Formula Response Form Appendix B2. The request must include:
- The specific area the tribe wishes to include in its Formula Area including proof that the Indian tribe, where applicable, has agreed to provide housing services pursuant to a Memorandum of Agreement (MOA) with the tribal and public governing entity or entities of the area, or has attempted to establish such an MOA and:
 - Evidence that it is providing substantial housing services, including information on the program, funding source, expenditure by year, and criteria used for determining who may participate in the program.
 - A count of Tribal members who are living in the requested area.

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- The Tribe must commit to continue providing substantial housing services in the requested area. Expanded Formula Area plan and reporting is required in the IHP/APR including total expenditures and number of AIAN persons served in the Expanded Area.
- Upon receiving a request to expand Formula Area (not identified in the list of 9 categories), HUD will make a preliminary decision and notify all potentially affected tribes. If approving the request would create an overlap of formula areas with one or more other tribes, the tribes potentially affected by the request will be notified and have an opportunity to comment on the request. The final determination will be announced through Federal Register notice.

The Population Cap

[§1000.302(5)]

- In general, the AIAN population which may be counted as part of any tribe's Needs is capped at twice the tribe's enrollment. If the number of AIAN persons living in the tribe's Formula Area exceeds this cap, persons above the cap are not counted in the Needs allocation. Other Needs variables are scaled back in the same proportion as the AIAN person variable.
- A tribe subject to this cap may receive an allocation based on more than twice its total enrollment if it can show that it is providing housing assistance to substantially more non-member AIAN persons who are members of other federally recognized tribes than it is to its own tribal members.
- When the tribe is seeking an exception to the cap, the tribal enrollment multiplier will be determined by the total number of AIAN persons for whom the tribe is providing housing assistance on July 30 of the year before funding is sought divided by the total number of tribal members receiving housing assistance. The tribe must provide supporting documentation, including program descriptions and counts, by tribe, of Native Americans served.

Overlapping Formula Areas

- In accordance with § 1000.326, if a Formula Area is served by more than one tribe, the funds allocated for the overlapping area are divided by considering:
 - Each tribe's proportional share of the population in the overlapping area and

NOTES

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- Each tribe's commitment to provide services to its share of the population in the overlapping area.
- ❑ If a State recognized tribe's Formula Area overlaps with the Formula Area of a federally recognized tribe, the federally recognized tribe takes precedence in the assignment of Needs. It will be assigned Needs in the overlapping Formula Area up to the amount allowed given its population cap; the State-recognized tribe will be assigned any remaining Needs, up to its own population cap.
- ❑ If all the tribes in an overlapping area agree, they may decide on a basis for allocating Needs. Suggested data includes:
 - Tribal enrollment lists;
 - U.S. Census data;
 - Indian Health Service User Data; and
 - BIA data.
- ❑ If the Indian tribes involved cannot agree on what data source to use. HUD will make the decision on what data to use. The data currently being used is Total Resident Service Area Indian Population (TRSAIP) as published in the 2005 Labor Force Report.

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POPULATION CAP EXAMPLE

Scenario 1:

Total AIAN persons: 4,000

Tribe A tribal enrollment : 2,000

AIAN persons who are members of another Federally recognized Indian tribe receiving housing assistance on July 30 of the year before funding is sought: 600

Tribe A members receiving housing assistance on July 30 of the year before funding is sought: 200

$4,000 / 2,000 = 2$ The number of times greater the total population is to Tribe A members. Tribe A may only receive an allocation of 2 times its enrollment. No need to increase the cap.

Scenario 2:

Total AIAN persons: 4,000

Tribe B tribal enrollment : 1,000

AIAN persons who are members of another Federally recognized Indian tribe receiving housing assistance on July 30 of the year before funding is sought: 600

Tribe B members receiving housing assistance on July 30 of the year before funding is sought: 200

Automatic AIAN cap is 2,000 ($2 * 1,000$)

Tribe B submits a successful cap correction

Correction is calculated as $600/200=3$

Maximum cap correction is 3 times Tribe B enrollment $3 * 1,000=3,000$

3,000 maximum AIAN persons

Minimum Allocation Contingent on Carry-Over Funds

- In accordance with §1000.329, a provision establishing a new minimum allocation amount was added to the IHBG formula regulation.
- This provision for a minimum IHBG allocation is contingent upon carry-over funds being available in a given year. The first \$3 million of carry-over is held for the purpose of increasing the allocations of tribes which are below the specified minimum, 0.011547 percent of that year's appropriations, up to the minimum level.
- If the carryover amount is insufficient to increase all eligible tribes' allocations up to the specified minimum, the adjustment will be proportionally scaled back.

Undisbursed IHBG Funds Factor (UDFF)

NOTES

Chapter 2: IHBG Formula

- In accordance with §1000.342, a new formula factor, the UDF, was added to the IHBG formula regulation.
- This factor provides adjustments for tribes which have an initial allocation of \$5 million or more and which also have undisbursed IHBG funds in an amount greater than the sum of their prior three years' initial allocation calculations. An eligible tribe's initial allocation in the current year will be reduced by an amount equal to the amount by which the three prior year's allocations exceed its LOCCS balance. Any amounts recovered due to this provision are redistributed to other tribes in proportion to their initial Needs allocation.

1996 Hold Harmless

- In accordance with §1000.340, for each FY, a tribe's IHBG funding cannot be less than the amount the tribe's IHA received in FY 1996 for operating and modernization subsidy.
- If a tribe's IHBG funding is less than the amount the tribe's IHA received in FY 1996 for operating subsidy and modernization, its grant is increased to the amount received in FY 1996 for operating subsidy and modernization. The remaining grants are adjusted to keep the allocation within available appropriations.

FORMULA SUPPORT

- ONAP posts funding allocations and information on the formula on the Web through the following website: www.hud.gov/offices/pih/ih/codetalk/onap/ihbgformula.cfm
 - Allocation summaries are listed by fiscal year.
- Allocation information is also available from the IHBG Formula Customer Service Center.
- The Center has three primary responsibilities:
 - Calculate the IHBG formula allocations;
 - Provide technical assistance to tribes/TDHEs with respect to IHBG formula issues; and
 - Receive and process requests for corrections and challenges to the IHBG data.

NOTES

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Contact the IHBG Formula Customer Service Center at:

Phone: 1-800-410-8808

Fax: 202-393-6411

E-mail: IHBGformula@firstpic.org

Address: 1025 Connecticut Ave, NW, Suite 214, Washington, DC 20036

NOTES

**ATTACHMENT 2-1:
SAMPLE FORMULA RESPONSE FORM**



Public reporting burden for the collection of information is estimated to average 30 minutes. This includes the time for collecting, reviewing, and reporting the data. The information will be used for to allocate funds under the IHBG program. Response to this request for information is required in order to receive the benefits to be derived. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Indian Housing Block Grant Formula Data for the «Tribe_Name» Tribe

This document provides notice to the tribe and/or tribally designated housing entity (TDHE) of the data to be used in calculating its Indian Housing Block Grant (IHBG) program allocation for the current Fiscal Year (FY). It also provides an estimate of the tribe's current FY allocation.

Please carefully review your Tribe's data and report any changes and corrections to the IHBG Formula Customer Service Center as described below. All tribes/TDHEs are responsible for reporting data changes and corrections. According to 24 CFR 1000.315(b), the Formula Response Form is the only mechanism that a recipient shall use to report changes to the number of FCAS. In addition, tribes/TDHEs should use the Formula Response Form to report changes and corrections to the following:

- ❖ Formula Area.
- ❖ Overlapping Formula Areas.
- ❖ Tribal Enrollment and Formula Area Population Cap.

Submission Deadlines

The submission must be postmarked or faxed by **October 1**, of the current FY, for consideration in that FY allocation. For example, a submission must be postmarked by October 1, 2010, for consideration in FY 2011. *Please postmark or fax changes and corrections with appropriate supporting documentation to the IHBG Formula Customer Service Center by **October 1**, of the current FY, for inclusion in that FY allocation. Please note that while HUD requires requests for formula changes to be submitted by Oct 1st, HUD may consider subsequent requests from tribes that have been directly affected by changes resulting from other tribe's request submitted prior to the October 1 deadline. Subsequent requests received in prior FYs may be carried into future FYs if processing of such requests is not finalized in the current FY. For questions regarding appropriate documentation, please contact the IHBG Formula Customer Service Center at the address listed below.

The results of any successful changes to Fair Market Rent (FMR), Total Development Cost (TDC), and the Indian Health Service (IHS) data should also be submitted by October 1. Details on the procedures to be followed if you wish to challenge these data elements are contained in the document "*Challenging Data: Guidelines for the Indian Housing Block Grant Formula.*" This document can be obtained from the IHBG Formula Customer Service Center at the address below.

The Formula Response Form also includes other data elements used to calculate the Needs component of the Formula. Tribes/TDHEs wishing to challenge these data elements should review the **Needs section** of this form. Each year, tribes/TDHEs are reminded that March 30 is the deadline for the next FY's Census challenge. For example, for a Census challenge to be considered for FY 2012, it must be submitted to HUD by March 30, 2011. The Needs data in this document should include any successful Census Challenges approved to date. You should check the Needs section and verify that successful challenges have been incorporated. Should you wish to initiate a challenge to your Needs data, please consult the guide titled, "*Challenging Data: Guidelines for the Indian Housing Block Grant Formula.*"

The guide outlines procedures for conducting a Census challenge.

Failure to Report

Please note that pursuant to §1000.315 and §1000.319, recipients are responsible for verifying and reporting changes to their FCAS on the Formula Response Form to ensure that data used for the IHBG Formula are accurate. Reporting shall be completed in accordance with requirements in subpart D and the FRF. If a recipient receives an overpayment of funds because it failed to report such changes on the FRF in a timely manner, the recipient shall be required to repay the funds within five fiscal years. HUD shall subsequently distribute the funds to all Indian tribes in accordance with the next IHBG Formula allocation. A recipient will not be provided back funding for any units that the recipient failed to report on the FRF in a timely manner. HUD shall have three years from the date a FRF is sent out to take action against any recipient that fails to correct or make appropriate changes on that FRF. Review of FCAS will be accomplished by HUD as a component of A-133 audits, routine monitoring, FCAS target monitoring or other reviews.

Appeals Process

Tribes/TDHEs may appeal HUD decisions regarding data used in the IHBG formula and HUD formula determinations in accordance with §1000.336(e).

Technical Assistance

Should you have questions, please contact the IHBG Formula Customer Service Center at:

1025 Connecticut Avenue, NW, Suite 905
Washington, DC 20036
Phone: 800-410-8808
Fax: 202-393-6411
E-Mail: IHBGformula@firstpic.org

«Tribe_Name»
**Formula Current Assisted Stock
Homeownership and Rental**

HUD records show your Tribe/TDHE having the following Formula Current Assisted Stock (FCAS) funded by 1937 Housing Act programs. Please compare the project numbers, number of units, type of units, and Date of Full Availability (DOFA) with your records. Then postmark or fax any changes and corrections, including updated information, to the IHBG Formula Customer Service Center by **October 1**.

The unit counts reported below include:

- ❖ Low Rent, Mutual Help and Turnkey III units funded under 1937 Housing Act (i.e., units that were subject to an Annual Contributions Contract (ACC)).
- ❖ Units converted prior to October 1, 1997, as the type of unit to which it was converted.
- ❖ Units converted on or after October 1, 1997, as the type of unit funded on the latest ACC.
- ❖ Units previously reported as conveyance eligible (paid-off but not conveyed) for which the tribe/TDHE has provided acceptable documentation that conveyance was beyond its control (see NAHASDA Guidance 98-19).

The unit counts reported below do not include:

- ❖ Units built with NAHASDA, HOME, or ICDBG funds.
- ❖ Units built with BIA, State, or tribal funds.
- ❖ Units built over the number specified in the original ACC for Projects with DOFA after October 1, 1997.
- ❖ Units used for non-dwelling purposes.
- ❖ Units previously reported as having been conveyed, conveyance eligible (paid-off but not conveyed), or demolished.

Please note changes and corrections to the unit counts on the table below and complete and submit appropriate forms as follows:

- ❖ Use **Appendix A1** to report changes due to units being paid-off or conveyed.
- ❖ Use **Appendix A2** to report changes due to DOFAs.
- ❖ Use **Appendix A3** to report changes due to conversions.
- ❖ Use **Appendix A4** to report all other FCAS changes.

| Project Number | Low Rent | Mutual Help | Turnkey III | In Development | DOFA |
|--------------------------------------|----------|-------------|-------------|----------------|------|
| «CAS1»«CAS2»«CAS3»«CAS4»«CAS5»«CAS6» | | | | | |

«Tribe_Name»
Formula Current Assisted Stock
Section 8

Under the IHBG Formula, your Tribe's FCAS count includes the following Section 8 units:

of units «Section 8 Units»

By regulation, Section 8 units are counted under the IHBG formula after their contracts expire only if the tribe/TDHE continues to manage the assistance in a manner similar to the Section 8 program.

If you no longer provide or operate an equivalent number of Section 8, please make corrections to the total above and on the table below.

| Contract Number | Number of Section 8 Units | Contract Expiration Date |
|------------------------|----------------------------------|---------------------------------|
|------------------------|----------------------------------|---------------------------------|

«Section 8 Table»

**«Tribe_Name»
Adjustment Factors**

Inflation Rate Factor

Inflation rate is adjusted annually and is a national figure used to adjust the amount of subsidy for FCAS.

«Inflation_Factor»%

Local Area Cost Adjustments

Allowable Expense Level (AEL), Fair Market Rent (FMR), and Total Development Cost (TDC) are used to adjust the amount of subsidy for FCAS to reflect local Conditions. TDC is also used to adjust the Needs component to reflect local costs.

| | |
|--------------------------------------|----------------------------------|
| Annual Expense Level (AEL): | «Allowable_Expense_Level» |
| Fair Market Rent (FMR): | «Fair_Market_Rent» |
| Total Development Cost (TDC): | «Total_Development_Cost» |

In accordance with §1000.336(a)(7)(b) AEL cannot be challenged. However, instructions for challenging the FMR and TDC are provided in the document “*Challenging Data: Guidelines for the Indian Housing Block Grant Formula*” available through the IHBG Formula Customer Service Center. Tribes successfully challenging FMR and TDC data elements must submit the revised figures to the IHBG Formula Customer Service Center by October 1. Please note that while HUD requires requests for formula changes to be submitted by October 1, HUD may consider subsequent requests from tribes that have been directly affected by changes resulting from other tribe’s request submitted prior to the October 1 deadline. Subsequent requests received in prior FYs may be carried into future FYs if processing of such requests is not finalized in the current FY.

**«Tribe_Name»
Formula Area**

In accordance with §1000.302 Formula Area (1)...”Formula Areas are:”

- (1) Reservations for federally recognized Indian tribes, as defined by the U.S. Census;
- (2) Trust lands;
- (3) Department of the Interior Near-Reservation Service Areas;
- (4) Former Indian Reservation Areas in Oklahoma Indian Areas, as defined by the U.S. Census as Oklahoma Tribal Statistical Areas (OTSAs);
- (5) Congressionally Mandated Service Areas;
- (6) State Tribal Areas as defined by the U.S. Census as State Designated American Indian Statistical Areas (SDAISAs);
- (7) Tribal Designated Statistical Areas (TDSAs);
- (8) California Tribal Jurisdictional Areas established or reestablished by Federal court judgment; and
- (9) Alaska formula areas described in §1000.302 Formula area (4).

Formula areas may include additional geographic units if the Tribe demonstrates that it can exercise court jurisdiction and/or is providing substantial housing services in accord with §1000.302 Formula area (2) & (3) and §1000.302 Substantial housing services.

The geographic areas currently contained in your Formula Area are listed below.

«Formula_Areas_Table»

A "+" next to a geographic area listed below indicates that the area overlaps with other tribe(s). For overlapping areas, be sure to review the information in the next section "Overlapping Formula Areas." Balance of county refers to any land in a county outside reservations or trust lands.

If any of these areas do not meet the above criteria or are not covered under §1000.302 Formula area (2), please make changes and corrections in Appendix B.

If you wish to request other geographic areas beyond those identified above to be added to your Tribe’s Formula Area, please complete the Formula Area table in **Appendix B**. HUD will review this submission based on §1000.302 Formula area (2) & (3) and §1000.302 Substantial housing services and determine whether or not to include these areas. HUD will make its judgment using as its guide whether this addition is fair and equitable for all tribes receiving a formula allocation. Please note that if Formula Area expansions are approved based on Substantial Housing Services, tribes must continue to provide investment levels consistent with the definition of Substantial Housing Services in accordance with §1000.302 Substantial housing services (2).

«Tribe_Name»
Overlapping Formula Areas
Only for tribes with a “+” next to a geographic area
(see previous section on Formula Area)

In cases where tribes are overlapped, Needs data (population and household) for the entire Formula Area of all tribes involved in the overlap are shared. If your Formula Area is overlapped, you are likely receiving a share of the Needs data for areas beyond those listed as being a part of your Tribe’s Formula Area.

Currently, your Tribe is sharing Needs data as a result of overlapping Formula Areas with the following tribes:

«Overlapping_Tribes»

HUD uses Bureau of Indian Affairs (BIA) estimates for Total Resident Service Area Indian Population (TRSAIP) to proportionately allocate Needs data to the affected tribes.

The TRSAIP being used for your Tribe is: «TRSAIP»

If you wish to correct your Tribe’s TRSAIP, please contact your BIA Area Office. HUD will only accept written correspondence from the BIA to correct TRSAIP figures (see the document “*Challenging Data: Guidelines for the Indian Housing Block Grant Formula*” available through the IHBG Formula Customer Service Center).

HUD recognizes that tribes may be able to provide better data for overlapping areas. Therefore, HUD is requesting that each tribe provide it’s Tribal Enrollment within each of the geographic areas described in the preceding section as overlapping.

If all tribes in an overlapping area submit corrected information to HUD, HUD will then use this information to divide the funds for the affected area. Otherwise, HUD will continue to use the BIA TRSAIP estimates to make the allocations. On the form in Appendix C, list the overlapping geographic area (indicated earlier under the Formula Area section by a "+" next to the geographic area) and your Tribe’s enrollment in the area.

«Tribe_Name»
Tribal Enrollment & Formula Area Population Cap

In accordance with §1000.302 (5), Tribal Enrollment is used to cap AIAN persons in calculating Needs data. A cap is placed at twice Tribal Enrollment. If there is a "*" next to "AIAN persons" in the Needs section, your Tribe's data have been "capped."

The enrollment being used for your Tribe (or Alaska Native Village or Corporation) is:

«BIA_Enrollment»

If your Tribe's enrollment is different than what is listed above, please follow the instructions in Appendix D for correcting your Tribe's enrollment.

If a cap has been applied to your Tribe and you are providing housing services to more than twice as many AIAN members of other tribes as members of your own Tribe, please follow the instructions in Appendix D for correcting your Tribe's Population Cap.

Please note that Formula Area Population Cap Adjustments must be submitted on an annual basis to the IHBG Formula Customer Service Center for approval. The requests must be postmarked or faxed by October 1 of this year.

«Tribe_Name»

Needs Data

(Please note: Census challenges must be postmarked or faxed by March 30 for upcoming FY)

Listed below are the data currently being used to calculate the Needs component of your Tribe's allocation based on 2000 U.S. Census data available for your Tribe's "Formula Area" (see Formula Area section of this document).

The Census data used are from a special tabulation. This tabulation:

- ❖ Counts individuals if reported as American Indian and Alaska Native (AIAN). The FY <<FY>> formula was calculated with the Need component based on single race (AIAN alone) Census data and multi-race (AIAN alone and in combination with other race(s)) Census data. The amount of the allocation for each Indian tribe was determined to be the greater of the two resulting allocation amounts.
- ❖ Defines as an AIAN Household, any in which the head of household and/or spouse is AIAN as defined above.
- ❖ Uses the Census definition of household as a person or group of persons living in a housing unit. For example, three families residing in one house count as one household, not three households.
- ❖ Groups households in income categories defined by the Formula.

The Census tabulation is further adjusted to reflect population change over time based on Indian Health Service (IHS) population projections based on AIAN births and deaths. The adjustment factor (annualized) for your Formula Area is listed next to each Formula Area on page 7².

After adjustments based on IHS population projections, the sharing of Needs data among tribes in cases of overlapping Formula Areas and application of the Population Cap (see note below), your Tribe's Needs component is based on «Mulit_Single_Race». The needs data are:

| | |
|---|-------------------------------|
| AIAN persons«Capped»: | «AIAN_Persons» |
| AIAN households with annual income less than 30% of median income: | «AIAN_Households_30» |
| AIAN households with annual income between 30% and 50% of median income: | «AIAN_Households_3050» |
| AIAN households with annual income between 50% and 80% of median income: | «AIAN_Households_5080» |
| AIAN households which are overcrowded or without kitchen or plumbing: | «AIAN_Households_Overcrowded» |
| AIAN households with housing cost burden greater than 50% of annual income: | «AIAN_Households_Burden50» |
| Housing Shortage (number of low-income AIAN households less total number of NAHASDA and Current Assisted Stock): | «AIAN_Households_Shortage» |

² The Indian Health Service provides a ten year projection of population for each county. An annualized rate of change is calculated for each county area based on that projection. That rate of change is then applied to the needs data for each component of the formula area by county and multiplied by the number of years that has elapsed since the date of the data. The date for most needs data is 2000 (the Census), but could vary depending on whether a tribe had a successful census challenge. The final adjustment for a tribe is a weighted average for each of the components of its formula area. In accordance with §1000.336 (a)(7), a tribe/TDHE may challenge birth and death rate data provided by the National Center for Health Statistics (NCHS) to the IHS for population growth projections. Please see the document "[Challenging U.S. Decennial Census Data](#): Appendix B" at <http://www.hud.gov/offices/pih/ih/codetalk/onap/ihbgformula/apndxb.pdf> for further information.

Note: If there is a "*" next to "AIAN persons" above, the tribe's data have been "capped." This occurs when the AIAN population in the Tribe's service area is greater than twice its total Tribal Enrollment.

If you think these data do not reflect your Needs:

- Check to see if the Formula Area, as listed on the following page, is correct for your Tribe. If the Formula Area is not correct, submit that correction.
- Check to see if the Formula Area for your Tribe overlaps that of another tribe. If it does, you may wish to contact the IHBG Formula Customer Service Center to obtain detailed information on how the Needs data are being shared.
- If you still disagree, you may wish to submit a Census challenge. If so, please review the guidelines in "*Challenging Data: Guidelines for the Indian Housing Block Grant Formula.*" This document can be obtained from the IHBG Formula Customer Service Center at the address listed on the first page of this form.

«Tribe_Name»
Preliminary Grant Amount
(Based on an estimated <<\$Appropriation Amount>>appropriation)

This is only a preliminary estimate to be used for planning purposes based on an estimated \$<<APPROPRIATION AMOUNT>> appropriation for the IHBG program. It will change based on corrections to the data used for all tribes (any change in one tribe's data affects the allocation for all tribes) and/or actual FY <<FY>>appropriations.

FCAS Component:¹ «Mod_Gain» «Under_250»

«FCAS_Component»

Needs Component:²

«Needs_Component»

Adjustments to achieve FY 1996 Base Year Amount:³

«FY96Adj»

FY <<FY>> Estimated Grant:

«FY_09_Estimated_Grant»

Repayments and Other Adjustments:^{3,4}

«Repayments»

FY <<FY>> Grant with Repayments & Adjustments:

«FY_09_Adjusted_Grant»

¹ If an "M" appears following the FCAS component, it means that the modernization subsidy on which FCAS was based was calculated using the alternative definition in 1000 CFR 316(b)(2), which states that "for Indian tribes with an Indian Housing Authority (IHA) that owned or operated fewer than 250 public housing units on October 1, 1997, the modernization allocation equals the amount of funds received under the assistance program authorized by Section 14 of the 1937 Act (not including funds provided as emergency assistance) for FYs 1992 through 1997. If an "A" appears, it means that your tribe had an IHA that owned or operated fewer than 250 public housing units on October 1, 1997, but was entitled to a larger modernization amount using the original method of calculation (1000CFR(b)(1) and your grant was adjusted to take this into account, as called for in 1000 CFR 340 (a). If no "M" or "A" appears the modernization subsidy was calculated using the original method described in 1000 CFR 316(b)(1).

² The Needs Component includes adjustments needed to achieve minimum funding as called for in §1000.328. The minimum allocation in any fiscal year to an Indian tribe under the need component of the IHBG Formula shall equal 0.007826% of the available appropriations for that FY after set asides. In this allocation, the minimum needs grant is \$48,580. To be eligible for the minimum allocation, an Indian tribe must receive less than \$200,000 under the FCAS component of the IHBG Formula for the fiscal year, and must demonstrate the presence of any households at or below 80 percent of median income.

³ Repayments and Adjustments refer to corrections made to prior year formula allocations. Most are repayment agreements with HUD, usually for over-funding received by the tribe in prior years due to late reporting of paid-off and conveyed FCAS. Funds recovered through repayments are reallocated among all tribes in the following FY through the formula. Adjustments are also occasionally made as a result of HUD errors in entering tribes' information or in calculating formula allocations.

⁴ Other adjustments may also include back-funding based on the preamble to the revised IHBG formula regulations. As part of the changes to 24 CFR 1000.315 and 1000.319, HUD has agreed to provide back-funding for any undercount of units that occurred and was reported or challenged prior to October 31, 2003.

ATTACHMENT 2-2: FORMULA RESPONSE FORM APPENDICES



Appendix A1: Conveyance of Formula Current Assisted Stock (FCAS) Units

Conveyance Regulation:

According to 24 CFR 1000.318, "Mutual Help and Turnkey III units shall no longer be considered Formula Current Assisted Stock (FCAS) when the housing entity no longer has the legal right to own, operate, or maintain the units, whether such right is lost by conveyances, demolition, or otherwise provided that:

- (1) Conveyance of each Mutual Help or Turnkey III unit occurs as soon as practicable after a unit becomes eligible for conveyance by the terms of the Mutual Help and Occupancy Agreement (MHOA); and
- (2) The Indian tribe, tribally designated housing entity (TDHE), or Indian Housing Authority actively enforce strict compliance by the homebuyer with the terms and conditions of the MHOA, including the requirements for full and timely payment.

As clarified in the Native American Housing Assistance and Self-Determination Act (NAHASDA) Section 302, the tribe/TDHE shall not include units that have been paid-off but not conveyed unless the tribe/TDHE can demonstrate that the unit has not be conveyed for reasons beyond the tribe/TDHE's control.

Report:

- ❖ All units that have been conveyed.
- ❖ All units that are paid-off but not conveyed. If applicable, provide reasons that conveyance was beyond the tribe's control and steps the Tribe has taken to resolve the problem. For further information see NAHASDA Guidance 98-19. Reasons may include:
 - ♦ Probate (provide the date of death and the status of the unit);
 - ♦ Disagreement among heirs (the Tribe should show that it has made efforts to contact the heirs and reach agreement);
 - ♦ Bureau of Indian Affairs (BIA) delays (the Tribe is asked to provide documentation of its efforts to resolve any delays including a record of initial contact with the BIA and follow up correspondence).

The deadline for responding with changes to the data on the Formula Response Form is August 1. Any changes reported after the August 1 deadline are not timely under §1000.315 and §1000.319. Accordingly, no back funding is authorized based on changes reported after August 1; nor will untimely reported units be included in the FY 2017 allocation.

To maintain fairness to all tribes, if tribes receive funding for ineligible units, repayment will be required.

| Project Number: | Unit Number: | Paid-off date | Conveyance date | Explanation for conveyance delays greater than two (2) years |
|-----------------|--------------|---------------|-----------------|--|
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Appendix A2: Date of Full Availability (DOFA) of Formula Current Assisted Stock (FCAS) Units

DOFA Regulation:

According to 24 CFR 1000.312 and 1000.314, "Formula Current Assisted Stock (FCAS) consists of housing units owned or operated pursuant to an ACC. This includes all Low Rent, Mutual Help, and Turnkey III units under management as of September 30, 1997, and all 1937 Act units in the development pipeline when they become owned or operated by recipients and are under management as indicated in the Formula Response Form."

Report:

- ❖ Low Rent, Mutual Help, and Turnkey III units funded under 1937 Housing Act (i.e., units that were subject to an Annual Contributions Contract (ACC))

Do Not Report:

- ❖ Units built with NAHASDA, HOME, or ICDBG funds.
- ❖ Units built with Bureau of Indian Affairs, State, or tribal funds.
- ❖ Units built over the number specified in the original ACC for Projects with DOFA after October 1, 1997.

Please provide the information below for each new reported project DOFA. Please provide a copy of the ACC for each reported project indicating the number and type of units allowed.

In accordance with 24 CFR 1000.319(c), a recipient will not be provided back-funding for any units that the recipient failed to report on the **Formula Response Form** in a timely manner.

| Project Number | Number of Units | Type of Units | DOFA |
|----------------|-----------------|---------------|------|
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Appendix A4: All Other Corrections to Formula Current Assisted Stock (FCAS)

FCAS Correction Regulation:

According to 24 CFR 1000.312 and 1000.314, "Formula Current Assisted Stock (FCAS) consists of housing units owned or operated pursuant to an ACC. This includes all Low Rent, Mutual Help, and Turnkey III units under management as of September 30, 1997, and all 1937 Act units in the development pipeline when they become owned or operated by recipients and are under management as indicated in the Formula Response Form."

Report:

- ❖ Units not used as housing dwelling units.
 - Including units used for non-dwelling purposes.
 - Including unoccupied units that are not being made available for occupancy through e.g., active repair or rehabilitation, advertising, or processing from a wait list, as appropriate.
- ❖ Units that have been demolished.
- ❖ Differences between FCAS reported on the Formula Response Form and your Tribe's records that are not due to conveyances, Date of Full Availability and/or conversion.

Please provide the information below for each project requiring a correction that is not a conveyance, DOFA, or conversion. To add units or projects to your FCAS, an Annual Contributions Contract must be provided. To remove units or projects, the date and reason for removal must be reported.

| Project Number | Formula Response Form Units & Type | Correct Number of Units | Date Unit Changed/Last Occupied/ Demolished | Reason for Change |
|----------------|------------------------------------|-------------------------|---|-------------------|
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

Appendix B1: Request to Add Other Geographies to Formula Area

Formula Area Regulation:

According to 24 CFR 1000.302 Formula Area, (1) Formula areas are: (i) Reservations for federally recognized Indian tribes, as defined by the U.S. Census; (ii) Trust lands; (iii) Department of the Interior Near-Reservation Service Areas; (iv) Former Indian Reservation Areas in Oklahoma Indian Areas, as defined by the U.S. Census as Oklahoma Tribal Statistical Areas (OTSAs); (v) Congressionally Mandated Service Areas; (vi) State Tribal Areas as defined by the U.S. Census as State Designated American Indian Statistical Areas (SDAISAs); (vii) Tribal Designated Statistical Areas (TDSAs); (viii) California Tribal Jurisdictional Areas established or reestablished by Federal court judgment; and (ix) Alaska formula areas described in paragraph (4) of this definition.

Please provide a map** and a copy of legal documents (e.g., Federal Register Notice, publication of designation of Near-Reservation Service Area, Public Law documents legislating Congressionally Mandated Service Areas) for each geographic area you want to add to your Tribe's Formula Area.

To request additional areas beyond those identified in the above list of nine, see Appendix B2.

**Maps are available from the US Census Bureau. <http://ftp2.census.gov/geo/maps/blk2000/>

Appendix B2: Request to Add Other Geographies to Formula Area

According to 24 CFR 1000.302 Formula Area: (2)(i) For a geographic area not identified in paragraph (1) of this definition, and for expansion or re-definition of a geographic area from the prior year, including those identified in paragraph (1) of this definition, the Indian tribe must submit, on a form agreed to by HUD, information about the geographic area it wishes to include in its Formula Area, including proof that the Indian tribe, where applicable, has agreed to provide housing services pursuant to a Memorandum of Agreement (MOA) with the tribal and public governing entity or entities of the area, or has attempted to establish such an MOA; and is providing substantial housing services and will continue to expend or obligate funds for substantial housing services as reflected in the form agreed to by HUD for this purpose.

According to §1000.302, Substantial Housing Services: (1) Affordable housing activities funded from any source provided to American Indian and Alaska Native (AIAN) households with incomes 80 percent of the median income as defined in the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4103 (14)) or lower, equivalent to 100 percent or more of the increase in the IHBG formula allocation that the Indian tribe would receive as a result of adding the proposed geography; or (2) Affordable housing activities funded with IHBG funds provided to AIAN households with incomes 80 percent of the median income as defined in NAHASDA (25 U.S.C. 4104(14)) or lower, equivalent to 51 percent or more of the Indian tribe's current total IHBG grant; and either: (i) 51 percent or more of the Indian tribe's official enrollment resides within the geographic area; or (ii) The Indian tribe's official enrollment constitutes 51 percent or more of the total AIAN persons within the geography. (3) HUD shall require that the Indian tribe annually provide written verification...that the affordable housing activities it is providing meet the definition of substantial housing services.

If you wish to request additional areas based on the above regulations, please provide a map, an MOA or documentation of the Tribe's efforts to secure one, and fill in the two tables below for each area that you want to add to your Tribe's Formula Area. In addition, please provide a brief narrative describing each program.** Use a separate table for each geographic area requested.

| Geographic Area | | | | | |
|---|----------------------------|-----------------|-----------------|---------|---|
| Number of Tribal Members Living in Area | Affordable Housing Program | Program Purpose | Source of Funds | Year(s) | Total Dollar Amount of Program Investment by Year |
| | | | | | |
| | | | | | |

Total dollar amount of program investment by year must appear in the Indian Housing Plan (IHP) and actual accomplishments must appear in the Annual Performance Report (APR) separately for each area requested. HUD will monitor Formula Area additions to ensure that the tribe continues investment at levels that are consistent with the definition of Substantial Housing Services.

**Maps are available from the US Census Bureau. <http://ftp2.census.gov/geo/maps/blk2000/>

Appendix C: Enrollment in Overlapping Areas

Overlapping Area Regulation:

According to 24 CFR 1000.326, “(a) If an Indian tribe’s formula area overlaps with the formula area of one or more other Indian tribes, the funds allocated to that Indian tribe for the geographic area in which the formula areas overlap will be based on: (1) The Indian tribe’s proportional share of the population in the overlapping geographic area; and (2) The Indian tribe’s commitment to serve that proportional share of the population in such geographic area. (3) In cases where a State recognized Indian tribe’s formula area overlaps with a Federally recognized Indian tribe, the Federally recognized Indian tribe receives the allocation for the overlapping area. (b) Tribal membership in the geographic area (not to include dually enrolled tribal members) will be based on data that all Indian tribes involved agree to use. Suggested data sources include tribal enrollment lists, the U.S. Census, Indian Health Service User Data, and Bureau of Indian Affairs data. (c) If the Indian tribes involved cannot agree on what data source to use, HUD will make the decision on what data will be used to divide the funds between the Indian tribes by August 1.”

Please provide the information below for each overlapping geographic area of your Tribe’s Formula Area as listed in the Formula Response Form. **This information will only be used if ALL tribes in the overlapping area submit data.***

| Geographic Area Name | Tribal Enrollment |
|----------------------|-------------------|
| | |
| | |

*Postmark or fax changes and corrections with appropriate supporting documentation to the IHBG Formula Customer Service Center by **August 1, 2016**, for inclusion in the FY 2017 allocation. Please note that with respect to overlapping areas, while HUD requires requests for formula changes to be submitted by August 1st, HUD may consider subsequent requests related to overlapping areas from tribes that have been directly affected by changes resulting from requests submitted by another tribe or tribes in the overlapping area that were submitted prior to the August 1 deadline. Subsequent requests received in prior FYs may be carried into future FYs if processing of such requests is not finalized in the current FY.

Appendix D: Tribal Enrollment & Population Cap

Population Cap Regulation:

According to 24 CFR 1000.302, “(5) In some cases the population data for an Indian tribe within its Formula Area is greater than its tribal enrollment. In general, to maintain fairness for all Indian tribes, the tribe’s population data will not be allowed to exceed twice an Indian tribe’s enrolled population. However, an Indian tribe subject to this cap may receive an allocation based on more than twice its total enrollment if it can show that it is providing housing assistance to substantially more non-member Indians and Alaska Natives who are members of another federally recognized Indian tribe than it is to members. For state-recognized Indian tribes, the population data and formula allocation shall be limited to their Tribal Enrollment figures as determined under enrollment criteria in effect in 1996. (6) In cases where an Indian tribe is seeking to receive an allocation more than twice its total enrollment, the tribal enrollment multiplier will be determined by the total number of Indians and Alaska Natives the Indian tribe is providing housing assistance (on July 30 of the year before funding is sought) divided by the number of members the Indian tribe is providing housing assistance. For example, an Indian tribe which provides housing to 300 Indians and Alaska Natives, of whom 100 are members, would then be able to receive an allocation for up to three times its tribal enrollment if the Indian and Alaska Native population in the area is three or more times the tribal enrollment.”

According to the Native American Housing Assistance and Self-Determination Act Guidance 98-12, “A tribe must demonstrate that it is serving substantially more non-member Indians and Alaska Natives who are members of another federally recognized tribe than members. For Population Cap purposes, Housing Assistance refers to grants or subsidies provided within the year before funding is sought to make housing more affordable for low-income Indians and Alaska Natives who are member of Federally recognized Indian tribes including but not limited to: HOME programs; energy assistance; home improvement assistance; mortgage or downpayment assistance; homeless or emergency shelter assistance; and, programs similar to the programs formerly known as Mutual Help, Low Rent, Turnkey 3, and Section 8.”

If you wish to correct your Tribe’s enrollment, you must submit a letter stating your Tribe’s enrollment that is dated and certified by your Tribe’s Enrollment Officer*

If you wish to adjust your Tribe’s population cap to a level greater than twice your Tribe’s enrollment, please provide the information below and a brief narrative describing the programs.*

| A Tribal Enrollment | B Total Number of AIAN Persons Served | C Total Number of Tribal Members Served | D Total Number of Members of Other Federally Recognized Tribes Served | Factor (C+D)/C |
|--------------------------------------|--|--|--|-----------------------|
| | | | | |

* Postmark or fax changes and corrections with appropriate supporting documentation to the IHBG Formula Customer Service Center by **August 1, 2016**, for inclusion in the FY 2017 allocation. Please note that with respect to overlapping areas, while HUD requires requests for formula changes to be submitted by August 1st, HUD may consider subsequent requests related to overlapping areas from tribes that have been directly affected by changes resulting from requests submitted by another tribe or tribes in the overlapping area that were submitted prior to the August 1 deadline. Subsequent requests received in prior FYs may be carried into future FYs if processing of such requests is not finalized in the current FY.

**ATTACHMENT 2-3: CHALLENGING U.S. DECENNIAL CENSUS DATA:
GUIDELINES FOR THE INDIAN HOUSING BLOCK GRANT FORMULA**



Challenging U.S. Decennial Census Data: Guidelines for the Indian Housing Block Grant Formula

This document, in question and answer format, outlines the steps HUD requires for a tribe to challenge the U.S. Decennial Census data used in the "Needs" component of the Indian Housing Block Grant (IHBG) formula.

In order for a Census challenge to be considered for the upcoming Fiscal Year (FY) allocation, documentation must be submitted to HUD by June 15. Therefore, for FY 2006, documentation must be submitted to HUD by June 15, 2005. The discussion of what documentation needs to be submitted to HUD begins on page 8 of this document.

Q: What are the variables in the formula that allocate funds for housing need?

A: The need component of the formula contains 7 variables as defined in 24 CFR 1000.324. The values for these "Needs" component variables are based on 2000 U.S. Census sample data as adjusted by Indian Health Service (IHS) data on AIAN Births and Deaths. The weights and variables proposed to be used in the formula are the following:

Weight Variable

| | |
|-----|--|
| 11% | Number of American Indian and Alaska Native (AIAN) Persons |
| 13% | Number of AIAN Households with incomes less than 30% of local area median income |
| 7% | Number of AIAN Households with incomes between 30% and 50% of local area median income |
| 7% | Number of AIAN Households with incomes between 50% and 80% of local area median income |
| 25% | Number of AIAN Households overcrowded (more than 1.01 persons per room) and/or without complete kitchen or plumbing |
| 22% | Number of AIAN Households paying more than 50% of their monthly gross income for housing costs |
| 15% | Number of AIAN Households with income less than 80% of local area median income less the number of assisted housing units. |

The "weight" indicates the relative importance of a variable. The higher the weight, the more important the variable for allocating funds.

Q: Will HUD accept Tribal Enrollment Numbers?

A: Yes, HUD will accept tribal enrollment data in lieu of the number of AIAN persons listed under the Needs Data section of the Formula Response Form in computing the IHBG formula allocation but only if the tribal enrollment data is used by the Tribe to disburse significant per capita payments to tribal members and if only persons living within a Tribe's Formula Area are counted in the enrollment. HUD believes when tribal enrollment is used for disbursing funds there is a built-in incentive to update and purge records on a regular basis.

Q: Will HUD accept BIA Labor Statistics?

A: In most cases, HUD will not accept BIA Labor Statistics in lieu of the number of AIAN persons listed under the Needs Data section of the Formula Response Form when computing the IHBG. BIA Labor Statistics are not collected by a consistent method across the country. In order for HUD to consider BIA Labor Statistics in lieu of AIAN persons, a tribe would first have to submit the method that was used in collecting their BIA Labor Statistics. Sources of data for the need variables shall be data that are collected in a uniform manner that can be confirmed and verified for all AIAN households and persons living in an identified area. In most cases BIA Labor Statistics come from tribal data and this often comes from enrollment records. Data based upon enrollment records would only be accepted as described in the response to the previous question, "Will HUD accept Tribal Enrollment Numbers"?

Q: Will HUD accept Indian Health Service Information?

A: HUD will accept Indian Health Service records in lieu of the number of AIAN persons listed under the Needs Data section of the Formula Response Form in computing the IHBG Formula Allocation but only if the IHS data are made available to HUD. This availability will allow HUD to verify that only those users who reside within the Tribe's Formula Area, and have used the tribal health service within the last three years, are included in the Formula data.

Q: Are the Census variables based on the number of tribal members?

A: No. The Census data used are for all AIAN households within a tribe's Formula Area. The Census attempts to count all housing units and all of the persons residing in those housing units using a short questionnaire. For questions concerning income, housing condition, etc., the Bureau sampled 1 out of every 6 housing units and used a much longer questionnaire. Most researchers agree that for large populations, sampling is less expensive and more reliable than trying to survey every household. However, because many tribal areas are relatively small in population and are quite remote, the chance of statistical error and undercount increases. Undercount occurs when the Bureau does not *initially* identify all of the housing units while statistical error occurs when not a high enough share of the households are surveyed to accurately represent the population.

Q: What if my tribe's service area is different than the service area currently identified by HUD?

A: Service Area is a term used by other programs. For IHBG purposes you should use Formula Area. You can correct the Formula Area being used for the formula. Guidance for making those corrections is in the document "Formula Response Form: Correcting Data for the Indian Housing Block Grant Formula."

Q: What if my tribe's geography is correct but the Census did not count all of the AIAN persons in our "formula area"?

A: The tribe may challenge the data. Any data the tribe provides to HUD to dispute the Census Bureau figures must be collected in a manner consistent with all other tribes. HUD makes the ruling on whether the data can be used. There are two options a tribe may take to challenge the data. The first option makes the case that there has been a miscount of AIAN households in the "Formula Area." The second option involves challenging each of the variables used in the formula. Both challenges require a survey. The first challenge would only require the first three questions in Appendix A. The second

challenge would require all 10 questions in Appendix A to be asked.

Q: How does a tribe challenge the data?

A: A tribe may challenge by providing data collected in a manner acceptable to HUD. This data may come from administrative records (see earlier answers on Tribal Enrollment and IHS data) or they may come from a survey conducted by the tribe. Regardless of whether a tribe decides to challenge only the population data or all of the variables, HUD's basic rules for reviewing data submitted as part of a challenge are the following:

- Questions used in the tribal survey must obtain data equivalent to the data originally from the 2000 U.S. Census Long Form. Copies may be obtained from www.census.gov (or refer to Appendix A, C, & D)
- The method of data collection is unbiased and statistically acceptable to HUD.

While this document is to assist people without a background in survey research in conducting a successful survey that meets the above objectives, **we strongly recommend trying to locate a person or organization independent from the tribe to manage the survey. Independent survey data is inherently more acceptable to other tribes and to HUD.** For example, if there is a local college, a professor might be persuaded to conduct the survey as part of a course.

Step 1: Selecting the Type of Survey

The most commonly used surveys are: (a) telephone surveys; (b) door-to-door surveys; and (c) mail surveys.

Telephone surveys - An interviewer calls up, identifies an appropriate respondent, and proceeds with the interview. It is important to recognize that the steps that must be taken before the interviewer reaches the point of telephoning may prove difficult. In a telephone survey, the telephone numbers of all the households in the formula area must be acquired and a method devised for contacting households without telephones or those with unlisted numbers.

Door-to-door surveys- The interviewers must go to each household, knock on doors, and do the "leg work" necessary to obtain interviews. In very small areas this type of survey may be the easiest because the interviewers can define the formula area by its geographic boundaries.

Mail/Drop-off surveys- The interviewers need a list of all the addresses/locations for all AIAN households in the formula area, a questionnaire, and postage. However, mail/drop-off surveys often yield a very low rate of response, which means a low degree of accuracy. Also, provisions must be made to provide non-English-speaking residents with a questionnaire in their own language. If this method is chosen the interviewers should mail a stamped self-addressed return envelope and count on doing at least one follow-up letter or telephone call to encourage everyone to respond. If some households still do not respond, interviewers may need to be sent to the residence to conduct the survey.

Of course, it is possible, and sometimes quite useful, to combine these types of surveys. For example, if in a door-to-door survey someone is not home, the interviewers can leave a note for the resident to telephone. Or the telephone can be used to schedule a time when an interviewer will visit the household to conduct an interview. Similarly, a letter can be sent to residents of the target area to let them

know in advance when an interviewer will call or visit. In each case, a last resort process may be needed for non-respondents. See Step 4: Last Resort Process for more information.

Step 2: Developing a Questionnaire

After deciding on the survey method, the questionnaire should be developed. The appendix of this document includes the list of questions needed to challenge the data used in the Indian Housing Block Grant Allocation formula. It is important that all of the individuals surveyed are asked exactly the same questions and that their responses are recorded correctly. Each question should be clear, written in simple language, and convey only one meaning. It is usually best to test a draft questionnaire on a few people to ensure that they understand the questions as you think you are writing them.

Step 3: Assembling an Address List & Selecting a Sample

To challenge the data a tribe must first assemble a list of addresses of all households believed to be home to one or more AIAN persons in the tribe's formula area as defined by HUD and shown in the Formula Response Form. Tribes may wish to use their enrollment lists, telephone directories, and/or the post office to assemble this list. Of all the steps of challenging the data, this is the most important. If you cannot identify every household to be surveyed you will have an undercount. In fact, the Census Bureau spends many years before a Census attempting to assemble a complete list of addresses/locations for each Census. The more remote an area, the more difficult it is to assemble a complete list of addresses/locations.

Depending on the size of the list of households, a tribe may wish to survey every household or just a sample of households. The purpose of a sample survey is to ask questions of a portion of the population in order to make estimates about the entire population. If you ask proper questions of a randomly-drawn sample of adequate size, you can be reasonably sure of the degree of accuracy of your overall estimates.

Note that if a tribe is sampling data, they should anticipate a certain degree of non-response. The highest level of non-response generally considered to be acceptable is 20%. Therefore, a tribe who wants 696 completed surveys should actually try to survey 835 households (696×1.20) in order to get an 80% response rate of 696 responses. Tribes should plan to send reminder cards, follow-up surveys, and conduct telephone or in-person follow-up visits to get households that did not respond to the first survey to respond.

The list on the next page provides an example of how large sample sizes should be if the tribe wishes to sample households for the survey¹:

¹ These sample sizes would provide an estimate that is within 3% of the population percentage with 95% probability. To calculate the sample size for a different population the formula is:
$$\frac{(\text{Total Population} * (50*50/9))}{(\text{Total Population} + (50*50/9))}$$

| Minimum Total Households | Completed Surveys | Sample Size |
|--------------------------|-------------------|-------------|
| Less than 75 | 63 | All |
| 76- 100 | 79 | 95 |
| 101- 125 | 94 | 113 |
| 126- 150 | 108 | 129 |
| 151- 200 | 132 | 158 |
| 201- 300 | 168 | 202 |
| 301- 400 | 196 | 235 |
| 401- 500 | 217 | 261 |
| 501- 750 | 254 | 305 |
| 751- 1,000 | 278 | 333 |
| 1,001- 1,500 | 306 | 367 |
| 1,501- 2,000 | 322 | 387 |
| 2,001- 3,000 | 341 | 409 |
| 3,001- 4,000 | 350 | 421 |
| 4,001- 5,000 | 357 | 428 |
| 5,001-10,000 | 370 | 444 |
| 10,000 or more | 377 | 450 |

In sampling you are looking at a portion of everyone in a group and making inferences about the whole group from the portion you are looking at. For those inferences to be most accurate, everyone who is in the group should have an equal chance of being included in the sample. That is, the sample needs to be random. To accomplish this, each household on the full list will be assigned a number. Then using a random numbers table the sample will be selected. For example, if the household list has 2,000 households, 835 would be randomly selected to be surveyed. When sampling using a random numbers table, which can be found in a statistical textbook appendix, you take a list of your universe and draw from it according to the table. If, for example, the first three random numbers are 087, 384, and 102, then you would go through your universe list and take the 87th, 384th, and 102nd households to try to interview. Continue until you have achieved the desired sample size.

Random numbers can also be created through built-in functions in spreadsheet programs. Using this method, random numbers are usually generated in a range between 0 and 1. The random numbers must then be multiplied by the total number of households.

If all of the individuals or households can be listed systematically, i.e., alphabetically by last name or by mail address, a systematic sample will be adequate. (Systematic samples are often described as pseudo-random samples.) To draw this sample, you need to determine the sampling interval. You do this by dividing the sample size that you want by the total number on the list of names. For example, if you had a list of 1,000 names and you wanted a sample of 333 persons, the sampling interval would be $333/1000$, or approximately three. After you determine the sampling interval, obtain a random starting point and apply the interval. For example if the interval was three, randomly select to start with the 1st, 2nd, or 3rd name on the list, then select every 3rd name until reaching 333 selected names.

Step 4: Conducting the Survey

To carry out the survey, you have to reproduce sufficient questionnaires, recruit and train interviewers, schedule the interviewing, and develop procedures for editing, tabulating, and analyzing the results.

Publicity. To promote citizen participation in your effort it may prove worthwhile to arrange some advance notice. A notice in a local newspaper or announcements at a tribal meeting can let people living in your formula area know that you will be conducting a survey. People will more likely cooperate if you let people know in advance how, when, and why you will contact them.

Interviewers for phone and in-person surveys. Anyone who is willing to follow the established procedures can serve as an interviewer. It usually is not necessary to go to great expense to hire professional interviewers. Volunteers from local community groups will serve well. Also, schools or colleges doing courses on civics, public policy, or survey research frequently may be persuaded to assist in the effort as a means of providing students with practical experience and credit.

Generally, it is best if interviewers are chosen who make the respondents feel comfortable. When interviewers are of the same race and social class as the respondent, the survey usually generates a better response rate and more accurate results. What is most important, though, is that the interviewer will command the attention of the respondent, ask the questions as they are written, follow respondent selection procedures, and write down the responses as given.

Preparing for the Survey. As part of your preparation for the survey, you should develop an introduction to the actual interview. This should be a standard introduction identifying the purpose of the survey, and request the participation of respondent. Usually, it is also a good idea to note the expected amount of time to complete the survey.

You should also emphasize to respondents that their answers will be kept confidential -- people are more likely to give you honest answers if they will remain anonymous. You should do your very best to maintain this confidentiality. Usually, the respondent's name, address, and telephone number appear only on a cover sheet. After you receive the completed survey, you can throw away the cover sheet or at least separate it from the actual interview. If you number both the cover sheets and the questionnaires, you can then match them up if absolutely necessary. What is important is that people will not just be able to pick up a questionnaire and see what the Jones' family income is.

Interviewers also should follow set procedures for the number of times you will attempt to reach an individual before they are considered "unreachable." No matter what you do, some households just will not return a written survey or be home during the time you are interviewing, some probably will refuse to be interviewed, some will terminate the interview before you finish, and some will complete the interview, but fail to provide an answer to the key question on income level. In order to be considered an adequate response, the interview must be conducted, and you must obtain complete and accurate information. You can establish a procedure for collecting information when individuals are unavailable. This procedure is called collecting last resort information.

Last Resort Information Collection Procedure. You may introduce a rule about getting information regarding occupied dwellings when it is impossible to get answers directly from the residents. Imagine that there is a dwelling that is known to be occupied. Either the residents refuse to speak with any interviewer or no one is found at home after a series of six calls or visits. In such a case, it may be necessary to ask a neighbor or some other knowledgeable person (i.e., a letter carrier, etc.) for some minimal information about the residents, for example: how many individuals live there. Do not ask the knowledgeable person any questions about income. This procedure should be used extremely rarely, if at all. The interviewer should document how many AIAN households were counted through this last resort data collection method.

You will achieve more accurate estimates if you are not too quick to write off a household as unreachable. You are most certain of random selection if you obtain interviews from the households you selected first. Thus, if you are doing a door-to-door survey, you probably should make two or more passes through the area (possibly at different times) to try to catch a family at home. Frequently they will be busy, but will say that they can do the interview later. If so, you should make an appointment and return. Only after at least two tries or an outright refusal should a sampled household be replaced. With a telephone survey, at least three or four calls should be made before replacing a household. With mail/drop-off surveys, reminder cards should be sent to each household soon after they receive the survey indicating the importance of the information. If they do not respond within 10 to 15 days, a second survey should be sent/dropped off. If you still receive no response on the mail survey, you may wish to send in-person interviewers or attempt a phone call.

Training interviewers. Prior to beginning the regular interviews, supervisors should bring the interviewers together for one or more training sessions. In these sessions, the supervisors should teach:

- How to introduce yourself when you call or visit,
- How to explain the survey,
- How to explain that the person's answers will be confidential,
- How to ask the questions (asking the questions as written not improvised),
- How to listen carefully and to record answers,
- How to ask follow-up or probe questions if the person fails to answer the question.

At the training sessions, there should be some practice interviews in which the interviewers interview each other.

Contact and Follow-Up. Interviewers should attempt to contact respondents at a time when they are most likely to get a high rate of response from most types of people. Telephone interviews usually are conducted early in the evening, when most people are home. Door-to-door interviews also may be conducted early in the evening (especially before dark) or on weekends. You should try again at a different time to reach anyone in the initial sample who is missed by this initial effort.

In general, you should know best the residents of your community and when they can be reached. What you should avoid is selecting a time or method that will yield biased results. For example, interviewing only during the day from Monday to Friday probably will miss families where both the husband and wife work. Since these families may have higher incomes than families with only one employed member, your timing may lead to the biased result of finding an excessively high proportion of low- and moderate-income households.

Of course, in making contact with a member of the household, the interviewer first has to determine that the person being interviewed is knowledgeable and competent to answer the questions being asked. The interviewer thus should ask to speak to the head of the household or the spouse of the head of the household. If it is absolutely necessary to obtain an interview at the residence that is sampled, the interviewer may conduct an interview with other resident adults or children of at least high school age only after determining that they are mature and competent to provide accurate information.

The Interview. Interviewers should read the questions exactly as they are written. If the respondent does not understand the question or gives an unresponsive answer, it usually is best to have the interviewer just repeat the question. Questions should be read in the order in which they are written. The respondents' answers should be recorded neatly and accurately immediately as they are provided. At

the end of the interview, and before proceeding to the next interview, the interviewer should always do a quick edit of the questionnaire to be sure that they have completed every answer correctly. This simple check helps to avoid the frustrating mistake of having gone to the time and expense of conducting the interview, but without getting the information you sought.

Editing. The completed surveys should be provided to the person who will tabulate and analyze them. That person should review each survey to ensure that it is complete and that each question is answered once and only once in a way that is clear and unambiguous. If the survey is in-person or telephone, an unclear response may be resolved by the interviewer. It also may be desirable to call back the respondent, if necessary, to clarify incomplete or ambiguous responses. Note that editing is an ongoing process. Even after you have started to tabulate or analyze the data, you may come across errors, which you need to correct.

Step 5: Analyzing the Data

After you have your data collected and edited, you just need to add up the numbers to see what you have learned. Actually, it is useful to think of this in two parts: (1) tabulating the responses from the questionnaires and calculating the information needed for the formula; and (2) determining the accuracy of the estimate. The first of these parts can be taken care of by completing the worksheet provided in the appendix.

Tabulation. For ease of processing, it is important to enter the responses onto a computer, if one is available. A database program, such as Microsoft Access, or a spreadsheet program such as Lotus 1-2-3® or Microsoft Excel® would work fine.

References. Listed below are a few books that may be helpful:

- Fowlern, F. J. (1998) Survey Research Methods. Newbury Park, CA: Sage, 1998.
- Fink, A, (Ed.). (1995). *A survey kit*. The Survey Handbook. Thousand Oaks, CA. Sage, 1995.
Contents: Fink, A. *The survey handbook*.
- Fink, A. "How To Ask Survey Questions."
- Bourque, L. B., & Fielder, E. P. "How to Conduct Self-Administered and Mail Surveys."
- Frey, J. H., & Oishi, S. M. "How To Conduct Interviews In Person And On The Telephone."
- Litwin, M. "How to Measure Survey Reliability and Validity."
- Fink, A. "How To Analyze Survey Data."
- Fink, A. "How to Report on Surveys."

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web: www.sagepub.com

These books and others that are similar may be available in a local public or university library.

Q: After collecting and analyzing the data, what do we send to HUD?

A: Send to HUD a detailed copy of your methodology. This includes:

- 1) The name, organization, and phone number for the person(s) who managed the survey
- 2) Your source(s) of data for the addresses
- 3) The geographic areas of the addresses (by county, city, reservation, and/or trust land), including a map or maps of the geographic area you are surveying. Maps representing the Census definitions of AIAN areas and counties can be obtained from http://www.census.gov/geo/www/maps/CP_MapProducts
- 4) The number of addresses identified (i.e., the number of households used for drawing your sample)
- 5) The number of households sampled (if applicable)
- 6) The number of households responding
- 7) A copy of your questionnaire
- 8) An explanation of your survey method(s): (a) if the survey is telephone, in-person, mail, or some combination; (b) number of repeat attempts before dropping a household from the sample; (c) what recruitment and training was done for interviewers; and, (d) what kinds of quality checks were done to assure the accuracy of the data collected
- 9) If weighting is done, a detailed explanation of how each households response is weighted

Also send HUD a table with your results. If this is only a population challenge, include only the number of AIAN persons and AIAN households (where the head and/or spouse is AIAN) in the Formula Area. If this is a full challenge, provide the following information:

- 1) Number of AIAN Persons
- 2) Number of AIAN Households with incomes less than 30% of local area median income
- 3) Number of AIAN Households with incomes between 30% and 50% of local area median income
- 4) Number of AIAN Households with incomes between 50% and 80% of local area median income
- 5) Number of AIAN Households overcrowded (more than 1.01 persons per room) and/or without complete kitchen or plumbing
- 6) Number of AIAN Households paying more than 50% of their monthly gross income for housing costs
- 7) Number of low-income AIAN households less the total number of NAHASDA and Formula Current Assisted Stock (please note that this variable is a derived variable and will be updated should you submit information on 2, 3, 4, 5, or 6 above)

In some cases, HUD may request the household level data collected in order to confirm the accuracy of the results and/or to randomly survey the respondents to insure the accuracy of the survey.

All challenges should be sent to:

IHBG Formula Customer Service Center
1112 16th Street, NW
Suite 240
Washington, DC 20036
Toll Free: 1-800-410-8808

TTY: 1-800-505-5908
FAX: 202-393-5043
E-mail: IHBGformula@swinter.com

Appendix A - Survey Questions

Please Note: The definition for AIAN Household for this special tabulation is a household where the head of household and/or spouse is Native American. In addition, HUD uses the U.S. Census Bureau's definition of a household: a person or group of persons who live in a housing unit. This definition equals the count of occupied housing units used in the census.

1. How many people were living or staying in this house, apartment, or mobile home on the day of the survey? Include all persons staying here who have no other permanent place to stay. (Count the number of persons living in this place; do not be concerned with family relationships or the number of families living in this place).

Include

- Everyone who usually lives here such as family members, housemates and roommates, foster children, roomers, boarders, and live-in employees
- Persons who are temporarily away on a business trip, on vacation, or in a general hospital
- College students who stay here while attending college
- Persons in the Armed Forces who live here
- Newborn babies still in the hospital
- Children in boarding schools below the college level
- Persons who stay here most of the week while working, even if they have another permanent place to stay somewhere else
- Persons, who are staying here (on survey day), with no other permanent place to stay who are staying here on (survey day)

Do NOT include

- Persons who usually live somewhere else
- Persons who are away in an institution such as a correctional facility, a mental hospital, or a nursing home
- College students who live somewhere else while attending college
- Persons in the Armed Forces who live somewhere else
- Persons who stay somewhere else most of the week while working

_____ Total Number of Persons

2. What is the race of each persons indicated above? Mark 'x' one or more races to indicate what they consider themselves to be.

White
 Black, African American or Negro
 American Indian or Alaska Native – print name of enrolled or principal tribe.
 Asian Indian Other Asian – print race.
 Chinese Native Hawaiian
 Filipino Guamanian or Chamorro
 Japanese Samoan
 Korean Other Pacific Islander – print race.
 Vietnamese Some other race – print race.

Total AIAN Persons – alone or in combination with other races

3. Has the head of household and/or their spouse identified themselves as an AIAN person either alone or in combination with other races? The "head of household" is the person in whose name this house or apartment is owned, being bought, or rented.

YES
 NO

4. How many rooms do you have in this house, apartment, or mobile home? *Do NOT count bathrooms, porches, balconies, foyers, halls, or half-rooms.*

Total Number of Rooms

5. Answer ONLY if you PAY RENT for this house, apartment, or mobile home:

a. What is the monthly rent?

\$ Monthly Amount – Dollars

b. Does the monthly rent include any meals?

YES
 NO

6. Do you have COMPLETE plumbing facilities in this house, apartment or mobile home; that is, 1) hot and cold piped water, 2) a flush toilet, and 3) a bathtub or shower?

YES, have all three facilities
 NO

7. Do you have COMPLETE kitchen facilities in this house, apartment, or mobile home; that is, 1) a

sink with piped water, 2) a range or stove, and 3) a refrigerator?

YES, have all three facilities

NO

8. What are the annual costs of utilities and fuels for this house, apartment, or mobile home? If you have lived here less than 1 year, estimate the annual cost.

a. Electricity

\$ _____ Annual Cost – *Dollars*

OR

Included in rent or in condominium fee

No charge or electricity not used

b. Gas

\$ _____ Annual Cost – *Dollars*

OR

Included in rent or in condominium fee

No charge or gas not used

c. Water and sewer

\$ _____ Annual Cost – *Dollars*

OR

Included in rent or in condominium fee

No charge

d. Oil, coal, kerosene, wood, etc.

\$ _____ Annual Cost – *Dollars*

OR

Included in rent or in condominium fee

No charge or these fuels not used

9. Answer questions 9a to 9d if you or someone in this household owns or is buying this house, apartment, or mobile home; otherwise skip to question 10.

a. Do you have a mortgage, deed of trust, contract to purchase, or similar debt on THIS property?

- Yes, mortgage, deed of trust, or similar debt
- Yes, contract to purchase
- No

b. How much is your regular monthly mortgage payment on THIS property? *Include payment only on first mortgage or contract to purchase.*

- \$_____ Monthly Amount – *Dollars*
- OR
- No regular payment required → *skip to question 10*

c. Does your regular monthly mortgage payment include payments for real estate taxes on THIS property?

- Yes, taxes included in mortgage payment
- No, taxes paid separately or taxes not required

d. Does your regular monthly mortgage payment include payments for fire, hazard, or flood insurance on THIS property?

- Yes, insurance included in mortgage payment
- No, insurance paid separately or no insurance

10.

a. Do you have a second mortgage or a home equity loan on THIS property? *Mark all that apply.*

- Yes, a second mortgage
- Yes, a home equity loan
- No → *skip to question 11*

b. How much is your regular monthly payment on all second or junior mortgages and all home equity loans on THIS property?

- \$_____ Monthly Amount – *Dollars*
- OR
- No regular payment required

11. What were the real estate taxes on THIS property last year?

- \$_____ Yearly Amount – *Dollars*

OR

None

12. What was the annual payment for fire, hazard, and flood insurance on THIS property?

\$ _____ Annual Amount – *Dollars*

OR

None

13. Answer ONLY if this is a CONDOMINIUM. What is the monthly condominium fee?

\$ _____ Monthly Amount – *Dollars*

14. Answer ONLY if this is a MOBILE HOME.

- a. Do you have an installment loan or contract on THIS mobile home?

Yes

No

- b. What was the total cost for installment loan payments, personal property taxes, site rent, registration fees, and license fees on THIS mobile home and its site last year? *Exclude real estate taxes.*

\$ _____ Yearly Amount – *Dollars*

15. INCOME LAST YEAR. What was this household's total income last year, include:

- a. All wages, salary, commissions, bonuses, or tips from all jobs (report amount before deductions for taxes, bonds, dues, or other items)

\$ _____ Annual Amount – *Dollars*

OR

None

- b. Self-employment income from own farm or non-farm businesses, including proprietorships and partnerships (report net income after business expenses)

\$ _____ Annual Amount – *Dollars*

OR

_____ None

- c. Interest, dividends, net rental income, royalty income, or income from estates and trusts (report even small amounts credited to an account)

\$_____ Annual Amount – *Dollars*

OR

_____ None

- d. Social Security or Railroad Retirement

\$_____ Annual Amount – *Dollars*

OR

_____ None

- e. Supplemental Security Income (SSI)

\$_____ Annual Amount – *Dollars*

OR

_____ None

- f. Any public assistance or welfare payments from the state or local welfare office

\$_____ Annual Amount – *Dollars*

OR

_____ None

- g. Retirement, survivor, or disability pensions (do NOT include Social Security)

\$_____ Annual Amount – *Dollars*

OR

_____ None

- h. Any other sources of income received regularly such as Veterans' (VA) payments, unemployment compensation, child support, or alimony, or per capita payments for all household members. (Do NOT include lump-sum payments such as money from an inheritance or sale of a home).

\$ _____ Annual Amount – *Dollars*

OR

_____ None

(This question may be replaced by one that asks the respondent to select the category that best represents the household's total income last year. The categories should be based upon 30%, 50%, and 80% values of the median income for the local county(ies) or the National median income.)

Appendix B - U.S. Census Bureau: Government Specialists for Tribal Programs

Atlanta Regional Office
404-730-3832
atlanta.regional.office@census.gov

Boston Regional Office
617-424-0510
boston.regional.office@census.gov

Charlotte Regional Office
704-344-6400
charlotte_regional_office@census.gov

Chicago Regional Office
708-562-1350
chicago.regional.office@census.gov

Dallas Regional Office
214-253-4400
DARO.CENSUS@census.gov

Denver Regional Office
303-969-6750
Denver_Regional_Office@census.gov

Detroit Regional Office
313-259-0059
detroit.internet.mail@census.gov

Kansas City Regional Office
913-551-6728
KC.Regional.Office@census.gov

Los Angeles Regional Office
818-904-6393
la.regional.office@census.gov

New York Regional Office
212-264-3860
ny.pds@census.gov

Philadelphia Regional Office
215-656-7550
Philadelphia.Regional.Office@census.gov

Seattle Regional Office
206-553-5837
seattle.regional.office@census.gov

Additional information on the 1990 and 2000 Federal Census of Population and Housing can be found on the Census Bureau Web Page: <http://www.census.gov/population/www/socdemo/race/indian.html>

Appendix C - Formula Needs Worksheet for Population Challenge

Please Note: The definition for AIAN Household for this special tabulation is a household where the head of household and/or spouse is Native American. In addition, HUD uses the U.S. Census Bureau's definition of a household: a person or group of persons who live in a housing unit. This definition equals the count of occupied housing units used in the census.

RAW DATA

1. Total Number of Households in "Formula Area" (from list compiled for survey).
_____ Households listed
2. Total Number of Households sampled for survey.
_____ Households sampled
3. Total Number of Households responding to survey.
_____ Households responding
4. Total persons in households responding to survey. The sum of survey question 1. (For example, if the sample was 2 households, with household #1 having 5 persons and household #2 having 4 persons, the sum of survey question 1 would result in a total of 9 persons).
_____ Persons
5. Total Number of persons in households responding to survey who are AIAN either alone or in combination with other races. The sum of survey question 2.
_____ AIAN Persons
6. The total number of AIAN households either alone or in combination with other races responding to the survey. The number of households responding "YES" to survey question 3.
_____ AIAN Households responding

CALCULATIONS

7. Response Rate = Line 3 divided by Line 2 (Line 3 / Line 2)
8. Weight of each responding household = Line 1 divided by Line 3 (Line 1 / Line 3)
9. Total AIAN American Persons = Line 5 times Line 8 (Line 5 X Line 8)
10. Total AIAN Households = Line 6 times Line 8 (Line 6 X Line 8)

Appendix D - Formula Needs Worksheet for All Variable Challenge

Please Note: The definition for AIAN Household for this special tabulation is a household where the head of household and/or spouse is Native American. In addition, HUD uses the U.S. Census Bureau's definition of a household: a person or group of persons who live in a housing unit. This definition equals the count of occupied housing units used in the census.

RAW DATA

1. Total Number of Households in "Formula Area" (from list compiled for survey).
2. Total Number of Households sampled for survey.
3. Total Number of Households responding to survey.
4. Total persons in households responding to survey. The sum of survey question 1. (For example, if the sample was 2 households, with household #1 having 5 persons and household #2 having 4 persons, the sum of survey question 1 would result in a total of 9 persons).
5. Total Number of persons in households responding to survey who are AIAN either alone or in combination with other races. The sum of survey question 2.
6. The total number of AIAN households either alone or in combination with other races responding to the survey. The number of households responding "YES" to survey question 3.
7. Total number of AIAN households either alone or in combination with other races with incomes less than 30% of Median Income. The number of households responding "YES" to survey question 3 and whose population equals line 1 and income is below line 2:

| | | |
|--------|--|--|
| TOTAL: | | |
|--------|--|--|

8. Total number of AIAN households either alone or in combination with other races with incomes less than 50% of Median Income. The number of households responding "YES" to survey question 3 and whose population equals line 1 and income is below line 2:

| | | |
|--------|--|--|
| TOTAL: | | |
|--------|--|--|

9. Total number of AIAN households either alone or in combination with other races with incomes less than 80% of Median Income. The number of households responding "YES" to survey question 3 and whose population equals line 1 and income is below line 2:

| | | |
|--------|--|--|
| TOTAL: | | |
|--------|--|--|

10. Total Number of AIAN Households either alone or in combination with other races Overcrowded and or without complete kitchen or plumbing are all of those AIAN households that meet one or more of the following requirements:

- a) It is overcrowded (Question 1 /Question 4 is 1.01 or greater).
- b) It is without complete plumbing (responded NO to Question 6).
- c) It is without complete kitchen (responded NO to Question 7).

11. Total Number of AIAN households either alone or in combination with other races with severe housing cost burden are all those AIAN households who meet the following requirements:

For AIAN renters: $((\text{Question 5a} \times 12 \text{ months}) + \text{Question 8}) / \text{Question 10}$ is greater than or equal to .50

For AIAN owners: $((\text{Question 9d} \times 12 \text{ months}) + \text{Question 9a} + \text{Question 9b} + \text{Question 8}) / \text{Question 10}$ is greater than or equal to .50

CHAPTER 3: ELIGIBLE PARTICIPANTS, INCOME ELIGIBILITY AND OCCUPANT SELECTION

This chapter provides an overview of the participants who may receive IHBG assistance.

- *Eligible Families*
- *Eligible Non Low-Income Indian Families*
- *Essential Families*
- *Law Enforcement officers*

The following statutory and regulatory citations govern eligible participants:

- *24 CFR §§ 1000.104, 1000.10, 1000.12(d), 1000.42, 1000.106, 1000.108, 1000.110, 1000.116, 1000.118, 1000.120, and 1000.147*
- *NAHASDA Section 201 through Section 202*
- *NAHASDA Section 205*

INTRODUCTION

Under the Native American Housing Assistance and Self-Determination Act (NAHASDA) assistance under eligible housing activities is generally limited to low-income Indian families on Indian reservations and other Indian areas. A recipient may provide housing or housing assistance through affordable housing activities to any family that is not a low-income family under certain circumstances. NAHASDA specifically cites four types of participants that are permissible. These include low-income Indian families on a reservation or Indian area and, under certain circumstances, non low-income Indian families, essential families, and law enforcement officers. This chapter highlights these types of participants and the process and procedures used by recipients to determine eligibility and document income.

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PART I: ELIGIBLE PARTICIPANTS

ELIGIBLE INDIAN FAMILIES

[NAHASDA Section 4, § 1000.10, § 1000.104, and § 1000.110]

The Indian Housing Block Grant (IHBG) program funded under NAHASDA is very flexible. IHBG permits tribes to undertake a wide variety of activities—as long as the activities are directly related to *affordable housing*. So, tribes can undertake activities related to rehabilitating, building and acquiring decent, safe and sanitary units for tribal families. Tribes can also provide housing-related services to residents of affordable units.

NAHASDA is intended to benefit low-income Indian families, which is defined as 80 percent of median income and below. For most tribes, meeting this income targeting is not a problem. However, some tribes wish to serve Indian families who are above 80 percent of median income. Tribes can also assist essential families, when the recipient determines that the presence of the family on the Indian reservation or other Indian area is essential to the well-being of Indian families, e.g., teachers or medical professionals. Additionally the tribe can assist Law Enforcement Officers under certain circumstances.

☐ Low-Income Indian Families

Using IHBG funds, the recipient can provide any eligible type of activity authorized under NAHASDA to low-income Indian families on a reservation or Indian area as determined in accordance with the calculation for low-income in accordance with Program Guidance 2013-05 Calculating Annual Income under NAHASDA, Attachment 3-1.

- Indian area is defined as “the area within which an Indian tribe operates affordable housing programs or the area in which a tribally designated housing entity (TDHE) is authorized by one or more Indian tribes to operate affordable housing programs.” (24 CFR § 1000.10). Recipients can only provide services within this area, but tribes have flexibility to determine the size and scope of this area.
- ☐ A recipient has the option to provide assistance to all low-income Indian families or provide preference to tribal members. See PIH Notice 2011-40 “*Limiting Housing to Indian Families or Tribal Members when using Indian Housing Block Grant (IHBG) funds*” for additional information.

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TIME FRAMES ASSOCIATED WITH LOW-INCOME PARTICIPATION

NAHASDA Section 205(a)

NAHASDA states that housing qualifies as affordable housing, provided that the family occupying the unit is low-income at the following times:

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

Families that are not low-income as described in this section may be eligible under §1000.104 or §1000.110.

NON-LOW-INCOME FAMILIES

[NAHASDA Section 201, § 1000.106 - § 1000.110, § 1000.116, § 1000.118]

In order for a non-low-income family to be served with IHBG funds, certain conditions and limitations must be applied. The following identifies the process for qualifying a non-low-income family for IHBG housing or housing assistance.

- Funding caps:** The recipient must follow the funding caps set below:
 - Recipients may use up to 10 percent of the amount planned for the tribal program year for families with incomes that fall between 80 percent and 100 percent of the median income without HUD approval.
 - PIH Notice 2014-02 "*Assisting Non Low-Income Families*" (Attachment 3-2) provides guidance on the recent revisions to the Indian Housing Block Grant (IHBG) regulations that became effective on January 3, 2013, and replaces PIH Notice 1999-6. It describes how non-low-income families (families with incomes over 80 percent of the applicable median income limits) may receive assistance under NAHASDA, and provides details on exceptions for essential families and law

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Chapter 3: Eligible Participants, Income Eligibility and Participant Selection

enforcement officials. This Notice also explains the process for documenting these determinations and how to request HUD approval to assist non-low-income families

- Families assisted under this provision cannot receive the same benefits provided to low-income Indian families as provided in 24 CFR §1000.110(d), and are required to pay more or receive less. HUD approval is not needed in these situations.
 - If the recipient plans to use more than 10 percent of the amount planned for the tribal program year to assist families with annual household incomes within 80 to 100 percent of the median income, HUD approval is required. The protocol for obtaining HUD approval is outlined later in this chapter.
 - Likewise, if the recipient plans to use any IHBG funds to assist families with annual household incomes in excess of 100 percent of the median income, HUD approval is also required
- ☐ **HUD APPROVAL:** Housing assistance for non-low-income families requires HUD approval as required in §§ 1000.106, 1000.108 and 1000.110. If the recipient plans to: (1) use more than 10 percent of the amount planned for the tribal program year for such assistance or to (2) provide housing for families with income over 100 percent of the median income. The request for approval must be submitted as outlined in 24 CFR §1000.108. In these cases, such families do not count against the 10 percent authority cap but cannot receive the same benefits provided to low-income families as provided in §1000.110(d).
- In all cases in which HUD approval is not required, the recipient must still determine and document when there is a housing need for non-low-income families and that this need cannot reasonably be met without IHBG assistance.
 - In all cases, the process undertaken by a recipient for determining and documenting housing need must include individual case files that contain:

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Chapter 3: Eligible Participants, Income Eligibility and Participant Selection

- A determination of need for housing or housing assistance that cannot reasonably be met without IHBG assistance;
- Documentation supporting the need; and
- Documentation indicating the level of assistance.

❑ **Three steps:** There are three steps that must be taken when determining there is a need for housing non-low-income Indian families that cannot reasonably be met without IHBG assistance.

- Determine whether a housing need exists.

➤ Broadly speaking, any of the following conditions may constitute a need for housing or housing assistance:

- When the family resides in inadequate housing;
- When the family resides in temporary housing or is otherwise considered to be homeless; and
- When the family pays more than 50 percent of gross household income for housing expenses (including utilities) because of the lack of more affordable housing.

- Determine whether the need can be reasonably met without IHBG assistance.

- Document housing need and the need for IHBG assistance.

❑ **Sample documentation:** Documentation may vary depending on the housing situation. Some examples of documentation include:

Q: Can a tribe justify developing housing for over-income Indians and non-Indians who work at their casino? The casino is the only source of income for the tribe and the proceeds of the casino fund social programs.

A: In order to serve non-Indians, the tribe must determine that: (1) document that housing needs cannot be met without IHBG assistance **and** (2) the presence of the family on the reservation or Indian area is essential to the well being of Indian families. The key in the case above is that the tribe would need to document that the non-Indian's presence benefited Indian families not just the tribe itself. For assisting the over-income Indian families, the tribe can use up to 10% of the amount planned for the tribal program year to assist families between 80% and 100% of median income. If the tribe wishes to serve Indian families above this level or at a greater percentage of their grant, they must get family by family approval from HUD.

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Chapter 3: Eligible Participants, Income Eligibility and Participant Selection

- Property inspection,
 - Affidavits,
 - Notice of termination,
 - Photos,
 - Denial of financial assistance,
 - Financial data,
 - Code Violation letters,
 - Rent receipts,
 - Statement from Landlord,
 - Letters stating that the family does not qualify for federal, state or local housing programs; and
 - Information, such as the names and telephone numbers of persons whom the family has contacted in its efforts to obtain housing.
- ❑ **Determining benefits a non-low-income family can receive:** A non-low-income family is not eligible to receive the same benefits provided to a low-income Indian family. The amount paid is calculated as follows:
- The rent (including homebuyer payments under a lease purchase agreement) to be paid by a non-low-income family cannot be less than: $(\text{Income of non-low-income family} / \text{Income of family at 80 percent of median income}) \times (\text{Rental payment of family at 80 percent of median income})$, but need not exceed the fair market rent or value of the unit.
 - Other assistance, including down payment assistance, to non-low-income families, cannot exceed: $(\text{Income of family at 80 percent of median income} / \text{Income of non-low-income family}) \times (\text{Present value of the assistance provided to family at 80 percent of median income})$.

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Chapter 3: Eligible Participants, Income Eligibility and Participant Selection

ESSENTIAL FAMILIES

[NAHASDA Section 201, § 1000.106 - §§ 1000.104, 1000.106, 1000.108, 1000.110, 1000.114, 1000.116, and 1000.118]

Under NAHASDA, notwithstanding the general requirement for assistance to be provided to low-income Indian families, recipients may provide housing to other families whose presence is essential to the well-being of Indian families. Law enforcement officers and essential families are subject to conditions and limitations as set forth by NAHASDA. Families assisted under this provision can receive the same benefits as low-income families, as provided in 24 CFR §1000.110(e) and they do not count as non-low-income families for the purposes of the 10 percent authority.

- In order for the recipient to be able to serve essential families with IHBG funds, both of the following conditions must be met.
 - The recipient must determine that the family's housing needs cannot be met without IHBG assistance, and
 - The recipient determines that the family's presence is essential to the well-being of the Indian families living on the reservation or Indian area.

- Indian area or an Indian reservation:** In all cases in which the recipient proposes to assist families with IHBG funds, the eligible activity must occur on an Indian reservation or other Indian area and identified in the recipient's IHP.

- Determination of need for housing for the essential family that cannot reasonably be met without such assistance:** There are three steps that must be taken when determining there is a need for housing non low-income families that cannot reasonably be met without IHBG assistance. The steps are covered on page 3-4 and do apply to essential families as well.

- Income:** Essential families need not necessarily be low-income.

- Policy:** The recipient should include the following in its written policy:
 - Whether it will assist families it deems essential and under what circumstances;
 - How it will determine if a family's housing needs cannot be met without IHBG assistance and that the family's presence is essential to the well-being of Indian families living in the Indian area; and

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Chapter 3: Eligible Participants, Income Eligibility and Participant Selection

- How it will document its determination.

LAW ENFORCEMENT OFFICERS

[NAHASDA Section 201, § 1000.105 - § 1000.106]

Section 201(b)(4) of NAHASDA specifically addresses the provision of housing or housing assistance for a law enforcement officer on an Indian reservation or Indian area. NAHASDA cites the following conditions under which a law enforcement officer is eligible for housing or housing assistance:

- The officer must be employed full-time by the federal, state, county, tribal or other unit of local government and sworn to uphold and make arrests for violations of federal, state, count or tribal law.
- The recipient must determine that the presence of the law enforcement officer may deter crime.
- Law enforcement officers assisted under this provision can receive the same benefits as low-income families and they do not count toward the 10 percent authority.

CONTINUED OCCUPANCY

[NAHASDA Section 201, § 1000.110, § 1000.116, and § 1000.147]

If a rental or homeownership family was low-income at the time it entered the program (as described in §1000.147) and subsequently becomes non-low-income, it may continue to participate in the program if the recipient's admission and occupancy policies authorize such families to continue to receive assistance. This includes a family member or household member who subsequently takes ownership of a homeownership unit, for instance, by inheriting a homeownership unit. Whether or not a family can receive the same benefit as low-income families is also subject to the recipient's admission and occupancy policies. Such families do not count toward the 10 percent authority on the number of non-low-income persons that may be served.

Calculating Benefits for Non-Low-Income Families

As specified in §1000.110(d), the following formulas apply for determining the amount of assistance that may be provided to non-low-income Indian families:

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Chapter 3: Eligible Participants, Income Eligibility and Participant Selection

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

Determining Housing Need: A recipient must make a determination and document its determination of housing need even in cases where HUD approval is not required. The following guidance is not all-inclusive. A recipient may identify other methods of assessing need.

To determine whether a housing need exists, recipients should consider the following factors.

- **Inadequate housing.** Such housing includes substandard and overcrowded housing. For the purposes of this Notice inadequate housing is defined as housing that: (1) is not safe; (2) is not in a physically sound condition with all systems performing their intended design functions; or (3) does not provide adequate space and privacy for all intended household members.
- **Temporary housing and homelessness.** Families living in temporary housing such as emergency shelters or transitional housing, or in a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings.
- **Cost burden.** When a family pays over 50 percent of its gross income for housing (including utilities) due to the lack of more affordable housing, it can be determined that there is a housing need or a need for housing that is more affordable.

Determining Need for IHBG Assistance: Once the need for housing is established, the next step is to determine whether the non-low-income family could secure adequate housing without IHBG assistance.

The following information should be considered when making this determination.

- **Rental and homeowner housing.** In cases where a family is living in inadequate rental housing, the recipient should determine if the family could find adequate rental housing without requiring IHBG assistance before other options, such as homeownership, are

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considered. If a family can afford adequate rental housing without assistance, the recipient may not want to consider providing IHBG assistance for homeownership.

- **Income and assets.** It should be determined if the family has sufficient income and/or assets that would enable it to obtain adequate housing (which may mean rental housing) without IHBG assistance.
- **Private and governmental programs.** In cases involving homeownership, the recipient should determine whether the family could qualify for a conventional or government backed mortgage, e.g., Section 184, Federal Housing Administration, Veterans Administration, or U.S Department of Agriculture, Rural Development. Are there any local or state programs available to the family? For a family who could qualify for a mortgage, but was rejected due to credit problems, the recipient should consider whether the family would be able to meet program requirements including repayment, if applicable.
- **Housing market/location conditions.** What is the current availability of housing, both rental and homeownership units? Are there a sufficient number of affordable units on the market that would allow the family to find an adequate unit without IHBG assistance? The recipient may consider the availability of housing and the location area when determining if the housing need can be met without IHBG assistance.
- **Overcrowded conditions.** In cases of overcrowded conditions, the recipient should review the overcrowded conditions and consider if the family or families have adequate resources to alleviate the overcrowded conditions without IHBG assistance.

If the recipient determines that a family seeking IHBG assistance does not have a legitimate housing need, the family should be notified, in writing, why they are not eligible to receive assistance.

PART II: DETERMINING INCOME

ANNUAL (GROSS) INCOME

- With the exceptions noted above, participants in IHBG-funded activities must be low income. To determine if a household is low income, the recipient will compare their annual or gross income to the HUD-published limits, as adjusted by family size.
- To meet the definition of low-income, a family's annual income may not exceed 80 percent of the median income of the greater of:

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- The recipient's Indian area, or
 - The United States National Median Income limits.
 - Income limits are published annually each year in a Program Guidance that are available at <http://www.hud.gov/offices/pih/ih/regs>. The most recent income limits were posted in Program Guidance 2016-02(R) *"Income Limits under the Native American Housing Assistance and Self-Determination Act of 1996"* (Attachment 3-4).
- ☐ The recipient must determine the annual income of all program participants or potential tenants. Per the Statute, "income" is defined as income from each member of the household. However, income does not include any amounts not actually received by the household, any amounts that would be eligible for exclusion under section 1613(a) (7) of the Social Security Act, and certain amounts received by a member of the family as veteran's disability compensation or dependency or indemnity compensation. Refer to Attachment 3-1 Program Guidance 2013-05 *"Calculating Annual Income for "Purposes of Eligibility under NAHASDA"* for more information.
- ☐ NAHASDA allows recipients to use any of the following three definitions when determining household income. The three options include:
- **Section 8:** The Section 8 definition of annual income is defined in 24 CFR Part 5, subpart F.
- ⇒ Annual income: Means all amounts, monetary or not which:
- Go to, or on behalf of, the family head or spouse (even if temporarily absent) or to any other family member; or
 - Are anticipated to be received from a source outside the family during the next 12-month period following admission or annual reexamination effective date; and
 - Which are not specifically excluded in paragraph (c) of the regulation.
 - Annual income also means amounts derived (during the 12-month period) from assets to which any member of the family has access.
 - Refer to Attachment 3-1 for information on what the Part 5 definition of income includes and what income does NOT include.

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- ⇒ Note that for the purposes of an owner/occupied rehabilitation program, the value of the family's home may be excluded from the calculation of income from net assets.
- **U.S. Census:** The definition of annual income as reported under the Census long-form from the most recent decennial census. This means the definition of income used by the Census, not the dollar amount reported on the Census. Refer to Program Guidance 2013-05 for a complete definition of the U.S. Census's definition of income.
 - ⇒ For each person 15 years old and over, the Census counts income from the following sources:
 - Earnings
 - Unemployment compensation
 - Workers' compensation
 - Social security
 - Supplemental security income
 - Public assistance or welfare payments
 - Veterans' payments
 - Survivor benefits
 - Disability benefits
 - Pension or retirement income
 - Interest income
 - Dividends
 - Rents, royalties, estates, and trusts
 - Education assistance
 - Child support
 - Alimony

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- Financial assistance from outside the household
- Other income regularly received
- **Internal Revenue Service:** Adjusted gross income used for reporting to the Internal Revenue Service on IRS Form 1040 series for individual federal income tax purposes.
 - ⇒ On the 1040 long form this includes such adjustments as alimony paid, moving expenses, and individual retirement accounts.
- ❑ The definition of income the recipient will use determines who is eligible to participate in a recipients program. The definitions do not tell the recipient what documentation is needed to verify annual income.

ADJUSTED INCOME

Annual (gross) income is needed to determine whether a household is income eligible to participate in the Indian Housing Block Grant program. In contrast, adjusted income is used to determine the how much a household can afford to pay for housing costs. Payments made by low-income families for rents and homebuyer payments in lease-purchase units cannot exceed 30 percent of adjusted family income (§ 1000.124).

- ❑ Adjusted income is defined as the annual family income remaining after deductions that are permitted

under NAHASDA. To calculate adjusted income, the recipient takes gross income and makes deductions for the following exclusions (NAHASDA, Section 4):

- **Dependent deduction:** For youths under 18 and family members residing in the household who are over 18 and who are either: full-time students; or persons with disabilities;
 - ⇒ The recipient must deduct \$480 from annual income for each household dependent.
 - ⇒ This deduction does not apply to the head of the household or spouse because they would not be considered a dependent, even if they are disabled.

EXAMPLE

If John Lofton is a household member and 17 years of age at the time, but will turn 18 six months later the family will receive the \$480 deduction. The recipient is not required to recertify the family six months later when the member turns 18. However, when the recipient recertifies the household's income the following year, the family will lose the \$480 deduction (unless the 18-year-old is a full time student)

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- ⇒ The household must qualify for the deduction at the time that the income certification is made.
- **Elderly and disabled families (\$400 per family);**
 - ⇒ An elderly family is any household in which the head, spouse or sole member is 62 years of age or older; two or more persons who are at least 62 years of age live together, or one or more persons who are at least 62 years of age live with one or more live-in aids.
 - ⇒ A disabled household is one in which the spouse, or sole member is a person with disabilities. Two or more persons with disabilities living together and one or more persons with disabilities living with one or more live-in aids also qualifies as a disabled household.
 - ⇒ Certain households may, however, include elderly or disabled family members and not qualify as an elderly or disabled household. For example, neither of the following households qualify as an elderly or disabled household:
 - Bob and Carol Harjo (50 and 49 respectively) who have taken in Bob's mother (age 70) to live with them. Because Bob's mother is not the household head or spouse, this is not an elderly household; and
 - Ted and Emily Smith (both age 35) have a son (age 14) who is disabled. Because the son is not the household head or spouse, the household is not a disabled household.
 - ⇒ Some household compositions may require clarification as to whether they are elderly or disabled households.
 - ⇒ A household that meets the definition of an elderly or disabled household is entitled to a deduction of \$400 per household.
- **Medical and attendant expenses;**
 - ⇒ Elderly and disabled households (as defined above) may claim as a deduction medical expenses that are in excess of three percent of annual income.
 - ⇒ Medical expenses that may be considered include all medical expenses anticipated to be incurred during the coming year that are not covered by insurance. Medical expenses can be include such items such as:

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- Services of a physician or other health care professional;
 - Services of hospital or other health care facility;
 - Medical insurance premiums;
 - Prescription and non-prescription medicine;
 - Dental expenses;
 - Eye glasses and eye examinations;
 - Medical and health products or apparatus (e.g. hearing aids or batteries); and
 - Periodic payments on accumulated medical bills.
- ⇒ Live-in periodic attendant care assistance (e.g. visiting nurses or care attendants) or apparatus can be deducted to the extent necessary to enable a member of the family (including the disabled person) to be employed.
- **Child care expenses;**
- ⇒ Reasonable child care expenses may be deducted from annual income if the child care:
- Enables an adult family member to seek employment activity, be gainfully employed, or further his/her education; and
 - Expenses are not reimbursed.
- ⇒ To document the child care expenses to be deducted the household must:
- Identify the child(ren) who will be cared for;
 - Identify the family member who is enabled to work, or go to school because of the child care;
 - Demonstrate that no other adult household member is available to care for the child;
 - Identify the child care provider; and

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- Provide documentation of costs.
- **Earned income of minors;**
 - ⇒ The amount of any earned income of any member of the family who is less than 18 years of age.
- **Travel expenses for employment or education-related travel;** and
 - ⇒ Excessive travel expenses, not to exceed \$25 per family per week, for employment- or education-related travel.
- **Other amounts as provided in the recipient's IHP.**
 - ⇒ For example, a tribe might elect to indicate in its IHP that it will deduct amounts for educational expenses or for child support payments made as a part of a divorce settlement.

POLICIES FOR DETERMINING HOUSEHOLD INCOME

- The recipient must have a written policy describing how it will determine a household's income.
 - **For example**, a recipient's written policy may state that they will use the income definition that is most advantageous to the tribal housing entity.
 - ⇒ Under this example, when determining household income, the recipient may choose to use the definition that allows the tribe to allocate its IHBG funds to the greatest number of families, or
 - ⇒ Under this scenario, the recipient might use the income definition that results in the greatest rent burden to the household, as long as the rent does not exceed the statutory cap of 30 percent of the household's adjusted income.
 - ⇒ This could result in the recipient's ability to serve a greater number of people by limiting its per household subsidy.
 - Conversely, the policy may state that the recipient will use the definition that is most advantageous to individual families.

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- ⇒ Such a policy might result in the recipient deciding to use the definition that results in the least amount of rent burden to the household.
- ⇒ In some cases, this might result in a family paying zero rent. Consequently, this would result in a greater outlay of IHBG funds per household.
- The important thing is for the recipient to be **consistent** about its income determination policy.
 - ⇒ The recipient does not need to limit their definition to only one of the three (Section 8, U.S. Census, or Internal Revenue Service). As indicated above they could use the definition that is most advantageous to the housing entity or family; therefore, the recipient may need to calculate the household income using all three definitions before determining which definition is most advantageous for the purpose of calculating eligibility.
 - ⇒ Or the recipient may just use one definition for all their programs for the purpose of calculating eligibility.

INCOME VERIFICATION

[§ 1000.128 and § 1000.146]

□ Timing of income verification.

- The low-income eligibility requirement applies only at the time of purchase for homebuyers.
- For rental housing, the family must be low-income at the time of their initial occupancy.
- Families purchasing housing under a lease purchase agreement who are not low-income at the time of purchase are eligible as long as they were low income at the time the agreement was signed.
- Families purchasing housing to be constructed must be low-income at the time the contract is entered into.
- This verification is based on the household's anticipated annual income, not on historical income information.

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⇒ The recipient does not have to re-calculate the household's income when the household actually purchases the dwelling (§ 1000.128).

- The family must provide documentation that verifies household income to the recipient and the recipient must maintain the documentation on which the determination of eligibility is based.

Income re-examination. Under rental programs, the recipient does not have to re-examine income unless their individual policy calls for periodic income re-examination (§1000.128).

Reminder!

Remember that monthly housing payments, including Tenant Based Rental Assistance and Lease Purchase Programs must be capped at 30 percent of adjusted income.

- This allows the tribe to determine what the families rent payments should be or whether the family's continued occupancy in the housing is consistent with the tribe's/tribally designated housing entity's (TDHE's) policies.
- When the recipient requires income verification, the family must provide to the recipient documentation that verifies household income.

Methods for verifying income. There are numerous established methods of verifying income. The most common methods are those used by HUD's 1937 Housing Act programs. In order to verify income, most of these programs request the following:

- Information regarding the number and ages of all household members that will be residing in the dwelling;
- Employment and wage verification for all household members;
- Verification of public assistance, social security benefits, or pensions for all household members;
- Requests for copies of recent bank statements;
- Verification of other assets; and
- Certification of the accuracy of all documentation provided by the tenant.

Regardless of the method of income verification used, the recipient must have a written policy that describes the method and type of income verification that will be required for

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submission by applicants, tenants, and potential homebuyers. The income verification policy must be implemented consistently and fairly.

NAHASDA EXCLUSIONS FROM ANNUAL INCOME

Section 4 (9) of NAHASDA defines the term “income” as income from all sources of each member of the household as determined in accordance with criteria prescribed by HUD, except that the following amounts may not be considered as income:

- Any amounts not actually received by the family.

Any amounts that would be eligible for exclusion under section 1613(a)(7) of the Social Security Act. This relates to certain amounts received from the United States that are attributable to underpayments of benefits due for one or more prior months under the Social Security Act.

Any amounts received by any member of the family as disability compensation under chapter 11 of title 38, United States Code, or dependency and indemnity compensation under chapter 13 of such title. This relates to amounts received from the Department of Veterans Affairs by a family for service-related disabilities of a member of the family, and survivor benefits. (See PIH Notice 2011-15 *“Implementation of Statutory Change to the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) related to Income”*).

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

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FEDERALLY MANDATED EXCLUSIONS FROM ANNUAL INCOME

Federally mandated exclusions are amounts specifically excluded under other federal statutes from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under NAHASDA. HUD periodically publishes a notice in the *Federal Register* identifying the benefits that qualify for this exclusion. The most recent notice was published on May 20, 2014 and can be found in the *Federal Register* at 79 FR 28938 which is included in Attachment 3-3 and replaces those included in Attachment D of Program Guidance 2013-05 “*Calculating Annual Income for Purposes of Eligibility under NAHASDA*”.

These exclusions apply regardless of which of the three definitions of annual income the recipient has chosen to adopt in its policies:

- The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));
- Payments to Volunteers under the Domestic Volunteer Services Act of 1973 (42 U.S.C. 5044(g), 5058);
- Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));
- Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6);
- The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, including the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407);
- Amounts of scholarships funded under Title IV of the Higher Education Act of 1965, including awards under Federal work-study program or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu);
- Payments received from programs funded under Title V of the Older Americans Act of 1985 (42 U.S.C. 3056(g));

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- Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund or any other fund established pursuant to the settlement in Re Agent-product liability litigation, M.D.L. No. 381 (E.D.N.Y.);
- Payments received under the Maine Indian Claims Settlement Act of 1980 (25 U.S.C. 1721);
- The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q);
- Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);
- Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));
- Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602 (c))
- Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931);
- Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780 (b)), including reduced lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);
- Payments from any deferred Department of Veterans Affairs disabilities benefits that are received in a lump sum amount or in prospective monthly amounts as provided by an amendment to the definition of annual income in the U.S. Housing Act of 1937 (42 U.S.C. 1437A) by section 2608 of the Housing and Economic Recovery Act of 2008 (Pub. L. 110-289). This exclusion will apply when an IHBG recipient adopts the Section 8 definition of annual income;
- A lump sum or periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F. Supp. 2d 10 (October 5, 2011 D.D.C) as provided in Claims Resolution Act of

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2010 (Pub. L. 111–291). This exclusion will apply for a period of one year after receipt of payment; and

- Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended) comparable disaster assistance provided by States, local governments, and disaster assistance organizations shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs (42 U.S.C. 5155(d)).

Other Tribal Trust Cases: In addition to the *Cobell* Settlement, the United States recently entered into settlement agreements with a number of federally recognized Indian tribes, settling litigation in which the tribes alleged that the Department of the Interior and the Department of the Treasury mismanaged monetary assets and natural resources the United States holds in trust for the benefit of the tribes. In some circumstances, proceeds from these settlements have resulted, or will result in, *per capita* payments being provided to Indian families.

On October 9, 2012, the Internal Revenue Service issued IRS Notice 2012-60 entitled “*Per Capita Payments from Proceeds of Settlements of Indian Tribal Trust Cases.*” The Notice clarifies that, under 25 U.S.C. § 117b(a), *per capita* payments made from the proceeds of an agreement between the United States and an Indian tribe settling the tribe’s claims that the United States mismanaged monetary assets and natural resources held in trust for the benefit of the tribe by the Secretary of the Interior are excluded from the gross income of the members of the tribe receiving the *per capita* payments. Therefore, IHBG recipients that adopt the IRS Form 1040 definition of annual income should exclude *per capita* payments from these settlements from a family’s annual income. The Notice provides some additional limitations. For instance, *per capita* payments that exceed the amount of the Tribal Trust case settlement proceeds and that are made from an Indian tribe’s private bank account in which the tribe has deposited the settlement proceeds are included in the gross income of the members of the tribe receiving the *per capita* payments. IRS Notice 2012-60 is available at: http://www.irs.gov/irb/2012-41_IRB/ar09.html

IHBG recipients that choose to adopt a definition of annual income other than the IRS Form 1040 definition should note that *per capita* payments received from these Tribal Trust settlements may also be excluded if they qualify under an exclusion listed in this Notice. For example, nonrecurring *per capita* payments made to tribal members may in some instances qualify as “temporary, nonrecurring or sporadic income” that is excluded under the Section 8 definition of annual income.

HUD issued PIH Notice 2013-30 Exclusions of Income of Payments under Recent Tribal Trust Settlements on December 17, 2013. This notice informs recipients of HUD programs on the

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treatment of certain trust settlement payments. This Notice covers how recipients of HUD programs should treat settlement payments received pursuant to the settlement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.* (Cobell Settlement). It further provides guidance on the exclusion of payments received pursuant to a number of other recent Tribal Trust Settlements with Indian tribes. See Attachment 3-5 for additional information.

PART III: PARTICIPANT SELECTION

PARTICIPANT SELECTION POLICIES

[NAHASDA Sections 102(c) (5), 203(d), 207(a) and 207(b), § 1000.120, and § 1000.104]]

Selection Policy Requirements

- The recipient must decide how it will select participants and must have a written policy that defines their participant selection policy (NAHASDA, Section 207(b)). This policy should describe how the recipient will select which families to serve.
- The recipient must ensure that the selection policies:
 - Are consistent with the purpose of providing housing for low-income families;
 - Are related to program eligibility and the ability of the housing applicant to adhere to lease obligations; and
 - Provide for:
 - ⇒ The selection of tenants and homebuyers from a written waiting list, which is discussed in more detail below; and
 - ⇒ Giving prompt written notification to rejected applicants, informing them that they have been rejected and the reason for the rejection.
- Based on an analysis of tribal needs and its selection policies, the recipient should develop targeting criteria. For example:

A tribe may elect to focus assistance on the following:

- Particular geographic area,
- Tribal members with special needs, or
- Selected rehabilitation activities.

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| Type of Criteria | Sample Criteria |
|-----------------------------|--|
| Income Targeting | Breakeven requirements |
| Family income | Less than 60 percent of medium |
| Special needs population | Elderly |
| Residency status | Owner occupied |
| Minimum rehabilitation cost | \$2,500 |
| Maximum rehabilitation cost | \$20,000 |
| Property condition | Non-compliance with applicable housing code and quality standards. |
| Priority system | "first come, first served" |

- ⇒ Targeting and selecting eligible participants for its programs can be challenging, as recipients are often faced with a great demand for assistance over a large geographic area.
 - A recipient can avoid promising more than it can deliver by determining how many households it can assist in the most effective manner.
- Recipients may elect to have different selection criteria for homeowners, homebuyers and renters but must be consistent in the criteria they establish for each.

Preferences

- As stated earlier in this chapter, all Native American homeowners, homebuyers and renters requesting assistance from the recipient must meet program requirements.
- For example, applicants must meet the definition of low-income at the time the request for assistance is submitted.
- In addition to these basic selection criteria, the recipient may also establish preferences for certain households. The recipient should state policy in its Indian Housing Plan (IHP). This means that the tribe may give priority to a certain category of applicant over another, as long as this preference is consistently applied. The recipient must include the preference policy in its written tenant or participant selection policy. The tribe may establish a preference for:
- Members of a particular tribe;
 - Persons with special needs, including but not limited to:
 - ⇒ The elderly; or

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- ⇒ Persons with disabilities; and
- Certain types of families, including but not limited to:
 - ⇒ Large families;
 - ⇒ Families with a female head of household;
 - ⇒ Families that have been displaced; or
 - ⇒ Families that are under-housed.

WAITING LISTS

As stated above, the recipient must keep a waiting list of all participants who want to be considered for occupancy in rental housing or homeownership programs assisted with IHBG funds.

There are no statutory or regulatory provisions governing how recipients should organize their waiting lists. Elements that the recipient may wish to consider when putting together waiting lists are listed below:

- Number of waiting lists.** The recipient should determine whether it wants to maintain one waiting list for all of its housing programs, or separate lists for each program.
- Electronic mailing lists.** Electronic (or computerized) waiting lists can be convenient because of the ease in which you can sort individual applicants into categories and make changes to the list.
- Information to consider including.** At a minimum, the waiting list should include the name and contact information of the person(s) in the household who will be a party to the lease, lease-purchase, or other agreement signed between the household and the recipient which lists both the tenant's/homebuyers and the recipient's responsibilities. Some other items that the waiting list might include are:
 - Type of tribal/TDHE program for which the applicant is applying (if separate waiting lists are not used for each program);
 - Application date and time;

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- Number of all members of the household who will be residing in the dwelling;
 - Any preferences assigned to the applicant household (if any); and
 - Date on which any of the above information was last verified or revised.
- ☐ **Procedures for placing recipients on the waiting list.** The recipient may want to have specific written procedures describing how applicants can be placed on the waiting list. The recipient may want to publicize this information widely so that potential applicants for IHBG-assisted programs are aware of what they have to do to get on the waiting list. Some items to consider are:
- How best to let potential applicants know how to get on the waiting list and where it is located;
 - Whether to have an open waiting list allowing applicants to sign up at any time, or restrict the waiting list sign-up period to certain times of the year; and
 - What type of information is required of potential applicants.
- ☐ **Purging the waiting list.** The recipient may want to purge the list on a periodic basis in order to ensure that it is up-to-date and does not contain inaccurate information. The recipient might do this by:
- Sending correspondence to the applicant's last known address to determine if:
 - ⇒ The applicant is still interested in remaining on the waiting list;
 - ⇒ Any of the applicant's contact information has changed;
 - ⇒ There have been any changes in the size of the household; and
 - ⇒ Whether any of the tribe's/TDHE's preferences apply;
 - Requesting that the applicant contact the recipient if he/she wishes to remain on the waiting list by a certain date. (The recipient may want to include in your correspondence the recipient's contact information and provide a self-addressed stamped envelope or postcard); and
 - Removing the applicant from the waiting list, if the applicant does not respond by the deadline stated in the correspondence.

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- ❑ **Documenting the waiting list.** The recipient may want to document certain items on the waiting list in order to ensure its constituency that the waiting list is carefully tracked and monitored.

POLICIES FOR COLLECTING PARTICIPANT INFORMATION

[§ 1000.152 and § 1000.154]

Pursuant to Section 208 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), Indian Tribes or TDHEs are permitted to obtain criminal history records of applicants for employment, and of adult applicants for, and tenants of, housing assisted under NAHASDA for purposes of applicant screening, lease enforcement, and eviction. For purposes of this guidance, the term “tenants” includes homebuyers applying for, or currently being assisted under NAHASDA. As stated above, recipients should have specific, written tenant selection policies that are implemented fairly and consistently. The recipient may wish to have a policy that restricts or forbids occupancy to tenants or potential tenants/homebuyers who have had a criminal conviction of any kind or specific types of criminal convictions. For prospective tenants of housing assisted with IHBG funds, recipients may obtain criminal history records to aid in applicant screening, lease enforcement, and eviction (§ 1000.152). In this case, “tenants” include homebuyers who are purchasing their home through a lease-purchase agreement with the recipient, and homeowners seeking housing assistance.

For complete guidance on this issue, please refer to Program Guidance 2013-08 “*Update to Instructions for Obtaining FBI Criminal History Record Information*”.

- ❑ **Confidentiality.** NAHASDA provides that each Tribe or TDHE receiving information may use such information only for the purposes provided in the Act. Such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the Tribe/TDHE or the owner of housing assisted under NAHASDA, and who has a job-related need to have access to the information for the allowable purposes. For judicial eviction proceedings, disclosures may be made to the extent necessary.
 - All criminal conviction record information received from official law enforcement agencies listed in 24 CFR § 1000.154 must be kept in files separate from other housing records, and under lock and key and be under the custody and control of the recipient’s housing executive director or lead official and/or his designee for such records. For further information see Program Guidance 2013-08 “*Update to Instructions for Obtaining FBI Criminal History Record Information*”. Information relating to any criminal conviction of a juvenile should be made available to recipients only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality. Recipients should be mindful of all confidentiality.

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OUTREACH

- ❑ A recipient should develop an outreach plan to market their program. The plan may include:
 - Marketing presentations at community gatherings, meetings and churches,
 - Placing advertisements in community newspapers, and
 - Posting posters in targeted neighborhoods and in public buildings.
- ❑ A recipient's reputation is most often its most successful outreach tool as results of the program are seen and spread via word-of-mouth throughout the community.

LEASES

- ❑ The recipient must use a written lease when renting affordable housing units assisted with IHBG funds (NAHASDA, Section 207(a)).
 - The lease must:
 - ⇒ Not contain unreasonable terms and conditions with which tenants cannot be expected to comply and which contradict, State, tribal, or local law;
 - ⇒ State that the recipient is required to maintain the housing in compliance with applicable housing codes and quality standards;
 - ⇒ State that the recipient will give tenants adequate written notice of lease termination. The notice period must be in compliance with State, tribal, or local law;
 - ⇒ Specify that in eviction cases, the recipient will give alert the affected tenant of the availability of any relevant records for inspection prior to any hearing or trial;
 - ⇒ State that the recipient will not terminate tenancy during the lease term except serious or repeated violation of the lease, applicable Federal, State, tribal, or local law; and
 - ⇒ Provide that the recipient may terminate tenancy if a tenant, member of the tenant's household, or guest of the tenant engages in any activity that:

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Chapter 3: Eligible Participants, Income Eligibility and Participant Selection

- Threatens the health, safety, or right to peaceful enjoyment of other residents or employees of the recipient;
- Threatens the health, safety, or peaceful enjoyment of persons living in the immediate vicinity of the tenant's dwelling; or
- Is criminal including drug-related criminal activity that occurs on or off housing premise.

REFERENCES

☐ Key guidance and notices on eligible participants can be found in:

- Program Guidance 2016-02(R) "*Income Limits under NAHASDA*" contains the latest published income limits for the various Indian areas.
- PIH Notice 2014-02 "*Providing Assistance to Non-Low-Income Families under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA)*" – provides guidance on the requirements of Section 201(b) of NAHASDA.
- PIH Notice 2013-30 "*Payments under Recent Tribal Trust Settlements*" explains how to treat payments from tribal trust settlement.
- PIH Notice 2011-40 "*Limiting Housing to Indian Families or Tribal Members when using Indian Housing Block Grant (IHBG) funds*", explains when tribes/TDHEs may limit housing assistance to Indian families or tribal members.
- PIH Notice 2012-05 "*Implementation of Statutory Change to the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) Related to Income*" provide information about the exclusion of certain veteran's benefits from income calculations.
- Program Guidance 2013-05 "*Calculating Annual Income for Purposes of Eligibility under NAHASDA*" explains calculating annual income for purposes of eligibility under NAHASDA.
- Program Guidance 2013-08 "*Update to Instructions for Obtaining FBI Criminal History Record Information*" provides instructions for obtaining FBI criminal history report information for the purposes of screening, lease enforcement and eviction.

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- Program Guidance 2002-11 *“Required Policies and Statements Under NAHASDA”*
- Program Guidance 2002-10 *“1937 Housing Act and NAHASDA requirements on the 30 percent of Income Rule and Income Verifications”*

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Chapter 3: Eligible Participants, Income Eligibility and Participant Selection

**ATTACHMENT 3-1: PROGRAM GUIDANCE 2013-05 – CALCULATING
ANNUAL INCOME UNDER NAHASDA**



PROGRAM GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: All Tribal Government Leaders and Tribally Designated Housing Entities

R.J.B.

FROM: Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, PN

TOPIC: Calculating Annual Income for Purposes of Eligibility under NAHASDA

Purpose: This guidance provides instructions to IHBG recipients on how to calculate annual income under the IHBG program for the purpose of program eligibility. It covers the three definitions of annual income that recipients may adopt in their policies. It includes an updated list of Federally Mandated Exclusions from annual income, and provides guidance on how to treat certain payments received by individuals pursuant to the recent settlement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al. (Cobell Settlement)*, and a number of other Tribal Trust settlements. This Program Guidance replaces Program Guidance 1999-02.

Background: Housing assistance under the IHBG program is generally limited to low-income Indian families. A low-income family is defined in the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) as a family whose income does not exceed 80 percent of area median income or the national median income whichever is higher. In order to determine whether a family is eligible to receive assistance under the IHBG program, recipients must first determine a family's annual income.

Calculating Annual Income: To calculate a family's annual income for purposes of IHBG eligibility, a recipient should follow these steps:

Step 1: Adopt a Definition in Policies – A recipient must indicate in its written policies that govern the eligibility, admission, and occupancy of families for IHBG assistance, the definition(s) of annual income it will use. The IHBG regulations at 24 CFR §1000.10 provide recipients with the option to choose any one of the following three definitions of “annual income”:

1. Section 8 Limits. Annual Income as defined for HUD's Section 8 programs in 24 CFR part 5, subpart F (except when determining the income of a homebuyer for an owner-occupied rehabilitation project, the value of the homeowner's principal residence may be excluded from the calculation of net family assets). **Attachment A** contains the Section 8 definition of annual income.
2. Census Definition. Annual income as reported under the U.S. Census long form for the most recent available decennial Census. This means the definition of income used by the Census, not the dollar amount reported. **Attachment B** contains the Census definition.
3. IRS Definition. Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes. Recipients should review the program participant's appropriate past IRS Form 1040s to obtain this information. On the 1040 Form (in 2012), this is line 37. On the 1040A Form, this is line 21. On the 1040EZ Form, this is line 4. Payments received under the *Cobell* Settlement are not included in that individual's adjusted gross income. **Attachment C** contains additional information on what is included and excluded in adjusted gross income on IRS Form 1040.

The recipient does not need to limit its definition to only one of the three outlined in this guidance. For example, the policy may state that the tribe or tribally designated housing entity (TDHE) will use the definition most advantageous to the family or to the housing entity.

Step 2: NAHASDA Exclusions – Section 4 (9) of NAHASDA defines the term “income” as income from all sources of each member of the household as determined in accordance with criteria prescribed by HUD, except that the following amounts may not be considered as income:

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

Step 3: Federally Mandated Exclusions – Federally mandated exclusions are amounts specifically excluded under other Federal statutes from consideration as income for purposes of determining eligibility or benefits under a category of assistance programs that includes assistance under NAHASDA. HUD periodically publishes a notice in the *Federal Register* identifying the benefits that qualify for this exclusion. The most recent notice was published on December 14, 2012, and can be found in the *Federal Register* at 77 FR 74495. The most common Federally Mandated Exclusions are also included in this Guidance in **Attachment D**.

Per Capita Payments and Recent Trust Case Settlements:

Generally, *per capita* payments that are not derived from interests held in trust or restricted lands are included in a family's annual income. For instance, if a tribal member receives the Form 1099-Misc, Miscellaneous Income, from a tribe for reporting Indian gaming profits, this payment must be included as annual income as defined by HUD's Section 8 Program, the Census, and the IRS Form 1040. However, certain *per capita* payments under several recent Tribal Trust settlements may be excluded from annual income under the IHBG program as explained below.

Cobell Settlement:

The Federally Mandated Exclusions include lump sum or periodic payments received by an individual Indian in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.* These *Cobell* Settlement payments are statutorily excluded pursuant to the Claims Resolution Act of 2010 (Pub. L. 111–291). This exclusion will apply for a period of one year after receipt of payment. Once a payment is received, that payment is not counted as income or as a resource for a period of one year from the time of receipt of that payment. The exemption attaches to the payment and applies for a one year period from that payment. Payments may not be counted as a part of an individual's income for purposes of determining initial eligibility, ongoing eligibility, or level of IHBG assistance.

Other Tribal Trust Cases:

In addition to the *Cobell* Settlement, the United States recently entered into settlement agreements with a number of federally recognized Indian tribes, settling litigation in which the tribes alleged that the Department of the Interior and the Department of the Treasury mismanaged monetary assets and natural resources the United States holds in trust for the benefit of the tribes. In some circumstances, proceeds from these settlements have resulted, or will result in, *per capita* payments being provided to Indian families.

On January 14, 2013, the Internal Revenue Service issued IRS Notice 2013-1, which is available at: http://www.irs.gov/irb/2013-03_IRB/ar08.html, and is entitled "Per Capita Payments from Proceeds of Settlements of Indian Tribal Trust Cases." The Notice clarifies that, under 25 U.S.C. § 117b(a), *per capita* payments made from the proceeds of an agreement between the United States and an Indian tribe settling the tribe's claims that the United States mismanaged monetary assets and natural resources held in trust for the benefit of the tribe by the Secretary of the Interior are excluded from the gross income of the members of the tribe receiving the *per capita* payments. Therefore, IHBG recipients that adopt the IRS Form 1040 definition of annual income should exclude *per capita* payments from these settlements from a family's annual income. This IRS Notice provides some additional limitations. For instance, *per capita* payments that exceed

the amount of the Tribal Trust case settlement proceeds and that are made from an Indian tribe's private bank account in which the tribe has deposited the settlement proceeds, are included in the gross income of the members of the tribe receiving the *per capita* payments. This IRS Notice also provides guidance concerning the federal income tax treatment of per capita payments that members of Indian tribes receive from proceeds of certain settlements of tribal trust cases between the United States and those Indian tribes.

IHBG recipients that choose to adopt a definition of annual income other than the IRS Form 1040 definition should note that *per capita* payments received from these Tribal Trust settlements may also be excluded if they fall under an exclusion in either the Section 8 definition of annual income, or the Census definition. For example, nonrecurring *per capita* payments made to tribal members may in some instances qualify as "temporary, nonrecurring or sporadic income" that is excluded under the Section 8 definition of annual income. A payment may also be excluded as one time lump-sum payment under the Census definition.

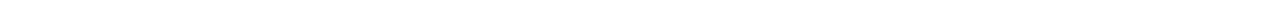
Step 4: Income Verification: The IHBG regulations at 24 CFR § 1000.128 require the recipient to verify that a family is income eligible based on anticipated annual income. The family's annual income may not exceed the applicable income limit. The family is required to provide income documentation to verify this determination. The recipient must have income verification policies in place and is required to maintain the documentation on which the determination of eligibility is based. The recipient may also require a family to periodically verify its income in order to determine housing payments or continued occupancy consistent with locally adopted policies. The recipient may choose to use third party income verification methods or request documentation such as income tax returns, W-2s, pay stubs, and other appropriate information as stipulated by their policies to adequately estimate annual income.

Questions: If you have any questions regarding the calculation of annual income for applicants and participants, please contact your local Area Office of Native American Programs.

Attachments

Chapter 3: Eligible Participants, Income Eligibility and Participant Selection

**ATTACHMENT 3-2: PIH NOTICE – 2014-02 PROVIDING ASSISTANCE
TO NON-LOW-INCOME FAMILIES UNDER THE NATIVE AMERICAN
HOUSING ASSISTANCE AND SELF-DETERMINATION ACT OF 1996
(NAHASDA).**





**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

Special Attention of:

Administrators, Offices of Native American Programs;
Tribes, Tribally Designated Housing Entities (TDHEs)

Notice PIH 2014-02

Issued: January 24, 2014

Expires: Effective until amended,
revoked or superseded

Cross References: 24 CFR §§
1000.104 - 1000.118
PIH Notice 1999-6

1. SUBJECT: Providing Assistance to Non-Low-Income Families under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA).

2. PURPOSE: This Notice provides guidance on the requirements of Section 201(b) of NAHASDA, the recent revisions to the Indian Housing Block Grant (IHBG) regulations that became effective on January 3, 2013, and replaces PIH Notice 1999-6. It describes how non-low-income families (families with incomes over 80 percent of the HUD median income limits) may receive assistance under NAHASDA, and provides details on exceptions for essential families and law enforcement officials. This Notice also explains the process for documenting these determinations and how to request HUD approval to assist non-low-income families.

3. BACKGROUND: One of the national objectives of NAHASDA is to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments for occupancy by low-income families on Indian reservations and in other Indian areas. Generally, assistance under NAHASDA is limited to low-income Indian families on Indian reservations and other Indian areas. Section 201(b) provides some exceptions to this requirement.

4. TYPES OF ELIGIBLE NON-LOW-INCOME FAMILIES: IHBG recipients may provide non-low-income families with IHBG assistance as defined below:

Ten Percent Non-Low-Income. Recipients may use up to 10 percent of the amount planned for the tribal program year for families with incomes that fall between 80 percent and 100 percent of the median income without HUD approval if the recipient determines that the need for housing for such families cannot be met without such IHBG assistance. For purposes of the Notice, this exception to the low-income requirement is called the “10 percent authority”.

Non-low-income families assisted under this provision may receive the same **type** of benefits as low-income families; however the dollar amount of benefits and assistance will be altered. Non-

low-income families will pay more or receive less assistance for benefits such as rent or down payment assistance or other benefit. The calculation of the reduced benefit is covered in section

Essential Families. A non-low-income family may receive IHBG assistance if the recipient determines that the presence of the family is essential to the well-being of Indian families and the need for housing for such family cannot be met without such IHBG assistance. Families assisted under this provision can receive the same amount of benefits as low-income families, as provided in 24 CFR § 1000.110(e), and they do not count as non-low-income families for the purposes of the 10 percent authority even though HUD approval is not required. Guidance on documenting these determinations is covered further in this Notice.

To be considered an essential family, an IHBG recipient must first determine a family is essential to the well-being of the Indian families residing in the Indian area, and determine that the need for housing the family cannot be reasonably met without IHBG assistance. The criteria and rationale for determining if a family is essential should be clearly described in the recipient's policy, and documentation must be maintained that clearly supports the determination. The recipient must make a determination about each essential family and document its determination even in cases when HUD approval is not required. The recipient may use the guidance in this Notice when determining if there is a need for housing for the family that cannot be reasonably met without IHBG assistance.

Law Enforcement Families. The recipient may provide housing or housing assistance for law enforcement officers on an Indian reservation or other Indian areas without HUD approval. The following three criteria must be met:

- The officer must be employed on a full-time basis by the Federal Government or a state, county, or other unit of local government, or lawfully recognized tribal government;
- The officer, in implementing such full-time employment, must be sworn to uphold, and make arrests for, violations of Federal, state, county, or tribal law; and
- The recipient determines that the presence of the law enforcement officer on the Indian reservation or other Indian area may deter crime.

Law enforcement officers assisted under this provision can receive the same amount of benefits as low-income families and they do not count toward the 10 percent authority.

Continued Occupancy. If a rental or homeownership family was low-income at the time it entered the program (as described in 24 CFR § 1000.147), and subsequently becomes non-low-income, it may continue to participate in the program if the recipient's admission and occupancy policies authorize such families to continue to receive assistance (including a determination that there is a need for housing for each family that cannot reasonably be met without such assistance). This includes a family member or household member who subsequently takes ownership of a homeownership unit, by inheriting a homeownership unit.

Whether a family can receive the same benefit as low-income families is also subject to the recipient's admission and occupancy policies, which may include the limitation on receiving the

same level of benefits as low-income families by applying the “Calculating Benefits for Non-Low-Income Families” provision (#5 below). Such families do not count toward the 10 percent authority for the non-low-income persons that may be served.

Secretary Approved Non-Low-Income Families. HUD approval is required if the IHBG recipient plans to: (1) use more than 10 percent of the amount planned for the tribal program year for assistance to non-low income families (2) provide housing for families with income over 100 percent of the median income. The standard for HUD approval is that the family’s housing needs cannot be met without IHBG assistance. The request for approval must be submitted as outlined in 24 CFR § 1000.108 and in this Notice. In cases under (1) above, such assistance is not prohibited by the 10 percent authority cap. It is irrelevant to cases in (2) involving families with incomes over 100% of mean. These non-low-income families will be required to pay more or receive less assistance for benefits such as rent or down payment assistance.

See ATTACHMENT A for the methods a recipient may use to track its use of the 10 percent authority for its tribal program year.

The table below summarizes the circumstances when non-low-income families can be assisted and the requirements for those families.

**Summary of Requirements
For Serving Non-Low-Income Families**

| Applicability | HUD Approval Required | Rent/Homebuyer Payment differential Required by HUD | Counts Against 10% Authority |
|--|------------------------------|--|--|
| Essential Family | No | No | No |
| Law Enforcement | No | No | No |
| Continued Occupancy | No | Determined by Tribe/TDHE Occupancy Policy | No |
| Non-Low- Income Families (10% Authority) between 80-100% of median income | No | Yes | Yes |
| Secretary Approved: Exceeding 10% Authority to serve Indian families at 80 – 100% of median income | Yes | Yes | By definition these families exceed the 10% cap. |
| Secretary Approved: Indian family over 100% of median income | Yes | Yes | No |

5. CALCULATING BENEFITS FOR NON-LOW-INCOME FAMILIES: As specified in 24 CFR § 1000.110(d), the following formulas apply for determining the amount of assistance that may be provided to Secretary approved non-low-income Indian families and ten percent non-low-income families:

- The rent (including homebuyer payments under a lease purchase agreement) to be paid by a non-low-income family cannot be less than [income of non-low-income family/income of

family at 80 percent of median income] × [rental payment of family at 80 percent of median income], but need not exceed the fair market rent or value of the unit.

- Other assistance, including down payment assistance, to non-low-income families, cannot exceed [income of family at 80 percent of median income/income of non-low-income family] × [present value of the assistance provided to family at 80 percent of median income].

See ATTACHMENT B for more information about calculating non-low-income benefits.

6. DETERMINING HOUSING NEED FOR NON-LOW-INCOME FAMILIES: A recipient must make a determination and document the determination of housing need for non-low-income families. The following guidance is not all inclusive. A recipient may identify other methods of assessing need.

To determine if a housing need exists, recipients should consider the following factors.

- **Inadequate housing.** Such housing includes substandard and overcrowded housing. For the purposes of this Notice, inadequate housing is defined as housing that: (1) is not safe; (2) is not in a physically sound condition with all systems performing the intended design functions; or, (3) does not provide adequate space and privacy for all intended household members.
- **Temporary housing and homelessness.** Families living in temporary housing such as emergency shelters or transitional housing, or in a public or private place not designated for, or ordinarily used as, a regular sleeping accommodation for human beings.
- **Cost burden.** When a family pays over 50 percent of its gross income for housing (including utilities) due to the lack of more affordable housing, it can be determined that there is a housing need or a need for housing that is more affordable.

Determining Need for IHBG Assistance: Once the need for housing is established, the next step is to determine if the non-low-income family could secure adequate housing without IHBG assistance:

The following information should be considered when making this determination.

- **Rental and homeowner housing.** In cases where a family is living in inadequate rental housing, the recipient should determine if the family could find adequate rental housing without requiring IHBG assistance.
- **Income and assets.** It should be determined if the family has sufficient income and/or assets that would enable it to obtain adequate housing (which may mean rental housing) without IHBG assistance.
- **Private and governmental programs.** In cases involving homeownership, the recipient should determine if the family could qualify for a conventional or government backed mortgage, (for example, HUD's Section 184 Loan Guarantees for Indian Housing

program, Federal Housing Administration, Veterans Administration, U.S. Department of Agriculture, Rural Development, or local or state programs). For a family who could qualify for a mortgage, but was rejected due to credit problems, the recipient should consider if the family would be able to meet program requirements including repayment, if applicable.

- **Housing market/location conditions.** It should be determined whether there are sufficient number of affordable units on the market that would allow the family to find an adequate unit without IHBG assistance. The recipient may consider the availability of housing and the location when determining if the housing need can be met without IHBG assistance.
- **Overcrowded conditions.** In cases of overcrowded conditions, the recipient should review the overcrowded conditions and consider if the family or families have adequate resources to alleviate the overcrowded conditions without IHBG assistance.

If the recipient determines that a family seeking IHBG assistance does not have a legitimate housing need, the recipient should notify the family in writing of the reasons the family is not eligible to receive assistance.

7. DOCUMENTING NEED: Documentation demonstrating need must be maintained by recipients at all times while families are receiving assistance.

Recipients must carefully document their determination of housing need for non-low income families and the reasons the housing need cannot reasonably be met without IHBG assistance must also be documented. Because housing need and the inability to secure housing without IHBG assistance can occur due to a variety of different circumstances, the type of documentation required will vary depending on the situation. The recipient should consider the documentation listed below and determine, based on the circumstances of the non-low-income family, the type(s) of documentation that would best support its determinations.

- Property inspections (completed by the recipient or other reliable sources); code violation letters from a local government citing unsafe conditions; family information including size and the number, age, and gender of children living in the home.
- A statement from a temporary housing facility stating that the family has been residing at the facility because they have no other reasonable alternative. For homeless families, the lack of any information indicating that the family has adequate housing along with an explanation from the family stating why they do not have adequate housing would be sufficient documentation.
- A statement signed by the head of household explaining why the family has a housing need that cannot be met without assistance. The statement should specify the reasons why a housing need exists and the steps that the family has taken to secure housing without assistance. The family should provide the recipient with verification to support its statement.

- Copies of tax returns, payroll stubs, rent receipts, utility receipts or canceled checks, etc. Third party verifications can be used to confirm information provided by the family.
- Rejection letters from financial institutions or landlords.
- Letters from state, local, or federal agencies stating that the family does not qualify for housing programs or that there are no programs available.
- Notes including names and phone numbers of persons the family has contacted in an attempt to secure housing.

If HUD approval is required before a family can obtain assistance, a copy of the recipient's documentation and request for HUD approval should be sent to the Area Office of Native American Programs (ONAP). If HUD approval is not required, the recipient's documentation should be kept on-site and HUD may review these documents on-site or request copies at any time and that, if HUD disagrees with the recipient's determination in any particular case, it may impose a specified remedy, using the procedures at 24 C.F.R. § 1000.532. A determination and supporting documentation must be completed on a case-by-case basis for each family seeking assistance.

Recipients' policies and procedures for assisting non-low-income families, including information to be provided by the family, the types of documentation required, recipient verification procedures, etc., must be developed and adopted prior to assistance being provided.

As part of its policy, a recipient may allow a non-low-income family to appeal the recipient's decision and permit the family to provide additional information that might cause the recipient to change its determination.

8. REQUEST TO HUD TO ASSIST NON-LOW-INCOME FAMILIES: In cases when HUD approval is required prior to providing assistance to non-low-income families, the recipient should submit its request, including supporting documentation, to its Area ONAP. The Area ONAP will be consulting with the applicant during the review process. If the Area ONAP determines that the information provided by the recipient is incomplete or inadequate, the Area ONAP will deny the request and notify the recipient of specific reasons why the request cannot be approved. The recipient may appeal the request to provide assistance to a non-low income family as outlined below in Section 9.

If the Area ONAP determines the information provided is complete and adequate, the Area ONAP will forward the request to the ONAP Office of Grants Management (OGM) in headquarters with its recommendation for approval. OGM will review the information and forward it to the Deputy Assistant Secretary for Native American Programs for approval.

HUD has 60 calendar days after receiving the request to notify the recipient in writing that the request to provide assistance to non-low-income Indian families is approved or disapproved. If

no decision is made by HUD within 60 calendar days of receiving the proposal, the proposal is deemed to have been approved by HUD.

9. APPEAL OF HUD DENIAL TO ASSIST NON-LOW-INCOME FAMILIES: When the Area ONAP notifies a recipient that their request to provide assistance to a non-low-income Indian family, the recipient may request reconsideration of the denial in writing. The request must be made within 30 calendar days of receipt of HUD's denial and must include justification for the reconsideration. Within 20 calendar days of receiving the request, the Area ONAP, the Office of Grants Management or the Deputy Assistant Secretary of ONAP shall reconsider the recipient's request and will either affirm or reverse its initial decision in writing, setting forth its reasons for the decision.

The recipient may appeal any denial by the Area ONAP, the Office of Grants Management or the Deputy Assistant Secretary of ONAP to the Assistant Secretary for Public and Indian Housing within 20 calendar days of receiving the denial. The appeal shall set forth the reasons why the recipient does not agree with HUD's decision and submit justification for the reconsideration. Within 20 calendar days of receipt of the appeal, the Assistant Secretary shall review the recipient's appeal and act on the appeal, stating the reasons for the decision. Any decision made by the Assistant Secretary constitutes final agency action.

10. NON-DISCRIMINATION REQUIREMENTS: In making the case-by-case determinations outlined in this Notice, recipients must comply with the applicable non-discrimination requirements in 24 CFR § 1000.12. The Indian Civil Rights Act (ICRA), which is Title II of the Civil Rights Act of 1968, applies to federally recognized, Indian tribes that exercise powers of self-government. This Act provides that no Indian tribe, in exercising powers of self-government, should deny to any person within its jurisdiction the equal protection of its laws or deprive any person of liberty or property without due process of law. Section 504 of the U.S. Rehabilitation Act of 1973 (See 24 CFR 8) and the Age Discrimination Act of 1975 (See 24 CFR 146) are applicable in their entirety. Recipients must document the rationale for determinations to demonstrate consistency and non-discrimination. Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Rights Act of 1968 (commonly known as the Fair Housing Act) requirements do not apply to actions under NAHASDA by federally recognized Indian tribes and their TDHEs.

11. ADDITIONAL INFORMATION: If you have any questions or require further information, please contact your Area ONAP. Persons with hearing or speech impairments may access their Area Office of Native American Programs via TTY by calling the Federal Information Relay Service at (800) 877-8339.

/s/
Sandra B. Henriquez, Assistant Secretary
for Public and Indian Housing

Attachments

ATTACHMENT A

Tracking Percent Authority

There are various methods that can be used to determine the amount of IHBG assistance provided to non-low-income families. Therefore, it is important that the recipient document in its policies the method that it will use to determine the assistance that can be provided to non-low-income families in its respective areas.

The following method may be used by a recipient to track assistance provided within the 10 percent authority amount planned for the tribal program year. Note that recipients should include the calculation methods they plan to use in their respective occupancy policies.

| | |
|--|------------------------------------|
| <u>Program Year Period:</u> | 10/1/2012 through 9/30/2013 |
| <u>Program Year Planned Expenditures:</u> <u>(from Line 1, Column D of the Sources of Funding Table from IHP)</u> | \$356,000 |
| <u>10% Authority Amount:</u> | \$35,600 |

Example 1: The recipient is assisting a non-low income Indian family with rental assistance. The tribe has decided to use the monthly Fair Market Rent (FMR) of \$698 as the rental value for assistance.

\$698 FMR value x 12 months = \$8,376 of NAHASDA assistance.

Example 2: The recipient is assisting a non-low-income Indian family with homeownership assistance. The monthly value of the homebuyer unit is \$850.

\$850 value x 12 months = \$10,200 of NAHASDA assistance.

Example 3: The recipient is assisting a non-low-income Indian family with down payment assistance. Amount of assistance being provided to non-low-income Indian family is \$7,400.

| Participant | Amount of Assistance Provided | Balance of 10% Authority |
|--------------------------------------|--------------------------------------|---------------------------------|
| 10% of planned PY Expenditures | | \$35,600 |
| Rental Assistance- Example 1 | \$8,376 | \$27,224 |
| Homeownership Assistance – Example 2 | \$10,200 | \$17,024 |
| Down payment Assistance – Example 3 | \$7,400 | \$9,624 |

ATTACHMENT B

Calculation of Rental/Homebuyer Payments and Other Assistance for Non-Low Income Families

RENTAL AND HOMEBUYER PAYMENTS: The rent payment or homebuyer payment to be paid by a non-low-income Indian family cannot be less than:

[Income of the non-low-income family at 80 percent of median income limit] X
[Rental or homebuyer payment of the family at 80 percent of median income], but
need not exceed the fair market rent or value of the unit.

The “income of family at 80 percent of median income” referred to above, means the dollar amount representing 80 percent of the HUD median income limits adjusted by family size.

Eligibility and rents should be determined in accordance with the recipients’ policies, and when determining the rental or homebuyer payment of the family at 80 percent of median income, ensure that the adjusted income deductions of the low-income family is comparable to the adjusted income deductions that the non-low-income Indian family would use. In other words, the adjusted income of the low-income family at 80 percent of median income should be based on the same family size and adjusted income deductions (such as \$480 for each family member under 18, \$400 for an elderly family, overall rent cap for the unit, etc.) that the non-low-income Indian family would use.

HUD Median Income Limits are established at national (U.S.), county and metropolitan area levels, and are updated annually. Tribes/TDHEs must use the higher income limits for their Indian Area. For instance, if the median income limits for a county located within an Indian area is greater than the U.S. median income limits, then the tribe/TDHE must use the county median income limits rather than the U.S. median income limits.

FMR are gross rent estimates, which are established by HUD and published annually in the *Federal Register*. FMRs are used to determine rent payment standards for a number of HUD-funded programs.

OTHER ASSISTANCE: Other assistance is assistance other than rental and homebuyer benefits, such as down payment assistance, provided to non-low-income Indian families.

The amount of other assistance provided to a non-low-income Indian family cannot exceed [income of family at 80 percent of median income/Income of non-low-income Indian family] X [Present value of the assistance provided to family at 80 percent of median income].

The present value of the assistance is the current value of the assistance at the time it is provided.

**ATTACHMENT 3-3: FEDERALLY MANDATED EXCLUSIONS FROM
INCOME-UPDATED LISTING (FR VOL. 79 PAGE 28938)**

**DEPARTMENT OF HOUSING AND
URBAN DEVELOPMENT**

[Docket No. FR-5741-N-01]

**Federally Mandated Exclusions From
Income—Updated Listing**

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, and Office of the Assistant Secretary for Housing—Federal Housing Commissioner, HUD.

ACTION: Notice.

SUMMARY: HUD's regulations provide for HUD to periodically publish in the Federal Register a notice that lists amounts specifically excluded by any Federal statute from consideration as income for purposes of determining eligibility or benefits in a HUD program. HUD last published a notice that listed Federally mandated exclusions from consideration of income on December 14, 2012. This notice replaces the previously published version adds a new exclusion, includes an inadvertent omission, and corrects two previously listed exclusions.

FOR FURTHER INFORMATION CONTACT: For the Rent Supplement, section 236, and Project-based section 8 programs administered under 24 CFR parts 880, 881, and 883 through 886: Yvette Viviani, Director, Housing Assistance Policy Division, Office of Housing Assistance and Grant Administration, Department of Housing and Urban Development, 451 7th Street SW., Room 6138, Washington, DC 20410, telephone number 202-708-3000. For other section 8 programs administered under 24 CFR part 882 (Moderate Rehabilitation) and under part 982 (Housing Choice Voucher), and the Public Housing Programs: Shauna Sorrells, Director, Office of Public Housing Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4206, Washington, DC 20410, telephone number 202-402-2769, or the Public and Indian Housing

Information Resource Center at 1-800-955-2232. For Indian Housing Programs: Rodger Boyd, Deputy Assistant Secretary, Office of Native American Programs, Office of Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street SW., Room 4126, Washington, DC 20410, telephone number 202-401-7914. With the exception of the telephone number for the PIH Information Resource Center, these are not toll-free numbers. Persons with hearing or speech impairments may access these numbers via TTY by calling the Federal Relay Service at 1-800-877-8339 or by visiting <http://federalrelay.us/> or <http://www.federalip.us/>.

Please note: Members of the public who are aware of other federal statutes that require any benefit not listed in this notice to be excluded from consideration as income in these programs should submit information about the statute and the benefit program to one of the persons listed in the **“FOR FURTHER INFORMATION CONTACT”** section above. Members of the public may also submit this information to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 7th Street SW., Room 10276, Washington, DC 20410-0500.

SUPPLEMENTARY INFORMATION: Under several HUD programs (Rent Supplement under 24 CFR 200.1303 (although loans in existence immediately before May 1, 1996, continue to be governed by 24 CFR part 215 (1995 ed.)); Mortgage Insurance and Interest Reduction Payment for Rental Projects under 24 CFR part 236; section 8 Housing Assistance programs; Public Housing programs), the definition of income excludes amounts of other benefits specifically excluded by federal law.

Background

In certain HUD-subsidized housing programs, annual income is a factor in determining eligibility and the level of benefits. Annual income is broadly defined as the anticipated total income from all sources received by every family member. Federal statutes that require certain income sources be disregarded as income are universally applicable to all HUD programs where income is a factor in determining eligibility and benefits. Other Federal statutes specify that income exclusions are specific to certain HUD programs. As directed by various statutes, HUD excludes from consideration of income certain types of benefits from

applicants' and participants' annual income, as listed in 24 CFR 5.609, this notice, or otherwise specified by statute.

Changes to the Previously Published List

HUD last published in the **Federal Register** a notice of Federally mandated exclusions from income on December 14, 2012, at 77 FR 74496. Today's notice replaces the previously published version by adding a new exclusion, including an inadvertent omission, and correcting two previously listed exclusions:

(1) Adds exclusion of any amounts in an "individual development account" as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107-110, 42 U.S.C. 604(h)(4)), listed as exclusion (xxiv);

(2) Includes previously omitted exclusion of any allowance paid under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821), listed as exclusion (xvi);

(3) Clarifies the criteria for Section 8 participants for exclusion (viii); and

(4) Corrects the timeline of exclusion (xxiii) for settlements payments pursuant to the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*

Updated List of Federally Mandated Exclusions From Income

The following updated list of federally mandated exclusions supersedes the notice published in the **Federal Register** on December 14, 2012. The following list of program benefits is the comprehensive list of benefits that currently qualify for the income exclusion in either any Federal program or in specific Federal programs (exclusions (viii), (xiii), (xxi), and (xxii) have provisions that apply only to specific HUD programs):

(i) The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b));

(ii) Payments to volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(f)(1), 5058);

(iii) Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c));

(iv) Income derived from certain submarginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e);

(v) Payments or allowances made under the Department of Health and

Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f));

(vi) Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6);

(vii) The first \$2000 of per capita shares received from judgment funds awarded by the National Indian Gaming Commission or the U.S. Claims Court, the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408). This exclusion does not include proceeds of gaming operations regulated by the Commission;

(viii) Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu). For section 8 programs only (42 U.S.C. 1437f), any financial assistance in excess of amounts received by an individual for tuition and any other required fees and charges under the Higher Education Act of 1965 (20 U.S.C. 1001 *et seq.*), from private sources, or an institution of higher education (as defined under the Higher Education Act of 1965 (20 U.S.C. 1002)), shall not be considered income to that individual if the individual is over the age of 23 with dependent children (Pub. L. 109-115, section 327) (as amended);

(ix) Payments received from programs funded under title V of the Older Americans Act of 1965 (42 U.S.C. 3056g);

(x) Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101-201) or any other fund established pursuant to the settlement in *In Re Agent Orange Liability Litigation*, M.D.L. No. 381 (E.D.N.Y.);

(xi) Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96-420, 25 U.S.C. 1728);

(xii) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858g);

(xiii) Earned income tax credit (EITC) refund payments received on or after January 1, 1991, for programs administered under the United States Housing Act of 1937, title V of the Housing Act of 1949, section 101 of the Housing and Urban Development Act of 1965, and sections 221(d)(3), 235, and

236 of the National Housing Act (26 U.S.C. 32(l));

(xiv) Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95-433);

(xv) Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d));

(xvi) Any allowance paid under the provisions of 38 U.S.C. 1833(c) to children of Vietnam veterans born with spina bifida (38 U.S.C. 1802-05), children of women Vietnam veterans born with certain birth defects (38 U.S.C. 1811-16), and children of certain Korean service veterans born with spina bifida (38 U.S.C. 1821).

(xvii) Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602(c));

(xviii) Allowances, earnings, and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2));

(xix) Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC);

(xx) Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b));

(xxi) Payments from any deferred U.S. Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts (42 U.S.C. § 1437a(b)(4));

(xxii) Compensation received by or on behalf of a veteran for service-connected disability, death, dependency, or indemnity compensation as provided by an amendment by the Indian Veterans Housing Opportunity Act of 2010 (Pub. L. 111-269; 25 U.S.C. 4103(9)) to the definition of income applicable to programs authorized under the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4101 *et seq.*) and administered by the Office of Native American Programs;

(xxiii) A lump sum or a periodic payment received by an individual

Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F.Supp.2d 10 (Oct. 5, 2011 D.D.C.), for a period of one year from the time of receipt of that payment as provided in the Claims Resolution Act of 2010 (Pub. L. 111–291);

(xxiv) Any amounts in an “individual development account” as provided by the Assets for Independence Act, as amended in 2002 (Pub. L. 107–110, 42 U.S.C. 604(h)(4));

(xxv) Per capita payments made from the proceeds of Indian Tribal Trust Cases as described in PIH Notice 2013– 30 “Exclusion from Income of Payments under Recent Tribal Trust Settlements” (25 U.S.C. 117b(a)); and

(xxvi) Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended) and comparable disaster assistance provided by States, local governments, and disaster assistance organizations (42 U.S.C. 5155(d)).

Dated: May 12, 2014.

Deborah A. Hernandez,

General Deputy Assistant Secretary for Public and Indian Housing.

Laura M. Marin,

Associate General Deputy Assistant Secretary for Housing—Associate Deputy Federal Housing Commissioner.

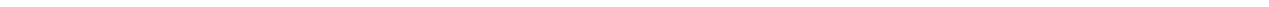
[FR Doc. 2014–11688 Filed 5–19–14; 8:45 am]

DEPARTMENT OF THE INTERIOR

Please provide a copy of your comments to the Service Information Collection

Chapter 3: Eligible Participants, Income Eligibility and Participant Selection

**ATTACHMENT 3-4: PROGRAM GUIDANCE 2016-02(R) INCOME
LIMITS UNDER THE NATIVE AMERICAN HOUSING ASSISTANCE AND
SELF-DETERMINATION ACT OF 1996**





No. 2016-02(R)
April 01, 2016

PROGRAM GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: All Tribal Government Leaders and Tribally Designated Housing Entities (TDHE)

[Signature]

FROM: Randy Akers, Acting Deputy Assistant Secretary for Native American Programs, PN

TOPIC: Income Limits under the Native American Housing Assistance and Self-Determination Act of 1996

Purpose: This guidance replaces Program Guidance 2015-01 (R) and Program Guidance 2015-01a (R), amending Income Limits for Alaska with the latest HUD Income Limits.

Guidance: HUD Notice PDR-2016-01, issued March 28, 2016, contains the latest published median income limits that are applicable to establishing median income limits for purposes of providing NAHASDA assistance. The income limits published in that notice are in effect for Fiscal Year (FY) 2016, and will remain in effect until superseded. The estimated Median Family Income (MFI) for the United States for FY 2016 is \$65,700, a slight decrease of less than one percent from \$65,800 last year. The information in the notice provides MFI estimates.

Tribes located on large reservations or those that encompass more than one county may have more than one income limit. To reduce administrative burden, the tribe or TDHE may set income limits for multi-county reservations at the income limit level of the county with the highest income limits.

If the income limit for a county located within your Indian area is lower than the United States median, you must use the United States median income limits. The United States MFI for FY 2016 is \$65,700. Therefore, the adjusted income limit for family size and 80/100 percent of median income is as follows:

2016 United States Median Family Income Limits

| | 1 Person | 2 Persons | 3 Persons | 4 Persons | 5 Persons | 6 Persons | 7 Persons | 8 Persons |
|------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|-----------|
| 80% | \$ 36,792 | \$ 42,048 | \$ 47,304 | \$ 52,560 | \$ 56,765 | \$ 60,970 | \$ 65,174 | \$ 69,379 |
| 100% | \$ 45,990 | \$ 52,560 | \$ 59,130 | \$ 65,700 | \$ 70,956 | \$ 76,212 | \$ 81,468 | \$ 86,724 |

PROGRAM GUIDANCE 2016-02 (RECIPIENT)

To calculate the United States adjusted income limit for families with more than eight members, add 8 percent of the four-person base to the eight-person income limit for each additional person. For example, the nine-person, 80 percent limit equals \$73,584 (69,379 + [52,560 * .08]). Please also note that rounding income limits is no longer allowed, except to the nearest whole dollar.

The following MFI tables should be used when determining NAHASDA income eligibility in Alaska. The FY 2016 MFI estimates are based on Office of Management and Budget (OMB) metropolitan area definitions as updated, and include HUD modifications that were first used in the determination of FY 2006 FMR areas. Tribes or TDHEs located outside the service areas listed below should use the Alaska MFI to determine income eligibility of applicants.

2016 Median Family Income Limits in Alaska

| 2016 Median Family Income | | 87,600 | | | | Alaska | | | |
|---------------------------|-----------|-----------|-----------|-----------|-----------|------------|------------|------------|--|
| | 1 Person | 2 Persons | 3 Persons | 4 Persons | 5 Persons | 6 Persons | 7 Persons | 8 Persons | |
| 80% | \$ 49,056 | \$ 56,064 | \$ 63,072 | \$ 70,080 | \$ 75,686 | \$ 81,293 | \$ 86,899 | \$ 92,506 | |
| 100% | \$ 61,320 | \$ 70,080 | \$ 78,840 | \$ 87,600 | \$ 94,608 | \$ 101,616 | \$ 108,624 | \$ 115,632 | |

| 2016 Median Family Income | | 92,900 | | | | Anchorage | | | |
|---------------------------|-----------|-----------|-----------|-----------|------------|------------|------------|------------|--|
| | 1 Person | 2 Persons | 3 Persons | 4 Persons | 5 Persons | 6 Persons | 7 Persons | 8 Persons | |
| 80% | \$ 52,024 | \$ 59,456 | \$ 66,888 | \$ 74,320 | \$ 80,266 | \$ 86,211 | \$ 92,157 | \$ 98,102 | |
| 100% | \$ 65,030 | \$ 74,320 | \$ 83,610 | \$ 92,900 | \$ 100,332 | \$ 107,764 | \$ 115,196 | \$ 122,628 | |

| 2016 Median Family Income | | 97,600 | | | | Juneau | | | |
|---------------------------|-----------|-----------|-----------|-----------|------------|------------|------------|------------|--|
| | 1 Person | 2 Persons | 3 Persons | 4 Persons | 5 Persons | 6 Persons | 7 Persons | 8 Persons | |
| 80% | \$ 54,656 | \$ 62,464 | \$ 70,272 | \$ 78,080 | \$ 84,326 | \$ 90,573 | \$ 96,819 | \$ 103,066 | |
| 100% | \$ 68,320 | \$ 78,080 | \$ 87,840 | \$ 97,600 | \$ 105,408 | \$ 113,216 | \$ 121,024 | \$ 128,832 | |

| 2016 Median Family Income | | 93,800 | | | | Fairbanks | | | |
|---------------------------|-----------|-----------|-----------|-----------|------------|------------|------------|------------|--|
| | 1 Person | 2 Persons | 3 Persons | 4 Persons | 5 Persons | 6 Persons | 7 Persons | 8 Persons | |
| 80% | \$ 52,528 | \$ 60,032 | \$ 67,536 | \$ 75,040 | \$ 81,043 | \$ 87,046 | \$ 93,050 | \$ 99,053 | |
| 100% | \$ 65,660 | \$ 75,040 | \$ 84,420 | \$ 93,800 | \$ 101,304 | \$ 108,808 | \$ 116,312 | \$ 123,816 | |

| 2016 Median Family Income | | 89,500 | | | | Aleutians West | | | |
|---------------------------|-----------|-----------|-----------|-----------|-----------|----------------|------------|------------|--|
| | 1 Person | 2 Persons | 3 Persons | 4 Persons | 5 Persons | 6 Persons | 7 Persons | 8 Persons | |
| 80% | \$ 50,120 | \$ 57,280 | \$ 64,440 | \$ 71,600 | \$ 77,328 | \$ 83,056 | \$ 88,784 | \$ 94,512 | |
| 100% | \$ 62,650 | \$ 71,600 | \$ 80,550 | \$ 89,500 | \$ 96,660 | \$ 103,820 | \$ 110,980 | \$ 118,140 | |

| 2016 Median Family Income | | 99,000 | | | | Bristol Bay | | | |
|---------------------------|-----------|-----------|-----------|-----------|------------|-------------|------------|------------|--|
| | 1 Person | 2 Persons | 3 Persons | 4 Persons | 5 Persons | 6 Persons | 7 Persons | 8 Persons | |
| 80% | \$ 55,440 | \$ 63,360 | \$ 71,280 | \$ 79,200 | \$ 85,536 | \$ 91,872 | \$ 98,208 | \$ 104,544 | |
| 100% | \$ 69,300 | \$ 79,200 | \$ 89,100 | \$ 99,000 | \$ 106,920 | \$ 114,840 | \$ 122,760 | \$ 130,680 | |

| 2016 Median Family Income | | 101,700 | | | | Denali | | | |
|---------------------------|-----------|-----------|-----------|------------|------------|------------|------------|------------|--|
| | 1 Person | 2 Persons | 3 Persons | 4 Persons | 5 Persons | 6 Persons | 7 Persons | 8 Persons | |
| 80% | \$ 56,952 | \$ 65,088 | \$ 73,224 | \$ 81,360 | \$ 87,869 | \$ 94,378 | \$ 100,886 | \$ 107,395 | |
| 100% | \$ 71,190 | \$ 81,360 | \$ 91,530 | \$ 101,700 | \$ 109,836 | \$ 117,972 | \$ 126,108 | \$ 134,244 | |

PROGRAM GUIDANCE 2016-02 (RECIPIENT)

| 2016 Median Family Income | | | 87,900 | | | Ketchikan | | |
|----------------------------------|-----------|-----------|---------------|-----------|-----------|------------|------------|------------|
| | 1 Person | 2 Persons | 3 Persons | 4 Persons | 5 Persons | 6 Persons | 7 Persons | 8 Persons |
| 80% | \$ 49,224 | \$ 56,256 | \$ 63,288 | \$ 70,320 | \$ 75,946 | \$ 81,571 | \$ 87,197 | \$ 92,822 |
| 100% | \$ 61,530 | \$ 70,320 | \$ 79,110 | \$ 87,900 | \$ 94,932 | \$ 101,964 | \$ 108,996 | \$ 116,028 |

| 2016 Median Family Income | | | 90,800 | | | Valdez-Cordova | | |
|----------------------------------|-----------|-----------|---------------|-----------|-----------|----------------|------------|------------|
| | 1 Person | 2 Persons | 3 Persons | 4 Persons | 5 Persons | 6 Persons | 7 Persons | 8 Persons |
| 80% | \$ 50,848 | \$ 58,112 | \$ 65,376 | \$ 72,640 | \$ 78,451 | \$ 84,262 | \$ 90,074 | \$ 95,885 |
| 100% | \$ 63,560 | \$ 72,640 | \$ 81,720 | \$ 90,800 | \$ 98,064 | \$ 105,328 | \$ 112,592 | \$ 119,856 |

Program Guidance 2013-05, provides information on how to calculate annual income under the Indian Housing Block Grant program for the purpose of program eligibility.

For additional information on the income limits for your area, see the following web site <https://www.huduser.gov/portal/datasets/il/il16/Medians2016.pdf>. For further information, contact your local Area Office of Native American Programs.

Chapter 3: Eligible Participants, Income Eligibility and Participant Selection

**ATTACHMENT 3-5: PIH NOTICE 2013-30 PAYMENTS UNDER
RECENT TRIBAL TRUST SETTLEMENTS**





**U. S. Department of Housing and Urban Development
Public and Indian Housing**

Special Attention of:
All HUD Recipients

Notice PIH 2013-30

Issued: December 17, 2013

Expires: Effective until Amended,
Superseded, or Rescinded

Cross Reference(s): 24 CFR 5.609;
Office of Native Americans (ONAP),
Program Guidance 2013-05(R)

1. Subject: Exclusion from Income of Payments under Recent Tribal Trust Settlements

2. Purpose: The purpose of this notice is to provide guidance to PHAs, Indian tribes, tribally designated housing entities (TDHE), and other recipients of HUD programs on the treatment of certain trust settlement payments recently received by members of Indian tribes. This Notice covers how PHAs, Indian tribes, TDHEs, and other recipients of HUD programs should treat settlement payments received pursuant to the settlement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.* (Cobell Settlement). This Notice also provides guidance on the exclusion of payments received pursuant to a number of other recent Tribal Trust Settlements with Indian tribes.

3. Background: Recently, the United States settled a number of lawsuits filed by individual tribal members and Indian tribes. These settlements have resulted in some Indian families receiving monetary payments. On May 6, 2013, the Office of Native American Programs issued Program Guidance (Recipient) 2013-05, which explained how to calculate annual income and determine program eligibility under the Indian Housing Block Grant (IHBG) program. Since that time, recipients of other HUD programs have questioned how these payments should be counted for purposes of calculating a family's annual income under other HUD programs that, similar to the IHBG program, adopt the definitions of annual income found in 24 CFR § 5.609, the Census Long Form, or the IRS Form 1040.

Generally, *per capita* payments received by tribal members in excess of the first \$2,000 of per capita shares are included in a family's annual income for purposes of determining eligibility. However, as explained below, payments under the *Cobell* Settlement, and certain *per capita* payments under the recent Tribal Trust Settlements, must be excluded from annual income in HUD programs that adopt the definitions of annual income in 24 CFR § 5.609, the Census Long Form, and the IRS Form 1040.

Note: A payment received by a tribal member from the tribe for distribution of Indian gaming profits is not a per capita payment within the meaning of the Per Capita Distribution Act and does not qualify for income exclusion. If a tribal member receives the Internal Revenue Service (IRS) Form 1099-Misc, Miscellaneous Income, from the tribe for reporting Indian gaming profits, this payment must be counted towards a family's annual income.

4. Per Capita Payments and Recent Trust Case Settlements:

Cobell Settlement: In *Elouise Cobell et al. v. Ken Salazar et al.*, a class of individual members of Indian tribes filed suit against the United States for its failure to adequately manage certain trust assets. The settlement was authorized pursuant to the Claims Resolution Act of 2010 (Pub. L. 111–291). In accordance with the Act, lump sum or periodic payments received by an individual Indian under the *Cobell* Settlement are statutorily excluded from counting towards a family's annual income, or as a resource, for purposes of determining initial eligibility or level of HUD assistance, for a period of one year from the time of receipt of that payment. This exclusion from income applies to all HUD programs. This exclusion is also included in the attached list of Federally Mandated Exclusions from Annual Income that HUD periodically publishes in the Federal Register. The exclusions are listed in the **Attachment** to this Notice and are also available at: <http://www.gpo.gov/fdsys/pkg/FR-2012-12-14/pdf/2012-30210.pdf>

Note: For a more extensive list of federally mandated exclusions specific to Indian families, please refer to the following comprehensive list compiled in 2011 by the United States Department of Agriculture:
http://www.fns.usda.gov/fdd/programs/fdpi/Excluded_Native_American_Funds_2011.pdf

Tribal Trust Settlements: In addition to the *Cobell* Settlement, the United States recently entered into settlements with a number of federally recognized Indian tribes, settling litigation in which the tribes alleged that the Department of the Interior and the Department of the Treasury mismanaged monetary assets and natural resources the United States holds in trust for the benefit of the tribes. In some circumstances, proceeds from these settlements have resulted, or will result in, *per capita* payments being provided to Indian families by Indian tribes.

Unlike payments under the *Cobell Settlement*, Congress did not enact a law that provided for a separate statutory exclusion for these payments. However, PHAs, Indian tribes, TDHEs, and other HUD recipients that apply the definitions of annual income in 24 CFR § 5.609, the Census Long Form, or the IRS Form 1040, should note that *per capita* payments received from these Tribal Trust Settlements may also be excluded from a family's annual income if they fall under one of the exclusions from annual income found in these definitions. For example, under 24 CFR § 5.609(c), nonrecurring or lump sum *per capita* payments made to tribal members may be excluded as "lump sum additions" to a family's assets, or as excluded "temporary, nonrecurring or sporadic income."

On January 14, 2013, the IRS issued IRS Notice 2013-1, which is available at: http://www.irs.gov/irb/2013-03_IRB/ar08.html, and is entitled "Per Capita Payments from Proceeds of Settlements of Indian Tribal Trust Cases." The Notice clarifies that, under 25 U.S.C. §117b(a), *per capita* payments made from the proceeds of these Tribal Trust Settlements are

excluded from the gross income of the members of the tribe receiving the *per capita* payments. Therefore, all recipients that adopt the IRS Form 1040 definition of annual income should exclude payments from these Tribal Trust Settlements from a family's annual income.

This IRS Notice provides some additional limitations. For instance, *per capita* payments that exceed the amount of the Tribal Trust Settlement proceeds and that are made from an Indian tribe's private bank account in which the tribe has deposited the settlement proceeds are included in the gross income of the members of the tribe receiving the *per capita* payments. The IRS periodically publishes an updated list of Indian tribes that have entered into these Tribal Trust Settlements with the United States. See IRS Notice 2013-55, available at:

<http://www.irs.gov/pub/irs-drop/n-13-55.pdf>. PHAs, Indian tribes and TDHEs, and other HUD recipients should note that to date, at least 70 Indian tribes have settled Tribal Trust cases.

For questions on how to calculate these payments under HUD programs, please contact your local HUD field office. Persons with hearing or speech impairments may access their field office via TTY by calling the Federal Information Relay Service at (800) 877-8339.

/s/

Sandra B. Henriquez, Assistant Secretary
for Public and Indian Housing

Attachment

Attachment

Federally Mandated Exclusions from Annual Income

The following is a list of benefits that currently qualify for income exclusion:

1. The value of the allotment provided to an eligible household under the Food Stamp Act of 1977 (7 U.S.C. 2017(b))
2. Payments to Volunteers under the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5044(f)(1), 5058)
3. Certain payments received under the Alaska Native Claims Settlement Act (43 U.S.C. 1626(c))
4. Income derived from certain sub marginal land of the United States that is held in trust for certain Indian tribes (25 U.S.C. 459e)
5. Payments or allowances made under the Department of Health and Human Services' Low-Income Home Energy Assistance Program (42 U.S.C. 8624(f))
6. Income derived from the disposition of funds to the Grand River Band of Ottawa Indians (Pub. L. 94-540, section 6)
7. The first \$2000 of per capita shares received from judgment funds awarded by the Indian Claims Commission or the U.S. Claims Court, and the interests of individual Indians in trust or restricted lands, and the first \$2000 per year of income received by individual Indians from funds derived from interests held in such trust or restricted lands (25 U.S.C. 1407-1408)

Please note the recipient may need to examine certain per capita shares to determine whether the proceeds are covered by this provision, such as bingo and gambling proceeds. Although some gaming funds are called "per capita payments", the National Indian Gaming Commission's General Counsel and the Solicitor's office of the Department of the Interior confirmed that the proceeds of gaming operations regulated by the Commission are not funds that are held in trust by the Secretary for the benefit of an Indian tribe, therefore, they do not qualify as per capita payments within the meaning of the Per Capita Distribution Act.

Also, if a tribal member receives the Form 1099-Misc, Miscellaneous Income, from the tribe for reporting Indian gaming profits, this payment does not qualify for this provision. These gaming profits are income that must be included as annual income as defined by HUD's Section 8 Program, the Census, and the IRS. Further, the tribal member must report this miscellaneous income on the "other income" line of the Federal Income tax 1040 Form;

8. Amounts of scholarships funded under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070), including awards under federal work-study programs or under the Bureau of Indian Affairs student assistance programs (20 U.S.C. 1087uu).
9. Payments received from programs funded under title V of the Older Americans Act of 1965 (42 U.S.C. 3056g).
10. Payments received on or after January 1, 1989, from the Agent Orange Settlement Fund (Pub. L. 101–201) or any other fund established pursuant to the settlement in *In Re Agent Orange Liability Litigation*, M.D.L. No. 381 (E.D.N.Y.).
11. Payments received under the Maine Indian Claims Settlement Act of 1980 (Pub. L. 96–420, 25 U.S.C. 1721).
12. The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for such care) under the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858q).
13. Payments by the Indian Claims Commission to the Confederated Tribes and Bands of Yakima Indian Nation or the Apache Tribe of Mescalero Reservation (Pub. L. 95–433).
14. Allowances, earnings and payments to AmeriCorps participants under the National and Community Service Act of 1990 (42 U.S.C. 12637(d)).
15. Any amount of crime victim compensation (under the Victims of Crime Act) received through crime victim assistance (or payment or reimbursement of the cost of such assistance) as determined under the Victims of Crime Act because of the commission of a crime against the applicant under the Victims of Crime Act (42 U.S.C. 10602(c)).
16. Allowances, earnings and payments to individuals participating in programs under the Workforce Investment Act of 1998 (29 U.S.C. 2931(a)(2)).
17. Any amount received under the Richard B. Russell School Lunch Act (42 U.S.C. 1760(e)) and the Child Nutrition Act of 1966 (42 U.S.C. 1780(b)), including reduced-price lunches and food under the Special Supplemental Food Program for Women, Infants, and Children (WIC).
18. Payments, funds, or distributions authorized, established, or directed by the Seneca Nation Settlement Act of 1990 (25 U.S.C. 1774f(b)).
19. Payments from any deferred Department of Veterans Affairs disability benefits that are received in a lump sum amount or in prospective monthly amounts as provided by an amendment to the definition of annual income in the U.S. Housing Act of 1937 (42 U.S.C. 1437A) by section 2608 of the Housing and Economic Recovery Act of 2008 (Pub. L. 110–289). This exclusion will apply when an HUD recipient adopts the Section 8 definition of annual income.

20. A lump sum or a periodic payment received by an individual Indian pursuant to the Class Action Settlement Agreement in the case entitled *Elouise Cobell et al. v. Ken Salazar et al.*, 816 F. Supp. 2d 10 (Oct. 5, 2011 D.D.C.), as provided in the Claims Resolution Act of 2010 (Pub. L. 111–291). This exclusion will apply for one year from the time that payment is received.
21. Major disaster and emergency assistance received by individuals and families under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (Pub. L. 93–288, as amended) comparable disaster assistance provided by States, local governments, and disaster assistance organizations shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs (42 U.S.C. 5155(d)).

CHAPTER 4: SUMMARY OF ELIGIBLE ACTIVITIES

This chapter provides a brief summary of the eligible activities listed in NAHASDA, covers additional activities recipients may want to undertake such as conversion and demolition, and offers information regarding types of programs recipients may wish to implement.

This chapter addresses the following statutory and regulatory citations:

- *Section 101(h) and 202 of NAHASDA and 24 CFR 1000.10(b) and 102*
- *Section 4(2) of NAHASDA*

INTRODUCTION

[NAHASDA Section 202, § 1000.102]

NAHASDA sets out a wide range of affordable housing activities that may be undertaken with Indian Housing Block Grant (IHBG) funds. These activities range from actual construction of units to housing services.

Thus, it is important that recipients become familiar with the NAHASDA Statute.

While the Statute sets out the range of possible activities, the recipient determines which of these activities it will undertake.

- The recipient, based upon the needs and interests of the tribe, determines its program.
- There is no requirement under NAHASDA that recipients undertake any one particular type of program, except that recipients must ensure that their 1937 Act housing stock is maintained.
- The recipient states its planned activities in its Indian Housing Plan (IHP).

Where is it in the regulation?

The IHBG regulations covering eligibility are at § 1000.102. However, this section of the regulations states: "Eligible affordable housing activities are those described in Section 202 of NAHASDA." Recipients must refer to the statute when looking at eligible activities. In addition, ONAP has issued guidance on eligible activities at Program Guidance 2010-03, Attachment 4-1. .

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Chapter 4: Eligible Activities

All of the activities under NAHASDA must be related to affordable housing. While “affordable housing” has a fairly broad definition, it does mean that some general categories of projects may not be permitted under NAHASDA.

The remainder of this chapter provides a summary of the types of activities that are permitted under the NAHASDA Statute. The following chapters provide additional detail on the types of programs that may be developed by recipients.

AFFORDABLE HOUSING

[NAHASDA Sections 4(2) and 202, § 1000.101]

As noted above, all activities funded under the IHBG program must be affordable housing activities.

Affordable housing includes:

- Housing units developed under the United States Housing Act of 1937. This includes Mutual Help, Low Rent, and Turnkey housing units.
- Housing units developed under NAHASDA.
- Other housing units not assisted under NAHASDA but which meet the requirements of Title II of the statute.

One of the most common questions related to NAHASDA is whether activities may be undertaken on privately-owned units.

- Activities may be undertaken on private units, as long as the activity is eligible and the housing occupants are low-income.
- IHBG funds, therefore, can be used to rehabilitate the privately-owned home of a low-income family or to assist a low-income family buy a private unit.

The term “housing” may thus cover a wide range of unit types, including:

- Rental housing. The rental housing may be single-family, multi-family, single room occupancy or attached units, such as a duplex or triplex.
- Homeownership units.

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Chapter 4: Eligible Activities

- Group homes for people with special needs, such as the elderly or persons with disabilities.
- Congregate housing.
- Transitional housing, such as units designed to help people move from welfare to self-sufficiency. Typically these units have a specified maximum occupancy timeframe (such as two years).
- Halfway housing, such as housing for persons leaving prisons or mental health facilities.
- Domestic violence shelters.
- Emergency homeless shelters.

These various types of units may also have a range of ownership structures. Under the IHBG program, units may be:

- Owned, where the resident owns the structure but the land is held in trust, and thus the owner has a long-term lease for use of the site;
- “Owned in fee simple” by the resident;
- Owned by the recipient (such as rental property);
- Under a lease-purchase process, where the unit is owned by the recipient until a point in time where the ownership transfers to the resident;
- Owned by a non-profit or for-profit developer (such as rental property);
- Owned temporarily by the recipient, and then turned over to the resident at the end of construction (turnkey process); and
- Owned by a private landlord and rented to a tenant, who is assisted under IHBG with tenant-based rental assistance (TBRA).

Remember that if units are owned by the recipient and are developed outside of the tribe’s jurisdiction, a local cooperative agreement providing for tax exemption must be signed with the appropriate jurisdiction. See Chapter 11 for more information.

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Chapter 4: Eligible Activities

ACTIVITIES FOR RESIDENTS

[NAHASDA Sections 202, § 1000.102]

Affordable housing activities under NAHASDA are to develop or support affordable housing for rental or homeownership, or provide housing services with respect to affordable housing.

Q: Can IHBG funds be used to build a computer lab and library at a school?

A: No. These items are not related to affordable housing.

This provides broad flexibility as to the types of activities recipients can undertake for these residents.

However, services and activities CANNOT be provided unless there is an association to affordable housing.

TYPES OF ELIGIBLE ACTIVITIES

[NAHASDA Sections 101 and 202, § 1000.102]

NAHASDA generally recognizes seven types of eligible activities, including:

- Section 101(h) – Administrative and planning expenses;
- Section 202(1) – Indian housing assistance;
- Section 202(2) – Development;
- Section 202(3) – Housing services;
- Section 202(4) – Housing management services;
- Section 202(5) – Crime prevention and safety activities;
- Section 202(6) – Model activities; and
- Section 202(9) – Reserve accounts.

Q: Could a TDHE/tribe undertake an economic development activity that is related to housing? For example, could they fund the construction of a cabinet manufacturing facility where those cabinets will be used in affordable housing?

A: Economic development activities must be directly related to affordable housing under NAHASDA.

Each of these statutory sections is described in detail below.

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Chapter 4: Eligible Activities

- ❑ **Section 101(h) – Administrative expenses allow a recipient to use** a percentage of their IHBG funding for administrative and planning expenses of the recipient related to carrying out NAHASDA-eligible activities. Specific types of eligible activities include:
- Costs of overall program and/or administrative management;
 - Salaries and benefits of staff administering IHBG program;
 - Costs of coordination, monitoring, and evaluation;
 - Costs of preparing the IHP, including data collection;
 - Costs of administration and planning expenses associated with the expenditure of non-IHBG funds on affordable housing activities if the source of the non-IHBG funds limits expenditure of those funds on administrative expenses;
 - Costs of preparing the annual performance report (APR); and
 - Challenge to and collection of data for purposes of challenging the formula.

For more information on administrative expenses, reference PIH Notice 2014-15 “*Administrative and Planning Expenses in the Indian Housing Block Grant (IHBG) Program*,” Attachment 4-2 and Chapter 11.

- ❑ **Section 202(1) – Indian housing assistance** is the provision for modernization or operating assistance for housing previously developed or operated pursuant to a contract between HUD and an Indian Housing Authority (IHA). Specific types of eligible activities include:
- Modernization of 1937 Act Housing (low-rent and Mutual Help units),
 - Operating assistance for 1937 Act Housing, including:
 - ⇒ Maintenance, and
 - ⇒ Rent and participants’ utility subsidies.

Maintenance and Operation of IHBG-funded units

Q: Can IHBG funds be used to pay for the maintenance and operation of units built under NAHASDA?

A: Yes, Operating and maintenance is eligible under Section 202(4).

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Chapter 4: Eligible Activities

- **Section 202 (2) – Development** covers many of the rehabilitation and construction activities related to affordable housing units funded under IHBG. Development may generally cover:

- Real property acquisition, such as financing of a homebuyer's purchase;
- New construction of affordable housing;
- Reconstruction of affordable housing, such as rebuilding units that have burned down;
- Rehabilitation and mold remediation;
- Site improvements, such as site grading, play areas for residents or sidewalks located on site. Site improvements are eligible as construction or rehabilitation tasks if they are part of a NAHASDA activity under 202(2) or for housing built under the 1937 Act; under 202 (2) or 202 (1);
- Development and rehabilitation of utilities and utility services for the units, which may include on-site water or sewer lines;
- Improvements to achieve greater energy efficiency;
- Conversion, such as changing a building from one use to affordable housing. (This might include changing a leasing office to a unit);

Utility Facilities

Q: Are utility facilities, including purchase of a generator, eligible expenses?

A: Yes, if it is used by an affordable housing development or they may be pro-rated. General utilities for a tribe that are not connected to affordable housing are not eligible.

Day Care Services and Centers

Q: Are day care services and centers eligible?

A: Yes, if they are related to affordable housing. The activity must serve affordable housing residents. Others could use the services but costs would need to be pro-rated. Note that construction of the day care center itself may be approved as a model activity.

Q: Is providing IHBG funding for a Head Start childcare program eligible?

A: Yes, under Section 202(3) housing services. Building a tribal childcare facility may be eligible as a model activity under Section 202(6) of NAHASDA. However, the costs may need to be prorated based on affordable housing residents.

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Chapter 4: Eligible Activities

- Demolition;
 - Financing, such as providing financial assistance to purchase affordable housing;
 - Relocation costs as needed for the project, this may include temporary or permanent relocation costs;
 - Environmental review for affordable housing projects;
 - Architectural and engineering for affordable housing projects;
 - Administration of the project;
 - Planning for the project; and
 - Other related activities.
- ☐ **Section 202(3) – Housing services** is the provision for services related to affordable housing. It may cover:
- Housing counseling in connection with rental or homeownership assistance;
 - Establishment and support of resident organizations and resident management corporations;
 - Energy auditing;
 - Self-sufficiency activities, such as child care costs for residents, or job placement and training for residents;
 - Homelessness prevention activities;
 - Security deposits and/or first month's rent to permit a family to move into an apartment;
 - Payments to prevent foreclosure;
 - TBRA payments, including those for college students;

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Chapter 4: Eligible Activities

- Youth activities, which include youth sports, drug abuse educational programs, or Boys and Girls Clubs; and
 - Other services related to assisting owners, tenants, contractors and other entities that participate in the program.
- ❑ **Section 202(4) – Housing management services** includes the provision of management services for affordable housing activities, which may include:
- Preparation of work specifications for affordable housing;
 - Loan processing for affordable housing;
 - Inspections of affordable housing;
 - Tenant selection for affordable housing;
 - Management of TBRA programs;
 - Mediation programs for tenant-landlord disputes in affordable housing; and
 - Costs of operation and maintenance of units developed with NAHASDA funds.
- ❑ **Section 202(5) – Crime prevention and safety activities** cover a wide range of activities related to safety, security and law enforcement in affordable housing. It may cover:
- Improvements of affordable housing to improve security, including fences or lighting;
 - Employment of security personnel for affordable housing; and
 - Equipment for affordable housing security personnel.
- Police Services**

Q: Are police services eligible?

A: IHBG can fund physical improvements related to crime prevention in affordable housing, such as: fencing; speed bumps; monitors; locks etc. In addition, IHBG can fund services, such as community policing in affordable housing developments, if these services are only for affordable housing residents. IHBG can fund equipment for law enforcement serving affordable housing residents.
- ❑ **Section 202(6) – Model activities** is a category that enables recipients to undertake housing activities that are designed to carry out the purposes of NAHASDA but not

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Chapter 4: Eligible Activities

explicitly listed above. The activities must be approved by HUD prior to undertaking them. A recipient may propose model activities as part of the IHP or in an IHP amendment, or at any time.

Some possible model activities include:

- Construction of an office building for the program staff;
- Construction of a warehouse, maintenance and storage space for housing materials for affordable housing;
- Construction of a day care center for residents of affordable housing;
- Construction of a community center or building used by residents of affordable housing for housing activities; and
- Paying for operating expenses related to IHBG-funded units.

Note that many other types of model activities are possible, and these are further discussed in the various activity chapters and in Program Guidance 2013-09R “*Indian Housing Block Grant Model Activities*”, Attachment 4-3.

- Section 202(9) – Reserve Accounts** may be established for the purpose of accumulating amounts for administration and planning relating to affordable housing activities. NAHASDA caps the amount of funds that can be maintained in reserve accounts.

The reserve amounts may be invested in accordance with § 1000.58(c). Interest earned on reserves is not program income and shall not be included in calculating the maximum amount of reserves.

The grantee should include the intent to establish one or more reserve accounts for this purpose as an activity in Section 3 of the Indian Housing Plan (IHP). The actual amount of the reserve that was established and/or maintained and the income earned on the

Planning Costs for Model Activities

Q: Are planning costs for model activities eligible?

A: Yes, but the model must first be approved by HUD before using any IHBG funds for these expenses.

Q: Can IHBG be used to fund construction of a new housing office and materials warehouse?

A: Yes, but they must be approved as a model activity. If these facilities will be used for anything other than activities related to affordable housing, costs must be pro-rated.

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Chapter 4: Eligible Activities

investment of the reserve account(s) should be reported as an accomplishment in Section 3, Item 1.8, of the Annual Performance Report at the end of each year.

- **Maximum Amount of Reserves:** The maximum amount of reserves, whether in one or more accounts, that a recipient may have available at any one time is calculated as follows:
 1. Determine the 5-year average annual amount used by a recipient for administration and planning amounts, not including reserve amounts;
 2. Establish $\frac{1}{4}$ of that amount for the total eligible reserve.

Example:

Step 1 – Total the administration and planning expense in each of the past 5 years.

Step 2 – Divide the total from Step 1 by 5 to determine the 5 year average.

Step 3 – Multiply the average amount from Step 2 by 25%. This is the maximum amount of the reserve account(s) that the recipient can establish or maintain.

If the reserves in the account(s) are used during the year, the recipient may replenish the reserve account(s) in order to maintain the account(s) up to the maximum allowable amount. The replenishment of reserves should be included as a new activity in an amendment to the current IHP or in a subsequent year's IHP.

For additional information on reserve accounts, reference Program Guidance 2014-10(R) "*Reserve Accounts for Administration and Planning*".

ACTIVITIES NOT COVERED UNDER NAHASDA

[NAHASDA Sections 202, § 1000.102]

As noted above, NAHASDA provides significant flexibility in the wide range of activities that may be undertaken. All of these activities are related in one way or another to affordable housing.

- Activities that are not related to affordable housing may not be funded by NAHASDA.

Economic Development

Q: Could a recipient fund a cabinet manufacturing facility where those cabinets will be used in affordable housing?

A: Yes, if the cabinets will further affordable housing activities.

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Chapter 4: Eligible Activities

- ❑ Economic development activities are generally not considered to be “affordable housing,” and thus are not permissible under the IHBG program.
- ❑ Tribes may undertake activities related to resident self-sufficiency, such as job training and placement of affordable housing residents into jobs.
- ❑ If a recipient has a question about whether an activity would be considered an eligible activity, he/she should contact the appropriate Area ONAP.
- ❑ There is a range of other activities that are generally not permitted because they do not relate to affordable housing. Examples of this might include:
 - Services not directly related to housing, such as health care, and
 - Services that are generally part of the basic functions of government, such as normal, routine police patrols or paying for the cost of operating schools.

TYPES OF FINANCING

[NAHASDA Sections 202]

In addition to providing flexibility in the types of activities that recipients may undertake, NAHASDA also provides flexibility in the ways that the funds can be distributed to families.

- ❑ Assistance may be provided through:
 - Grants: Funds that generally do not need to be repaid;
 - Loans: Assistance that is usually amortized (paid off) over time;
 - Deferred payment loans: Loans that are forgiven over time or at a specific point in time; and

Debt Relief

- Q: Can a tribe use IHBG funds to pay off a family debt in order to enable the family to get a Section 184 loan?
- A: No. Debt relief is not an eligible activity. However, the recipient could provide the family with a down payment or other purchase assistance.

- Q: Can TDHEs develop mortgage financing or downpayment programs under NAHASDA?
- A: Yes, as long as participants are eligible for the program. These are eligible affordable activities under Section 202(2) of NAHASDA, Development, and not considered model activities.

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Chapter 4: Eligible Activities

- Loan guarantees: Recipients may use their IHBG grant to set up a loan guarantee program.

The following chapters of the training manual explain further how these various financing models may be applied to various programs.

CHOOSING PROGRAM TYPES

Given this wide range of regulatory and statutory flexibility, recipients may design multi-faceted programs. In general, most recipients do not categorize their programs as housing assistance or development, but rather by the type of assistance that is provided.

Within the program flexibilities, four general types of assistance may be offered:

- Rental housing assistance;
- Home purchase assistance;
- Homeowner or homebuyer rehabilitation assistance; or
- Services and community facilities.

Rental housing assistance may be a good option when a recipient has a long waiting list for this type of housing, when its members are either unable or not ready to afford a home, or need special services that can be provided in conjunction with affordable housing. Under rental assistance, there is a wide range of eligible activities for the recipient to undertake, including:

- Purchasing rental properties;
- Rehabilitating rental units;
- Developing special needs rental housing;
- Building shelters;
- Offering TBRA; or
- Constructing new rental housing.

Q: Are community centers acceptable model activities?

A: Yes, if the community center will only be used for affordable housing related activities and serve affordable housing residents (residents of 1937 Act housing, NAHASDA-assisted housing, or housing that meets NAHASDA requirements) or it may be pro-rated.

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Chapter 4: Eligible Activities

❑ **Purchase assistance** entails providing assistance to families to buy a home. This is a good activity for tribes where there is a waiting list of families seeking homeownership, and they are ready to undertake the responsibilities of ownership. Recipients need not fund the entire purchase cost of the home and can design creative programs. Options might include:

- Down-payment assistance;
- Financing the purchase;
- Paying for closing costs;
- Designing a lease-purchase program; or
- Constructing units and then selling them to homebuyers.

❑ **Homeowner or homebuyer rehabilitation assistance** involves helping families who already own their home or who are purchasing their home through Mutual Help for rehabilitation. This is a good activity for recipients who have a large number of homeowner units where the units are substandard. Possible tasks might include:

- Providing “whole house” substantial rehabilitation;
- Providing rehabilitation assistance for a selected population, such as seniors or the disabled;
- Offering emergency repair help;
- Funding repairs related to energy conservation; or
- Reconstruction, where the family temporarily moves out and a unit is rebuilt.

❑ **Services and community facilities** support the other affordable housing activities undertaken by the recipient. There are a wide range of possible services and community facilities, such as:

- Housing counseling;
- Job training for residents;
- Day care services for residents;

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| <p>Q: Are animal shelters permissible as eligible activities?</p> <p>A: No. They are not related to affordable housing activities and in most cases are considered governmental services. See 2 CFR Part 225 (OMB Circular A-87, Attachment B, number 19) which states that the general costs of government are unallowable.</p> |
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NOTES

Chapter 4: Eligible Activities

- Youth sports; or
- Crime prevention.

Each of these types of activities is discussed in detail in the following chapters, including how the rules apply and how programs may be designed.

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Chapter 4: Eligible Activities

**ATTACHMENT 4-1: PROGRAM GUIDANCE 2010-03 – AFFORDABLE
HOUSING ACTIVITIES AND ADMINISTRATIVE EXPENSES**




No. 2010-03
May 07, 2010

PROGRAM GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: All Tribal Government Leaders and Tribally Designated Housing Entities

FROM: 
for Rodger J. Boyd, Deputy Assistant Secretary for Native American
Programs, PN

TOPIC: Affordable Housing Activities and Administrative Expenses

Purpose: This guidance updates Native American Housing Assistance and Self-Determination Act (NAHASDA) Guidance 2009-02, NAHASDA Affordable Housing Activities and Administrative Expenses.

Guidance: The document is intended to provide assistance to tribes and tribally designated housing entities (TDHE) when determining eligible affordable housing activities and eligible administrative expenses using Indian Housing Block Grant (IHBG) funds. Please note that this is not a complete list of eligible activities under NAHASDA.

Inquires: Should you have any questions regarding this guidance, please contact your Area Office of Native American Programs.

NAHASDA AFFORDABLE HOUSING

Section 202. Eligible Affordable Housing Activities

Affordable housing activities under this title [title II of NAHASDA] are activities, in accordance with the requirements of this title, to develop, operate, maintain, or support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing, through the following activities:

- Affordable housing is housing that meets the requirements of title II of NAHASDA:
 - Housing units developed under the United States Housing Act of 1937 (low rent, Mutual Help and Turnkey housing units) are considered to be and must be maintained as affordable housing for purposes of NAHASDA
 - Housing units developed under NAHASDA are required to meet NAHASDA requirements
 - Other housing units that are not assisted under NAHASDA, but which meet the requirements of title II of NAHASDA, qualify as affordable housing
- “Housing” includes
 - Rental housing that may be single-family units, multifamily units, Single Room Occupancy units, attached units such as duplex, triplex
 - Homeownership housing
 - Group homes for persons with special needs such as the elderly/disabled
 - Congregate housing
 - Transitional housing
 - Halfway housing
 - Domestic violence shelters
 - Homeless emergency shelters

(1) Indian Housing Assistance -- The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

Eligible activities include, but are not limited to:

- Modernization of 1937 Act Housing
- Operating assistance for 1937 Act Housing
 - Maintenance
 - Rent and participants’ utility subsidies

(2) Development -- The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development and rehabilitation of utilities, necessary infrastructure, and utility services, conversion, demolition, financing, administration and planning, improvement to achieve greater energy efficiency, mold remediation, and other related activities.

Eligible activities include, but are not limited to:

- Acquisition of affordable housing

- financing acquisition of affordable housing by homebuyers
 - down payment assistance
 - closing costs assistance
 - direct lending
 - interest subsidies or other financial assistance
- New construction of affordable housing
- Reconstruction of affordable housing
- Moderate rehabilitation of affordable housing, including but not limited to:
 - lead-based paint hazards elimination or reduction
 - improvements to provide physical accessibility for disabled persons
 - energy-related improvements
- Substantial rehabilitation of affordable housing, including but not limited to:
 - lead-based paint hazards elimination or reduction
 - improvements to provide physical accessibility for disabled persons
 - energy-related improvements
- Conversion of non-residential building into affordable housing
- Improvement to achieve greater energy efficiency
- Activities related to the affordable housing, including but not limited to:
 - site improvements
 - recreational area and playgrounds for use by residents of affordable housing
 - on-site streets and sidewalks
 - development and rehabilitation of utilities and utility services for affordable housing units
 - acquisition of real property
 - demolition
 - relocation
 - environmental review of the affordable housing project
 - administration and planning of the affordable housing project
 - architectural and engineering plans

(3) Housing Services -- The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or homeownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section.

Eligible activities include, but are not limited to:

- Housing counseling in connection with affordable rental or homeownership housing
- Establishment and support of resident organizations in affordable housing
- Establishment of resident management corporations in affordable housing
- Energy auditing of affordable housing
- Activities related to the provision of self-sufficiency

- child care costs – subsidies to residents of affordable housing or operating costs of a facility [but not construction or rehabilitation of a facility] for residents of affordable housing
- transportation costs – subsidies to residents of affordable housing or rental of car, van, or bus for residents of affordable housing to attend training
- job placement and job training for residents of affordable housing
- assistance to residents of affordable housing in obtaining other federal, state and local assistance
- Homeless prevention activities, which are short-term subsidies to defray rent and utility bills that families have received
- Security deposits and/or first month's rent to permit family to move into an apartment
- Payments to prevent foreclosure on a home
- Tenant-based rental assistance payments, including:
 - college housing vouchers
- Project-based rental assistance payments
- The development and delivery of training courses related to the administration of affordable housing activities and programs in compliance with NAHASDA and its associated regulations
- Youth activities for residents of affordable housing that reduce or eliminate the use of drugs
 - salaries and expenses for staff of youth sports program
 - educational programs relating to drug abuse
 - Boys and Girls Clubs
 - sports and recreation equipment
 - travel for youth for the purpose of participating in sporting events
 - does not include any entertainment travel expenses such as travel to watch sporting events that youth are not participating in

(4) Housing Management Services -- The provision of management services for affordable housing, including preparation of work specifications, the costs of operation and maintenance of units developed with funds provided under this Act, and management of affordable housing projects.

Eligible activities include, but are not limited to:

- preparation of work specifications for affordable housing
- loan processing for affordable housing
- inspections for affordable housing
- tenant selection for affordable housing
- management of tenant-based and project-based rental assistance
- mediation programs for landlord-tenant disputes for affordable housing
- hiring of grants writers for affordable housing applications
- operating assistance for NAHASDA-assisted units to include maintenance and utilities

(5) Crime Prevention and Safety Activities -- The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

Eligible activities include, but are not limited to:

- Physical improvements for affordable housing to enhance security such as fences, speed bumps, monitors, locks, additional lighting
- Employment of security personnel for affordable housing
 - law enforcement services are eligible only for affordable housing residents. This is a direct cost to the program authorized under NAHASDA, in accordance with 2 CFR 225. A tribe/TDHE must document that costs are only for affordable housing residents.
 - equipment for law enforcement activities

(6) Model Activities -- Housing activities under model programs that are designed to carry out the purposes of this Act and are specifically approved by the Secretary as appropriate for such purpose.

Eligible activities include, but are not limited to:

- Construction of an office building for the recipient's administration of NAHASDA activities, including the rehabilitation of or additions to existing office spaces
- Construction of warehouse, maintenance and storage space for housing materials for housing assisted under NAHASDA, including the rehabilitation of or additions to existing structure
- Construction of day care center, including the rehabilitation of existing facility to be used for day care, to the extent that the facility will be used by residents of affordable housing
- Construction of a community building or center, including the rehabilitation of an existing facility, to the extent it will be used for affordable housing activities and by residents of affordable housing
- Construction of college housing to the extent the facility will be used by eligible families
- Construction of an administrative facility and training center

Each model housing activity must be approved in accordance with the procedures in 24 CFR Part 1000, Subpart B.

Section 101(h). Administrative and Planning Expenses -- The Secretary shall, by regulation, authorize each recipient to use a percentage of any grant amounts received under this Act for comprehensive housing and community development planning activities and for any reasonable administrative and planning expenses of the recipient relating to carrying out this Act and activities assisted with such amounts, which may include costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this Act and expenses of preparing an Indian housing plan under section 102.

Eligible administrative and planning expenses of the IHBG program include:

- Costs of overall program and/or administrative management, including
- Salaries and benefits of staff administering IHBG program
- Costs of coordination, monitoring, and evaluation
- Costs of preparing the Indian Housing Plan, including data collection
- Costs of preparing the Annual Performance Report

- Challenge to and collection of data for purposes of challenging the formula
- Costs of comprehensive housing and community development planning activities
- Staff and overhead costs directly related to carrying out affordable housing activities can be costs of the affordable housing activity or administration or planning at the discretion of the recipient
- The recipient can use up to 20 percent of its annual grant for administration and planning, and must identify the percentage of grant funds which will be used in the Indian Housing Plan
- The recipient may request HUD's approval to use more than 20 percent of its grant for administration and planning. HUD must consider any cost of preparing the Indian Housing Plan, challenges to and collection of data, the recipient's grant amount, approved cost allocation plans, and any other relevant information with special consideration given to the circumstances of recipients receiving minimal funding.

Chapter 4: Eligible Activities

Attachment 4-2: PIH NOTICE 2014-15 “Administrative and Planning Expenses in the Indian Housing Block Grant (IHBG) Program”



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

Special Attention of:
Administrators, Offices of Native American
Programs; and Tribes, Tribally Designated
Housing TDHE Entities (TDHE)

Notice PIH 2014-15

Issued: June 19, 2014

Expires: This notice remains in effect until
amended, superseded, or rescinded

Cross Reference(s): 24 CFR Part 1000
and OMB Circular A-87

SUBJECT: Administrative and Planning Expenses in the Indian Housing Block Grant (IHBG) Program

PURPOSE: This Notice provides specific guidance on administrative and planning expense requirements for recipients of IHBG funds. The regulatory requirements on IHBG administrative and planning expenses (24 CFR §§1000.236, 1000.238) changed on January 3, 2013. The regulation now identifies what percentage of the recipient's annual grant allocation or expenditures may be used for such purposes without prior HUD approval. This Notice replaces Notice PIH 2002-29.

In addition to the above IHBG regulatory requirements, NAHASDA recipients are also required to meet the cost guidelines in applicable OMB Circulars and the regulations at 2 CFR Part 225 (2013). Recipients should note that new Federal government regulations on Administrative Requirements, Cost Principles, and Audit Requirements were promulgated on December 26, 2013, at 2 CFR Part 200. HUD intends to update its regulations by December 26, 2014, to implement these new requirements in its programs. After HUD implements the new requirements, in 2 CFR Part 200 and (after December 26, 2014), all grant funds will be subject to 2 CFR Part 200. Until that time, applicable OMB Circulars and the regulations at 2 CFR Part 225 will continue to apply to IHBG funds awarded prior to December 26, 2014.

ADMINISTRATIVE AND PLANNING EXPENSES: NAHASDA recipients are required to meet the general allowability cost guidelines at 2 CFR Part 225 (2013). Expenses must: (1) be necessary and reasonable; (2) be allocable; (3) be authorized; (4) conform to any limitations or exclusions; (5) be consistent with policies, regulations, and procedures; (6) be accorded consistent treatment; (7) be determined according to generally accepted accounting principles; (8) not be included as a cost or used as a cost to meet cost sharing requirements; (9) be the net of all applicable credits; and (10) be adequately documented, 2CFR Part 225, App.A.(C).

The IHBG regulation at 24 CFR §1000.236 (2013) lists several examples of eligible administrative and planning expenses. Such expenses include, but are not limited to:

- (1) Costs of overall program and /or administrative management;
- (2) Coordination monitoring and evaluation;
- (3) Preparation of the Indian Housing Plan (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 the expenditure of non-IHBG funds on affordable housing activities, as long as the source of the non-IHBG funds limits expenditure of its funds on such administrative expenses.

EXPENDITURE OF RESERVE ACCOUNTS FUNDS: The funds held in the reserve account(s) are to be used only for eligible administration and planning expenses in accordance with 24 CFR §1000.239 (2013). The amounts spent from the reserve account(s) are included in the recipient’s applicable 20 percent or 30 percent maximum amount of grant funds that may be used for administration and planning expenses. For additional information, see the Program Guidance for *Reserve Accounts for Administration and Planning*.

PERCENTAGE OF IHBG FUNDS TO BE USED FOR ADMINISTRATION AND PLANNING: The recipient’s annual grant amount determine the percentage of IHBG funds that can be used for administration and planning. A recipient may request HUD approval to exceed the 20 or 30 percent spending cap.

| <i>Annual IHBG Grant</i> | <i>Administrative and Planning Spending Cap</i> |
|--------------------------|---|
| \$500,000 or Less | 30% |
| More than \$500,000 | 20% |

- **\$500,000 or less:** Recipients receiving \$500,000 or less may use up to 30 percent of their annual expenditures of grant funds or up to 30 percent of their annual grant amount, whichever is greater.
- **In Excess of \$500,000:** Recipients receiving in excess of \$500,000 may use up to 20 percent of their annual expenditures of grant funds or may use up to 20 percent of their annual grant amount, whichever is greater. The 20 percent cap also would apply to a recipient that receives IHBG funds on behalf of one or more beneficiaries if each beneficiary qualifies for the 20 percent spending cap.
- **One or more Beneficiaries:** If a recipient receives IHBG funds on behalf of one or more grant beneficiaries, the recipient may use up to 30 percent of the annual expenditure of grant funds or 30 percent of the grant amount, whichever is greater, for each beneficiary whose allocation is \$500,000 or less. For beneficiaries whose allocation is in excess of \$500,000, the recipient may use up to 20 percent of the annual expenditure of grant funds or up to 20 percent of the annual grant amount, whichever is greater.
- If the same percentage cap applies to all of the recipient’s beneficiary grant allocations, the recipient should state the grant amount or expenditure amount, the cap percentage applied, and the actual dollar amount of the cap. If the recipient applies a different cap percentage for each beneficiary, the following information must be provided:
 - (1) Name of each beneficiary
 - (2) Amount of each beneficiary allocation
 - (3) Applicable percentage cap for each beneficiary allocation
 - (4) Actual dollar amount of each cap
 - (5) Combined cap dollar amount

The following is an example of a recipient’s calculation of the maximum amount that can be spent on administrative and planning expenses to be included on line 4 when multiple grant

beneficiaries are included in the grant.

| Grant Beneficiary | Annual Grant Amount (a) | Percentage Allowed (b) | Maximum A & P based on Annual Grant Amount (a x b) | Annual Expenditures (d) | Percentage Allowed (e) | Maximum A & P based on Annual Expenditures (d x e) |
|-------------------|-------------------------|------------------------|---|-------------------------|------------------------|---|
| Name of Tribe | \$600,000 | 20% | \$120,000 | \$450,000 | 20% | \$90,000 |
| Name of Tribe | \$300,000 | 30% | 90,000 | \$600,000 | 30% | \$180,000 |
| Total | | | \$210,000 | | | \$270,000 |

In this example, the maximum amount that the recipient can spend on administrative and planning expenses is \$270,000. The calculation for the budgeted administrative and planning expense must be included on Line 4 in Section 6 of the IHP. Any revision to the calculation based upon actual expenditures must be included in Line 5 in Section 6 of the annual Performance Report (APR).

HUD recommends that a recipient consistently apply either the annual grant amount or annual expenditure amount in calculating the spending cap. A recipient may request HUD approval to exceed the 20 or 30 percent spending cap (24 CFR §1000.238 (2013)).

AFFORDABLE HOUSING ACTIVITIES WITH NON-IHBG FUNDING: If necessary, a recipient may use IHBG funds for expenses related to the administration and planning of affordable housing activities funded with non-IHBG funds. The total amount of IHBG funds spent on administration and planning for both IHBG and non-IHBG funded activities may not exceed the recipient’s allowable spending cap, except with HUD approval. The use of IHBG funds for administration and planning of activities funded with non-IHBG funds must comply with the IHBG restrictions on using funds for administration and planning, in addition to any requirement on administrative and planning expenses imposed by the non-IHBG funds (not including non-IHBG spending limits).

ELIGIBLE ADMINISTRATIVE AND PLANNING EXPENSES: The following illustrate eligible administrative and planning expenses.

- **Costs of overall program and/or administrative management**
 - Salary and the associated expenses of the Tribal Designated Housing Entity (TDHE) Executive Director and immediate staff or the tribe’s Housing Division Director and immediate staff while managing the housing entity’s or divisions overall operations.
 - Expense or a portion of the expense of obtaining a periodic financial review or audit of the recipient.
 - Expense or a portion of the expense of the accounting and personnel divisions of the recipient.
 - For those tribes that have an approved indirect cost rate, the applicable indirect expenses. For the indirect expenses to be allowable, the approved indirect cost rate proposal must include the IHBG program in the direct cost base and be prepared in accordance with Appendix E of 2 C.F.R §225 (2013).
 - Expenses to develop a comprehensive housing affordability strategy and community development plan describing needs, resources, priorities and proposed activities on a reservation-wide or Indian area-wide basis.

- **Coordination monitoring and evaluation**
 - Salary and associated expenses or contractor expense for the self-monitoring effort by the recipient.
 - Salary and associated expenses of a tribe when evaluating the operations of its TDHE.

- Salary and associated expenses of a recipient when evaluating the operations of a sub recipient.
- **Preparation of the IHP including data collection and transition costs**
 - Salary and associated expenses or contractor expenses for collecting housing and population data and preparing the IHP.
 - Start-up expenses of a tribe that is taking over the housing needs responsibility from a housing authority or TDHE.
- **Preparation of the Annual Performance Report (APR)**
 - Salary and associated expenses or contractor expenses for collecting data and compiling information for the APR.
 - Expense of making the APR available to the public and obtaining public comments before submitting the APR to the Area Office of Native American Programs (ONAP).
- **Challenge to and collection of data for purposes of challenging the formula**
 - Salary and associated expenses or contractor expense for gathering and presenting data to challenge the IHBG formula.
- **Staff and overhead costs directly related to carrying out affordable housing activities**
 - Administrative expenses of an individual affordable housing activity may be charged to administration and planning at the discretion of the recipient. If a recipient chooses to charge direct administration costs of an affordable housing activity as administrative and planning, the cost of developing or operating the activity will be understated. This may cause problems when, in the normal course of property management, the recipient evaluates the true cost of the activity for cost/benefit and whether to continue or repeat that activity. A recipient should review its financial management information needs before electing to charge direct costs to administrative and planning expense.

INELIGIBLE ADMINISTRATIVE AND PLANNING EXPENSES: The following are examples of ineligible administrative and planning expenses:

- **Funds or property used for personal employee use** is considered a contribution to others and in an unnecessary and unreasonable cost, and therefore, an ineligible IHBG expense.
 - IHBG funds used to pay personal obligations of an employee.
 - Recipient use of IHBG funds to pay the maintenance and operating expenses of the personal property.
 - Recipient's property used for personal purposes.
 - Recipient-owned funds or property being used for non-recipient business.
- **Paying a disproportionate share of a computer network's purchase and installation costs.**
 - A proportional share of the network cost is an eligible charge to the IHBG program; however, the amount actually charged to the IHBG program must be supported and reasonable in relation to the degree the system is used by the IHBG program.

- **Miscalculating the indirect cost rate allocation.**
 - In general, indirect costs are eligible under the IHBG program; however, in order for the indirect costs to be allowable, they must be supported by an approved indirect cost rate proposal that has been prepared in accordance with Appendix E to 2 C.F.R. Part 225 (2013).

- **Exceeding the IHBG administrative and planning percentage ceiling without HUD approval.**
 - A recipient may not exceed the maximum percentage award for administrative and planning. Any costs in excess of the percentage ceiling would be ineligible. The recipient must request prior approval by HUD to exceed the percentage limitation.

- **Inadequate documentation to support all administration and planning expenses related to affordable housing activities.**
 - The recipient's financial management records must support the costs charged to the administrative and planning expense line item. The actual amounts paid by the recipient must be documented in the recipient's financial records(for example, a recipient may not automatically charge the maximum percentage of the grant to administrative and planning expenses without providing supporting documentation).

- **A tribe's sub recipient agreement specified that administrative and planning expenses of the sub recipient were to be charged directly to housing activities.**
 - The sub recipient's responsibilities include preparing and submitting the IHP, the APR and progress reports to the tribe. Since, sub recipients must comply with the same requirements as recipients, classification of general administrative and planning costs to an affordable housing activity is inappropriate. In a situation where a tribe and a sub recipient both incur administrative and planning expenses, all such costs must be compiled from all sources to determine compliance with the IHBG programs limitation on planning and administrative expenses.

- **Non-IHBG funds used for administrative and planning activities to the maximum extent permitted before IHBG fund may be used for a non-IHBG fund.** The intent of §1000.236(a)(6) was to encourage leveraging of funds by enabling IHBG funds to be used for the administration and planning activities of non-IHBG funds related to affordable housing.
 - A recipient may only use IHBG funds for administration and planning of a non-IHBG fund after using the non-IHBG fund for administration and planning to the maximum extent permitted by that fund. For example, if a non-IHBG fund of \$100,000 only allows the use of that fund up to 10 percent of the allocation for administration and planning, the recipient must use \$10,000 for such activities before it can utilize IHBG grant funds to administer that non-IHBG fund.

- **IHBG funds used for administrative and planning activities of a non-IHBG fund beyond the IHBG limitation for administrative and planning expenses.**
 - If the non-IHBG fund limits administrative and planning expenditures, but that limitation is more generous than that allowed under IHBG (20 percent of annual expenditure or grant for recipients receiving more than \$500,000 and 30 percent of annual expenditure or grant for recipients receiving \$500,000 or less), then

IHBG fund may not be used for administrative and planning expenditures of that non-IHBG fund, unless approved by HUD in advance.

- When IHBG grant funds are used for administrative and planning activities of a non-IHBG program, the recipient must comply with IHBG rules governing administrative and planning expenditures.
- Administrative and planning expenses related to a non-IHBG fund must comply with IHBG rules governing administrative and planning expenditures when using IHBG grant funds.

If you have any questions regarding this Notice, please contact your local Area ONAP.

/s/

Sandra B. Henriquez, Assistant Secretary
for Public and Indian Housing

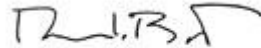
Chapter 4: Eligible Activities

**Attachment 4-3: Program GUIDANCE 2013-09R – *INDIAN HOUSING
BLOCK GRANT MODEL ACTIVITIES***

RECIPIENT GUIDANCE

PROGRAM: Indian Housing Block Grant

FOR: All Tribal Government Leaders and Tribally Designated Housing Entities



FROM: Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, PN

TOPIC: Indian Housing Block Grant Model Activities

Purpose: The purpose of this guidance is to provide Indian Housing Block Grant (IHBG) recipients with information regarding model activities and the process to follow when requesting approval for such activities.

Background: Section 202(6) of the Native American Housing Assistance and Self-Determination Act (NAHASDA), enables recipients to undertake housing activities under model programs that carry out the purposes of NAHASDA. These model activities are affordable housing activities not explicitly listed elsewhere in Section 202 of the statute. Model activities must be approved by HUD prior to being carried out by the recipient.

Model Activities: All model activities must benefit residents of affordable housing which includes families residing in 1937 Act units, families receiving NAHASDA assistance for affordable housing and other units which meet the requirements of Title II of NAHASDA. Model activities may be proposed in an Indian Housing Plan (IHP), as an amendment to an IHP, or at any time as a separate request to the Area Office of Native American Programs (ONAP). HUD will review all proposals with the goal of approving the activities and encouraging the flexibility, discretion, and self-determination granted to Indian tribes under NAHASDA to formulate and operate innovative housing programs that meet the intent of NAHASDA.

Examples of Previously Approved Model Activities: Since the enactment of NAHASDA, HUD has approved many types of model activities upon finding that such proposed activities carry out the purposes of the statute. Examples of previously approved model activities include:

- New housing office buildings, including the rehabilitation of or additions to existing office space, based on a determination of need;
- Warehouse, maintenance, and storage space for housing materials, including the rehabilitation of or additions to existing warehouse, maintenance and storage space, based on a determination of need;
- Day Care Centers, including the rehabilitation of existing facilities to be used for day care, to the extent that the facility will be used by residents of affordable housing;
- Community buildings or centers, including the rehabilitation of existing facilities, to the extent they will be used for affordable housing activities;
- Master Plan Studies;
- Home loan revolving fund;
- Biomass wood space heating plant;
- Construction of student housing;
- Upgrade for a community generator system; and
- Water treatment system.

Information to Include in Model Activity Requests: All requests for model activities should be submitted to the applicable Area ONAP and should include the following information:

- **Project Description:** Include an overall description of the project or activity including the services to be provided. If the model activity is a building, include the square footage of the building and a schematic or sketch depicting the general layout of the facility. Describe what is new or innovative about the project/activity.
- **Anticipated Beneficiaries of the Model Activity:** If the model activity will serve the whole community, the request should state the total number of households in the community that will benefit from or use the model activity. The number of these households that are residents of affordable housing should also be identified. If a recipient proposes to use IHBG funds for a facility that will benefit all residents of the area, not just affordable housing residents, then the costs associated with the portion of the building that will be used for anything other than activities related to affordable housing (i.e. multi-use or community building), must be prorated based on space, beneficiaries, or percentage/time usage, unless otherwise approved by HUD. The request should document the proportion of space that will be used for affordable housing activities or the percentage of time the facility will be used for affordable housing activities.
- **Need for Project:** The request should address the need for the proposed project/activity and relate the need to the nature and scale of affordable housing activities delivered by the

recipient. Recipients should also identify all uses of the any facility proposed and describe how it will benefit residents of affordable housing.

- **Budget:** Recipients should submit a project budget including itemized costs of all components of the project. The request should identify other funds (tribal, Bureau of Indian Affairs, Indian Health Service, etc.) that will be used in the project/activity.
- **Map:** Recipients should submit a map of the project service area identifying the project location.

Model Activity in IHP or IHP Amendment: When submitting a request for a model activity in an IHP or as an amendment to an IHP/APR form, HUD 52737, recipients must complete Section 3, Program Description for the model activity. The program description should be summarized to include the type of project and what will be developed or planned. The eligible activity number for Line 1.3 is 22 Model Activities [202(d)] and Line 1.4 should include a specific measurable outcome that the recipient hopes to achieve.

Review of the Proposed Model Activity: Area ONAP Administrators may approve certain model activities that have previously been approved. The Headquarters Office of Grants Management may approve other proposals for model activities. HUD will consult with the recipient regarding the recipient's model housing activity and will provide technical assistance to the recipient in amending and/or modifying the proposal if necessary.

HUD will review the model activity request and provide the recipient with approval or denial in writing within 60 days in accordance with 24 CFR §1000.114. If the request for the model activity was submitted as a stand-alone request, the approval letter will request the recipient to submit an IHP amendment that includes the model activity. If no decision is made by HUD within 60 calendar days of receipt, the proposed model activity is deemed to have been approved by HUD. In no instance, should recipients undertake model activities until such activities are approved by HUD.

Disapproval of a Model Activity: In accordance with 24 CFR §1000.118, if HUD disapproves a request for a model housing activity, the following steps may be taken:

- The recipient may request reconsideration of the decision within 30 calendar days of receiving HUD's denial. The request, which must be submitted in writing, must set forth justification for reconsideration.
- HUD will reconsider the recipient's request for reconsideration within 20 calendar days of receipt of the request. HUD will either affirm or reverse its initial decision in writing, setting forth its reasons for the decision.
- The recipient may appeal any denial of reconsideration by filing an appeal with the Assistant Secretary for Public and Indian Housing within 20 calendar days of receiving the denial. The appeal should include the reasons why the recipient does not agree with HUD's decision and include justification for reconsideration.
- Within 20 calendar days of receipt of the appeal HUD will review the recipient's appeal and act on the appeal, setting forth the reasons for the decision. If the decision was made

by the Assistant Secretary for Public and Indian Housing, the decision will constitute final agency action.

Conditions Upon Approval: If approved, all model activities must comply with the provisions of NAHASDA, including, but not limited to, the following:

- An appropriate affordability period must be established through the execution of a binding commitment satisfactory to HUD to ensure the IHBG investment for the model activity is used for its approved purpose consistent with NAHASDA for a period of time that is satisfactory to HUD;
- Adequate insurance must be purchased to protect the IHBG investment in the approved model activity consistent with section 203(c) of NAHASDA. Pursuant to 2 CFR Part 225, Appendix B, Sections 18 and 22, costs may be disallowed if a loss occurs and adequate insurance was not obtained to protect the investment;
- Pursuant to 2 CFR Part 225, Appendix A, Section C(1), the costs for such model activities must be necessary and reasonable for proper and efficient performance and administration of the IHBG grant; and
- The costs or design standards for non-dwelling structures are limited, pursuant to 24 CFR 1000.160 to a design, size and with features or amenities that are reasonable and necessary to accomplish the purpose intended by the structure. The recipient must demonstrate and document that the structure meets the cost or design limitations of 24 CFR 1000.160 by using one of the methods described at 24 CFR Part 1000.162 (b) or (c).

If you have any questions regarding model activities, please contact your Area ONAP.

CHAPTER 5: PROGRAM OPTIONS — RENTAL HOUSING

This chapter covers program options available to IHBG recipients related to rental housing, and includes:

- *Statutory and regulatory guidance and restrictions;*
- *A summary of eligible rental housing options under NAHASDA; and*
- *Program delivery options such as scattered site*

This chapter addresses the following statutory and regulatory citations:

- *Section 202 of NAHASDA and 24 CFR Part 1000 Subpart B.*

INTRODUCTION

Recipients of Indian Housing Block Grant (IHBG) funds can use these funds to provide rental housing. NAHASDA provides the recipient significant flexibility in how it designs its rental programs, in terms of the type of housing (single or multifamily, cooperative or condominiums), who it serves (families, the elderly, special needs), and how it is financed and developed. These choices allow the recipient to tailor its rental program to local needs and conditions.

When designing its rental program, the recipient should consider local housing needs and availability and revenue requirements. Ideally the recipient will conduct a local market study to document rental housing needs in terms of type and size of housing and the demand, or willingness to pay, for housing at a specified price. The recipient must also consider its own capacity to develop and operate housing. Specifically, does it have the experienced staff necessary to oversee the activities and does it have access to the resources necessary. Partnerships with local lenders, developers, nonprofits, and others may be needed to leverage the dollars and experience necessary to maximize the value of the IHBG investment in the property and provide quality rental housing.

This chapter discusses regulatory and statutory requirements for rental housing as well as the choices the recipient has for creating effective rental housing programs.

NOTES

TYPES OF RENTAL PROGRAMS

Under NAHASDA, recipients have the flexibility to target their rental programs to serve those who most need the assistance. This may mean:

- Family rental housing** developed for low-income families including children, parents, grandparents, and others in a family unit.
- Elderly rental housing** targeted towards the needs of older residents.
- Special needs rental housing** such as group homes or single room occupancy (SRO) units that meet the needs of populations with special needs, such as the homeless, people with substance abuse problems, people with disabilities, and families who need shelter from domestic abuse. (Note: IHBG funds cannot pay for the non-housing services often related to special needs housing such as medical care or physical therapy.)
- Tenant Based Rental Assistance (TBRA)** programs provide rental assistance to tenants to help them make rental payments in existing units. This strategy does not require the development of new units so it is useful in markets where there are vacant units but they are not affordable to the target population.
- Student Housing** may be developed. Recipient's policies and procedures for assisting student housing, including information to be provided by the family, the types of documentation required, recipient verification procedures, etc. must be developed prior to providing assistance for student housing.

TYPES OF RENTAL UNITS

IHBG recipients also have a great deal of choice regarding the type of physical structure that is best suited to their program. Options for types of rental units are described below.

- Multifamily developments.** Multifamily rental housing units usually consist of family housing units grouped together in the same structure or complex. These units are usually attached or semi-attached.
 - Multifamily development is usually defined as a structure or property with five or more housing units. However, sometimes the term is used to refer to any property with more than one unit, particularly if shared ownership is involved.

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- Before undertaking such a development, however, the recipient should develop a detailed needs assessment to determine whether or not this style of housing would be marketable to the population it is being designed to serve.
 - **Multifamily housing example:** The recipient wants to develop units for its elders. It surveys them and finds that they want shared community areas and need accessible units. It builds a 20 unit multifamily apartment complex with a design suited to the needs of elders.
- ☐ **Single family.** Rental housing can also be designed as a series of single family units. These are often built in a subdivision with shared utilities and infrastructure, such as roads.
- This type of housing would probably be attractive to recipients who have abundant access to land suitable for development, and whose members would prefer not to live in attached or semi-attached housing.
 - **Single family example:** A recipient surveyed its members and found that they valued having large lots but wanted shared water and sewer services. They built a subdivision of 10 homes, each with ½ acre lots but with shared infrastructure.
- ☐ **Scattered sites.** Rental projects can consist of non-contiguous or attached units that are scattered on more than one site, as long as they are under common ownership, management and financing.
- Scattered site housing places residents in homes in locations scattered throughout the reservation or Indian area, as opposed to a particular development or single structure. Residents may have responsibility for upkeep and maintenance of their residence and property. This type of rental housing can provide good preparation for homeownership.
 - Developing scattered site housing can potentially be more expensive than developing multifamily housing because of the costs involved. It can be less expensive to build larger building than to build a number of units in a variety of locations.
 - **Scattered site example:** A recipient is a large rural tribe that relies on farming and ranching for its livelihood. Families want to live near the farms where they work but cannot yet afford homeownership. The recipient builds scattered site rental housing across its reservation in order to allow families to live where they wish.
- ☐ **Mixed use development.** Mixed use development consists of units of different types of structures or users that are under the same ownership, management and financing. Mixed use developments can include a mix of residential units, ranging in cost/rent, and

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commercial space that can be used for a variety of activities such as retail, medical clinics, schools, government offices and other non-residential uses.

- These projects might vary in scale from a single building occupied by a retail shop on the ground floor with an upstairs apartment to a comprehensive development with multiple buildings containing separate but compatible uses such as a retail center, office building and medical clinic located adjacent to a multifamily housing complex. A single owner and business operator might occupy a mixed-use building, or multiple housing and commercial tenants could lease space within a mixed-use development project.
 - Mixed use development can be very attractive because it offers residents easy access to specific types of goods and services.
 - The recipient must undertake a careful market assessment to determine whether or not the community can sustain the planned commercial activity. It would be unwise to develop commercial space if there is not enough demand for the planned activity. This could lead to vacancies in the commercial space(s) and/or non-payment of rent on the part of commercial tenants. **NOTE:** Economic development must be directly related to affordable activities under the IHBG Program. Therefore, the project cost must be prorated and only the affordable housing expenses paid for out of IHBG funds.
 - **Mixed use example:** A tribal nonprofit wanted to serve two community needs: (1) a need for a small convenience store; and (2) a need for housing for tribal persons with disabilities. It received funding from an IHBG recipient to build a six unit structure where the ground floor would be commercial space for the store and the top two stories would house the units. Costs were pro-rated to only use IHBG funds to pay for the affordable housing units.
- Mixed income developments.** Mixed income developments allow for families of different incomes to live together in the same development. This approach brings more rental income to the project and thus allows for more flexibility in how the financing can be structured. In such developments the costs of developing the units that are subsidized for low income families can be covered by IHBG funds while other financing covers the development of market rate units. Any costs for common areas, common infrastructure, etc must be pro-rated so that IHBG funds cover only the portion of the common costs attributable to the low income units. For a full discussion of how to allocate costs, see PIH Notice 2011-40 "*Limiting Housing to Indian Families or Tribal Members when using Indian Housing Block Grant (IHBG) funds*".
- IHBG funds are intended to be primarily expended for units that are or will be occupied by low-income Indian families, therefore, in a mixed income project, the recipient must

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determine the minimum number of units that will be designated as NAHASDA-assisted. In general, this designation must be based on the actual IHBG investment in a project. The NAHASDA designated units are subject to IHBG rules on occupancy and rents.

- If the units in a project are comparable in terms of size, features, and number of bedrooms, then the actual cost can be determined by pro-rating total NAHASDA-eligible development costs. IHBG funds can only pay the pro-rated share for the NAHASDA-assisted units.
 - ⇒ When IHBG funds are invested in a project and the units are comparable, the minimum number of IHBG units must be equivalent to the portion of the costs that have been paid. For example, if IHBG paid for 10% of the costs, a minimum of 10% of the units must be designated as IHBG units.
 - ⇒ These units can either be “fixed” or “floating” units. A “fixed” unit means that the tribe determines on the onset of the project which units are NAHASDA-assisted. A “floating” unit gives the tribe the flexibility to maintain a number of NAHASDA-assisted units throughout the useful life of the project although the units may vary with availability.
 - ⇒ The system of floating is advantageous when a tribe wants to ensure that assisted units cannot be distinguished from market-rate units. In addition, “floating” units provides consistency with projects using Low Income Housing Tax Credits (LIHTC).
 - ⇒ For example, consider a project has 12 units in which six of the units have one bedroom and six of the units have two bedrooms and half this project is NAHASDA assisted. In this case three one-bedrooms and three two-bedroom units must be designated as NAHASDA assisted and half the project costs are covered by IHBG funds. If the same building were only one third NAHASDA assisted, two one-bedroom and two two-bedroom units would be NAHASDA assisted and one third of all project costs would be covered by IHBG funds.
- When units are not comparable, the recipient must allocate the IHBG costs on a unit-by-unit basis, charging only actual cost to the IHBG program as described in PIH Notice 2011-40 “*Limiting Housing to Indian Families or Tribal Members when using Indian Housing Block Grant (IHBG) funds*”.
 - Outcomes will differ depending on the mix of units, but as one example, consider a 60-unit, mixed income development in which one-third (or 20) units will be deluxe units, one third will be upgraded units, marketed to middle income families, and one third will be low-income units, designated as NAHASDA units. Because these units

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are not comparable, IHBG funds may only cover the actual costs associated with the units to be rented to low-income Indian families. Further, costs for any common amenities must be allocated to the units based on the percentage of total square footage.

- ❑ **Group Homes.** Group homes are dwellings where several adults live together with individual bedrooms but sharing common amenities such as the kitchen. They often serve as transitional housing for the homeless or as housing for people with special needs such as the chronically mental ill or recovering substance abusers.
- ❑ **SROs.** SROs are separate units that usually share one or more common facilities, such as bathrooms and kitchen areas. They generally serve single adults.

ELIGIBLE ACTIVITIES IN RENTAL PROGRAMS

NAHASDA allows a range of activities to help meet local rental needs. Rental housing activities may include but are not limited to:

- ❑ **New construction.** In areas where there is a shortage of units, recipients may want to consider building new rental homes or apartments.
- ❑ **Rehabilitation of existing units.** In areas where existing properties are in poor condition or are otherwise not suitable for rental units, a strategy to restore properties may be appropriate. This can be achieved by providing funds to existing owners for rehabilitation. The recipient may rehabilitate units owned by the tribe or IHA or units owned by private entities.
- ❑ **Acquisition with rehabilitation.** In cases where existing units are in poor condition, as described above, it may be necessary to purchase the property and make the necessary repairs.
- ❑ **Conversion.** Sometimes buildings, such as schools or warehouses can be converted to housing. This may be appropriate in changing neighborhoods where the previous use of the property is no longer needed.
- ❑ **Demolition.** Rental activities may involve demolition of an existing structure to make possible a new structure. This is not typically a stand alone activity since the demolished building should be replaced by a new structure, however, in some cases, other financing

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| <p>Q: Does Davis Bacon apply to rental housing activities under NAHASDA?</p> <p>A: Yes, unless a tribe has established tribally determined prevailing wage rates. See Program Guidance 2003-04 for more information on Tribally Determined Wages (TDW).</p> |
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may be available for the construction activity and IHBG funds are used to make the demolition possible. Demolition of 1937 Act units must be approved by HUD in the IHP.

- Acquisition of housing that will be used for rental purposes.** When existing units are in good condition, the recipient may acquire this standard housing from the market and rent out units. These units may be on or off reservation.
- TBRA and Project Based Assistance (PBRA).** Rental activities may include paying the difference between the family's portion and the actual rent.

ELIGIBLE RENTAL HOUSING COSTS AND COST LIMITS

[NAHASA Section 202, § 1000.156]

Eligible costs under NAHASDA include all the hard costs (material and labor) as well as soft costs (services and administrative costs). Specific examples of eligible costs include:

- Hard costs include all costs for material and labor associated with the job.
- Acquisition costs for property including land or buildings.
- Relocation costs. In cases where properties with existing tenants are acquired and/or rehabilitated, it may be necessary to relocate existing tenants. Recipients may use IHBG funds to pay for temporary or permanent relocation as a result of a NAHASDA project. Note: The Uniform Relocation Act may be triggered by such moves. See Chapter 12 for more information.
- Costs for performing environmental reviews. Environmental reviews are required and can be paid for through IHBG funds.
- Costs associated with infrastructure for the housing, such as water, sewer, roads, etc. that service the housing being developed.
- Costs associated with program planning and delivery for specific rental projects, including staff time, consultants, etc. These costs are to cover expenses related to the delivery of affordable housing activities, such as covering the cost of an underwriter or the

Q: Are work write-ups and planning expenses for an eligible rental project that falls through due to lack of leverage eligible expenses?

A: Yes, they are eligible under Section 202(2) development or as planning and administrative expenses.

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staff time required to screen applicants for the housing program. These types of costs are known as project delivery.

- ❑ In developing rental housing, NAHASDA imposes certain limits on the expenditure of funds for total development costs (TDC).
 - TDCs are a per-unit maximum on the amount of funds that can be expended for a project. These costs include administration, planning, site acquisition, demolition, construction and/or equipment and financing (including carry charges) and any cost necessary to carry out the development project excluding off-site water and sewer. The TDC does not include any off-site development costs.
- ❑ TDCs cannot exceed HUD's annual published limits (§ 1000.156 - 162). See current PIH Notice 2014-16 "Extension- *Total Development Costs (TDC) for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996(NAHASDA)*" for updated limits.
 - The limits are based upon:
 - ⇒ The characteristics of a moderately designed house or multifamily structure, considering location, local conditions and climate variables and
 - ⇒ The average of current construction costs based on two construction costs indices.
 - If a tribe/TDHE determines that the published TDC amounts are not representative of construction cost in its area, it may provide the AONAP with relevant information and request a variance.

Q: Can a recipient exceed TDC limits if they are using funds other than IHBG for the extra amount?

A: Recipient's may request a variance through their local ONAP Office.

OWNERSHIP AND CONSTRUCTION OF RENTAL HOUSING

- ❑ **Ownership of Rental Housing.** The recipient may use any of the following options to develop, own and manage the rental housing.
 - Tribal developer/owner. A recipient may elect to directly develop and own the rental units itself. It may construct these units through contractors or through force account labor (or a combination of the two).
 - Private developer. The recipient may fund a person or entity (sole proprietor or corporation) who prepares raw land for building sites or rehabilitates existing buildings.

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Generally this private developer then owns and manages the rental property under the oversight of the recipient.

- Limited partnership. This is a partnership consisting of one or more general partners and limited partners. The general partner manages the business while the limited partner(s) contribute(s) cash. The limited partner's liability is limited to the amount he or she has invested. The partnership develops and owns the units, with oversight by the recipient. This is a good strategy when using the LIHTC as an additional subsidy.
- Non-profit developer. This is a corporation that has been approved by the Internal Revenue Service as exempt from Federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1954 and that is organized for the purpose of developing housing for low-income persons. For example, a tribal social service corporation may be a nonprofit. Under this scenario, the nonprofit develops and owns the rental housing and the recipient provides oversight.
- Joint venture. This is an agreement between two or more parties to invest in a business or property. The recipient and any of the above together can develop, own and operate the project.

□ **Construction Methods**. There are two types of construction management methods which recipients can use to aid in the effectiveness and efficiency of the construction and rehabilitation projects. These are Force Account and Selected Contractor which are defined briefly below. For more information on these methods, their pros and cons, see Chapter 7.

- Force Account Method. Under the force account method, the recipient performs most of the rehabilitation work itself. The recipient hires its own workers and provides the equipment and materials. The recipient is also responsible for overseeing all of the work, controlling costs, and ensuring that quality guidelines and time schedules are met.
- Contractor. The recipient may decide to hire a contractor rather than perform the rehabilitation work itself. In this case, the recipient must decide who will hire the contractor. If the recipient elects to use a general contractor, it must compete the work and follow the Indian preference requirements outlined in 24 CFR § 1000.48 or, if applicable under section 101(k) of NAHASDA, tribal preference in employment and contracting, and Procurement standards at 24 CFR § 85.36.

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FINANCING RENTAL HOUSING

Developing rental housing may be an expensive undertaking. Therefore, it is important to consider the range of options available for financing projects, leveraging funds and underwriting the project.

Types of Financing

There are several financing mechanisms that the recipient can use to put funds into a rental project. These include but are not limited to the following list.

- Grants are funds that will not be repaid to the recipient by the project.
- Loans are repaid according to the terms of a loan agreement, usually with interest on a monthly basis. Such loans can be structured in several ways.
 - Amortizing loans are paid off through monthly payments of principal and interest over the term of the loan.
 - Balloon loans allow for lower payments over the term of the loan with a larger payment of principle, called a balloon payment at the end of the loan term.
 - Other loans are deferred, as described below.

Deferred payment loans are loans that do not require immediate repayment. Deferred payment loans can allow for payoff at a later date, can be forgiven over time, or can require payment upon the sale of the building.

- Interest subsidies or write-downs involve a payment to the lender to reduce the interest rate on a loan. Recipients provide money up front to the lender so that the lender can offer a lower interest rate on a loan. The size of the write-down depends on the funds the recipient can pay the lender at the outset.
- Construction cost reduction. To reduce construction costs, the recipient can pay directly to cover items such as the environmental review. The recipient can also opt to do its own construction financing as this is the most expensive financing to get from lenders. In this case, the tribe takes the risk for the construction loan and can be paid when the money comes in from the sale.

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- ❑ Predevelopment financing. The recipient may provide financing of predevelopment costs such as site assessments, legal fees, architectural and engineering fees, loan application fees and other such costs incurred before construction begins. If no units result the recipient must pay for this as an administrative cost.
- ❑ Bridge financing. A bridge loan has a short term and can be provided by the recipient upon completion of construction, if the project does not yet meet the requirements for permanent financing. Bridge financing is often used with LIHTC projects because there is often a need for funds before project financing is in place. It may also be used when a project has multiple stages or when a lender wants the project to establish a track record before making a longer term loan.

Leveraging Sources of Finance

- ❑ To make rental housing deals more feasible and to get more housing for each IHBG dollar invested in rental housing, the recipient should seek to leverage funds. Applying for other sources of funds may be time-consuming and difficult, and multiple funding sources may complicate project reporting, but the addition of new housing coupled with the preservation of IHBG funds for other uses may make leveraging worthwhile. Some possible sources of funds for rental or lease-purchase housing could include:
 - **Section 184 Loan Guarantee Program.** This program provides Native families with the opportunity to purchase a home on tribal trust, allotted, or fee simple land. Loans must be made by a lender approved by HUD or the Secretary of Agriculture, or supervised, approved, regulated, or insured by any agency of the U.S. government. A TDHE or bank can be an approved lender. A borrower must apply directly to a lender that is participating in this program. HUD provides a 100 percent guarantee to the lender for all loans, which can be made to Indian families, TDHEs, and tribes. Loans can be made to:
 - ⇒ Construct a home,
 - ⇒ Acquire a home,
 - ⇒ Rehabilitate a home,
 - ⇒ Acquire and rehabilitate a home, and
 - ⇒ Refinance a home.

A TDHE or Indian tribe may also borrow funds to develop single-family homes that are subsequently sold to eligible families or individuals or to create tribal-owned rental housing.

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- **USDA Section 502 Single Family Loan.** Section 502 loans are used primarily to help low-income households purchase homes. They can be used to build, repair, renovate or relocate a home, or to purchase and prepare sites, including providing water and sewage facilities. They may also be used to refinance debts when necessary to avoid losing a home, or when required to make necessary rehabilitation of a house affordable.
- **USDA Section 515 Multifamily Loan.** Rural Rental Housing Loans are direct, competitive mortgage loans made to provide affordable multifamily rental housing for very low and moderate-income families, elderly persons, and persons with disabilities. This is primarily a direct mortgage program, but its funds may also be used to buy and improve land and to provide necessary facilities such as water and waste disposal systems.
- **HUD 811 program.** This program provides grants to non-profit organizations to develop and construct or rehabilitate rental housing with supportive services for very low-income persons who are elderly or have disabilities.
- **HUD Section 202 program.** This program works with local non-profits to create housing tailored to the needs of senior citizens and offers rental assistance to the very low-income elderly who will live in those units.
- **LIHTC.** The LIHTC program provides Federal tax credits to sponsors of low-income rental housing projects. Sponsors can use these tax credits to directly reduce the amount of Federal income tax they owe, or they can sell these tax credits to one or more purchasers (sometimes through transactions known as tax credit syndications), who can use the tax credits to reduce their tax liability. The sponsor uses the proceeds of the sale of the tax credits as equity for their project. The amount of tax credits for which a sponsor is eligible represents a fixed percentage of eligible costs of developing the low-income housing project. However, the actual amount of tax credits awarded to the sponsor cannot exceed the amount the Department deems necessary for the project's financial feasibility.
- **HOME.** The HOME Program provides funds through a formula allocation to participating state and local governments, known as Participating Jurisdictions (PJs), to provide decent affordable housing to lower-income households. Tribes and tribal nonprofits can contact their state for more information about how they may apply for funds.
- **Indian Community Development Block Grant (ICDBG).** The ICDBG Program provides Native American tribes and Alaska Native villages with assistance to develop viable communities, including decent housing, a suitable living environment, and economic development opportunities. This is a competitive annual program and rental

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housing may be acquired or rehabilitated for Native families under ICDBG. In addition, ICDBG can be used for related programs such as infrastructure, community centers, and public services.

Underwriting

Underwriting is a process used to determine that the project is actually financially feasible. It requires a serious look at the expected income for the project to determine if it can adequately cover the loan repayment and operational costs of the rental property. Key underwriting steps are described below. Note that these factors are inter-related and often more than one pass through each step is necessary.

- ❑ **Review of Project Costs.** Review the costs anticipated for constructing the project to confirm that they are reasonable and that they are eligible IHBG uses. These costs should be found in the development budget.
 - The development budget is a detailed summary of all of the one-time costs of the project that will be covered by the overall project financing. It is used to determine the financial needs and construction costs.
 - The development budget covers items such as acquisition costs, site work, construction/rehabilitation hard costs, architectural and engineering fees, interim costs and permanent financing fees and expenses, developer's fee, initial deposits in reserves and project administration and management.
 - When reviewing the development budget a recipient should ask itself:
 - ⇒ Is everything to be covered with IHBG funds eligible? Are all other costs to be covered by other federal financing eligible under those programs?
 - ⇒ Do the costs comply with Office of Management and Budget (OMB) circular requirements regarding cost reasonableness?
 - ⇒ Does the project comply with other NAHASDA requirements?
- ❑ **Review of the money to finance the project.** Review how the developer intends to pay for the construction and related costs. This should be found on the sources and uses statement.
 - The sources and uses statement is to ensure that there are sufficient funds to cover the cost of development.

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- Sources refer to the financial resources – the sources of funds. Sources can represent loans (debts), equity or grants. Uses refer to the use of funds or development costs. The total bottom line cost of the uses statement should be equal to the development budget.
 - Recipients should review the sources and uses statement with the development schedule in mind. The sources and uses statement is a good place to begin to determine whether there is a funding gap that needs to be filled.
- Review of the ongoing status of the project.** Look at the health of the project over the long term (usually over its useful life). Consider its likely rental income over its operating costs. This information should be in the project’s operating pro-forma.
- The pro-forma or operating budget is used to determine how much net operating income the project will have available to make payments of principal and interest and to provide returns to providers of equity capital and to document more broadly, the assumptions that are being made about the project and its feasibility.
 - The pro-forma is a prediction of expected income and expenses for the first 10 to 30 years of project operation. The developer and all parties providing funds determine the length of the pro-forma.
- Establish the financing and operating terms.** Based on the analysis in the previous three steps, determine if this is an acceptable project to finance. If yes, determine grant and/or loan terms such as amount, interest rate, and term.

ONGOING ISSUES FOR RENTAL HOUSING

When describing its rental housing activities in its Indian Housing Plan (IHP), the recipient must decide how to handle the ongoing responsibilities associated with operating rental housing throughout its useful life. The elements that the recipient should consider are rents, maintenance, tenant selection and leasing which are discussed in detail in Chapter 3.

Useful Life

[NAHASDA Sections 205(a)(2) and 209, § 1000.142]

- Low-income rental housing developed using IHBG funds must remain affordable for its estimated useful life (§ 1000.142).
- The recipient must describe in its IHP how it determines the estimated useful life for each assisted housing unit in its developments.

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- This determination should be made in accordance with the local conditions of the Indian area of the recipient. The recipient should define “useful life” based on:
 - ⇒ The age and condition of the rental housing structure, and
 - ⇒ Any other criteria selected by the recipient and approved by HUD.
- By determining the recipient’s IHP to be in compliance, HUD determines the useful life of the units in the affordable rental housing development in accordance with NAHASDA Section 205(a)(2) and Section 209.

Reference Program Guidance 2014-09(R) “*Useful Life and Binding Commitments*” for more information.

Rents

[§ 1000.124, § 1000.126, § 1000.132]

- Because rents are capped under the IHBG program, it is important for the recipient to monitor existing projects, over their useful life to ensure that they remain affordable to the residents.
- Rents, including TBRA and PBRA, are capped at 30 percent of the family’s adjusted income.** Adjusted family income means the annual family income remaining after deductions for the various exclusions (NAHASDA, Section 4). See Chapter 3 for more information.

Example: Donna and Wayne Smith have an adjusted gross income of \$1,500 per month. Their monthly rent payment cannot exceed \$450 or 30 percent of \$1,500.

- Rent options.** The recipient can structure rents in a few different ways as described below:
 - **Flat Rent.** A recipient may set a rental fee for the unit. **For example,** a recipient may elect to set the rent of a unit at \$225 per month. This amount is charged regardless of the family’s income but must be capped at no more than 30 percent of adjusted income.
 - **Minimum rents.** Under NAHASDA, no minimum rent payment is required for low-income families. However, the recipient may set standards for minimum rents if they so choose as long as the minimum rent does not exceed 30 percent of a family’s adjusted income.

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- ⇒ For rental units, the recipient may want to establish a nominal amount for a minimum or floor rent to allow the tribe to spread its IHBG funds among a greater number of families.

Example: A recipient set its minimum rent at \$200 per month. Joe Harjo earns \$8,000 per year. His adjusted income is \$6,000 per year. 30 percent of his adjusted monthly income is \$150. Thus, Joe cannot afford the \$200 minimum payment. Instead he must be charged no more than \$150 per month.

- ☐ **Rents as a percentage of income.** Likewise under NAHASDA, rents may be based on a lower percentage of income than the mandatory cap of 30 percent. This would allow for greater assistance to individual renters and potential homeowners. In deciding what percentage of income to use in determining rent and homebuyer payments, the recipient should consider whether:
- The recipient should provide a greater amount of assistance to individual families; or
 - A lesser amount of assistance to individual families so that IHBG funds can be used to help a greater number of families.

Example: A recipient wants its members to become homebuyers. However, given typical family monthly expenses, no one is able to save up enough for a down payment if they continue to pay 30 percent of their income for rent. The recipient elects to set rents at 20 percent of adjusted monthly income in order to allow families to save additional funds.

- ☐ **Utilities** (§ 1000.132). For low-income families, utilities need not be included within the 30 percent of income cap. The recipient may decide how to treat utility costs. The recipient must, however, describe in its written policies what is included in rent payments, and whether utilities are included. There are a variety of ways in which the recipient may treat utilities, including but not limited to:
- Including utilities in the rent and homebuyer payments; and
 - Excluding utilities from the rent or homebuyer calculation altogether and having tenants and homebuyers assume all utility costs.

Example: In some areas, the 30 percent maximum rent may barely offsets the administrative fees involved in a project. In such cases, the recipient can at least recap some extra needed income by charging utilities on top of the maximum rent. Or the recipient may determine that efficient and environmentally sound operation demands that

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tenants' use of utilities be disciplined by cost, meaning that utility users should pay utility bills.

Rent payments for non low-income Indian families

The rent to be paid by a non low-income Indian family cannot be less than the rent paid by a low income Indian family.

- **TARs (Tenant Accounts Receivable).** Rental housing under NAHASDA is designed to serve a population that is low-income. Because of this and because rent for these units is restricted to no more than 30 percent of a family's adjusted income, rents generated from the rental housing stock may not make up the majority of a rental property's operating budget. However, chances are they make up a substantial portion of that property's budget. Therefore, it is important that the recipient makes every effort to collect rents on a monthly basis.
 - The recipient should have a clearly defined rent collection policy that is described in the tenant's lease.
 - The rent collection policy must be in accordance with applicable Federal, state, local and tribal law and should contain remedies for collecting unpaid rent from tenants.
 - The recipient should be consistent in how it implements its rent collection and must treat all families living in the rental housing equally in this regard.
 - If the policy allows the recipient certain remedies or sanctions against tenants who do not pay rent, the recipient should use these sanctions/remedies to avoid penalizing tenants who *do* pay rent.
 - At the very least, the recipient should keep records regarding:
 - ⇒ The tenant's monthly rent payment,
 - ⇒ How much and when the tenant paid the rent, and
 - ⇒ Actions taken by the recipient in the event the tenant did not pay rent as scheduled.

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PROPERTY MANAGEMENT

□ In the development of rental housing, the recipient should have or obtain adequate capacity to manage the rental housing stock. Good property management services can help to ensure the long-term physical and financial viability of the rental housing stock, thereby protecting the recipient's investment of precious IHBG funds.

- Property management services can be funded through rents from the rental housing stock itself.

⇒ When planning for the continued management and operation of 1937 Act units, the recipient should ensure the IHP describes how these units will be managed and maintained, and that there are adequate IHBG funds for this purpose.

⇒ If there are sufficient funds to manage the recipient's existing 1937 Act units, but not sufficient funds to manage newly constructed units, the recipient should re-think its plans to develop new rental housing until it has adequate resources for the operation of the new units.

- Recipients can either manage the units themselves or contract with a property management firm.

- Property management consists of the following activities, some of which are described in more detail in subsequent sections below:

⇒ Maintaining 1937 Act units;

⇒ Maintaining properties developed under NAHASDA;

⇒ Selecting tenants;

⇒ Leasing units;

Q: If a new family moves into a 1937 Act unit after October 1, 1997, is their rent payment or Mutual Help payment capped by the NAHASDA 30% rule?

A: For the rental program, leases remain in effect until the lease term expires. At that time, the tribe, TDHE, or Indian Housing Authority (IHA) operate the units under the regulations governing NAHASDA. For homeownership programs, the agreements remain in effect until the contract term expires or modifications may be made to the agreement if these changes are acceptable to both parties.

New families in existing units or families in new units are subject to the 30 percent cap for rental or lease purchase units.

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- ⇒ Collecting rents;
- ⇒ Implementing recipient HUD and other applicable rental housing policies; and
- ⇒ Recordkeeping (property's finances and physical maintenance).

Leasing and Tenant Selection

- ❑ **Leasing.** In accordance with NAHASDA Section 207(a), the recipient must have written leases with all tenants. Chapter 3 provides information on sample uses that the recipient may adapt, required lease provisions, and what the lease may *not* contain.
- ❑ **Tenant Selection.** Tenant selection is discussed in detail in Chapter 3. Below are some of the highlights of that chapter that broadly describe how tenants should be selected for occupancy in rental projects funded wholly or in part with IHBG funds.
 - **Preferences.** Recipients may establish a preference policy in its IHP as long as they ensure that housing activities funded under IHBG are subject to the preference § 1000.120. This means that the recipient may give priority to a certain category of applicant over another, as long as this preference is consistently applied.
 - **Tenant Selection Policies.** In accordance with NAHASDA Section 207(b), the recipient must establish written tenant selection policies.

Maintenance

- ❑ **1937 Act Maintenance.** The Statute states that recipients must maintain their 1937 Act units. In general, it states: “Each recipient who owns or operates (or is responsible for funding any entity that owns or operates) housing developed or operated pursuant to a contract between the Secretary and a recipient pursuant to the U.S. Housing Act of 1937 shall, using amounts of any grants received under this Act, reserve and use for operating assistance under Section 202(1) such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing.”
 - This means that the recipient must take care of existing units that were developed with 1937 Housing Act funds. Recipients may pay for the cost of maintaining and operating 1937 Act units under Section 202(1) of the Statute.
 - Maintaining existing units must be included in the recipient's IHP and the recipient should allocate adequate funding to maintain these units in accordance with NAHASDA and the related applicable regulations.

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- The recipient's responsibilities for maintaining its rental units are described as follows:
 - ⇒ Maintenance and repairs when tenants do not cause the damage;
 - ⇒ Damages caused by the tenant are to be repaired by the tenant at their own expense;
 - ⇒ If, however, the tenant fails to make such required repairs, the recipient must see that the repairs are made and the costs billed to the tenant; and
 - ⇒ Failure of the tenant to pay such repair bills may be grounds for termination of their Dwelling Lease.
 - Failure to maintain 1937 Housing Act units may result in sanctions authorized under Section 401 of NAHASDA and § 1000.532. Section 102(b)(2)(A) of NAHASDA requires that recipients identify, and the manner in which it will protect and maintain, the viability of its owned and operated housing inventory which was developed under a contract between HUD and a TDHE pursuant to the U.S. Housing Act of 1937.
- Maintenance of Units Developed Under NAHASDA.** Section 202 (4) of NAHASDA states the costs of operation and maintenance of units development with IHBG funds is an eligible activity. The recipient is responsible, under NAHASDA, to maintain its owned and managed units.
- Recipients are required to maintain adequate insurance coverage for housing units owned or operated or assisted with IHBG grant amounts.
 - The recipient's governing board is responsible for adopting maintenance policies and monitoring the recipient. The recipient's executive director is usually responsible for developing maintenance policies and procedures for review and adoption by the Board, and for implementing the policies and procedures as adopted.
 - For a detailed discussion of maintenance policies and procedures, maintenance budgets, and the components of a good maintenance program, see Chapter 15.
- Inspection of Units.** NAHASDA requires that the recipient conduct the following inspections of rental units to ensure that the work performed and/or condition of the housing unit meets the recipient's performance standards.
- Initial inspections by the recipient must be performed on all units constructed, acquired or rehabilitated with IHBG fund.

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- Recurring inspections must be performed on all rental units constructed, acquired or rehabilitated with IHBG funds that are (1) owned by the recipient or (2) not owned by the recipient but for which the recipient has an ongoing responsibility to perform maintenance.
 - ⇒ These inspections may be conducted more or less frequently than annually depending on the recipient’s policies.
 - ⇒ The requirement for recurring inspections ends when the unit exceeds its useful life as defined under § 1000.142.
- See PIH Notice 2012-37 “*Recipient Inspection of Housing Units Assisted under the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) and Those Assisted Under the United States Housing Act of 1937*” for additional information on inspections.

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CHAPTER 6: PROGRAM OPTIONS — HOME PURCHASE ASSISTANCE

This chapter covers program options available to IHBG recipients related to home purchase assistance programs. It covers:

- *Statutory and regulatory guidance and restrictions;*
- *A summary of eligible home purchase assistance options under NAHASDA*
- *Program design options such as lease purchase, downpayment assistance and the development and sale of housing.*

This chapter addresses the following statutory and regulatory citations:

- *Section 202 of NAHASDA.*

INTRODUCTION

Indian Housing Block Grant (IHBG) funds can be used for programs that help eligible homebuyers purchase a home. Under home purchase programs, a person or a family generally receives financing, obtains the title, and becomes responsible for maintaining the property and making mortgage payments for the property. Such programs are generally designed in one of two ways. The recipient can provide direct assistance to the homebuyer to help them purchase a home. Or the recipient can develop the home and sell it to the family at an affordable price. Lease-purchase programs, in which a family rents a unit while making payments towards a fund to help eventually own the home, is another model for a home purchase assistance program.

In designing their home purchase assistance programs, recipients must be mindful of statutory and regulatory requirements as well as the local conditions that create barriers to homeownership. This chapter discusses these requirements and some of the choices the recipient can make to develop a strong effective program.

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APPROACHES TO HOMEOWNERSHIP

❑ There are several ways to provide homeownership opportunities to families. As described below, these include direct assistance to homebuyers for the purchase of an existing home, acquisition and rehabilitation assistance, the development of affordable homeownership units, and lease purchase.

❑ **Direct assistance** to homebuyers may involve simple acquisition or acquisition and rehabilitation.

- Acquisition of existing, private housing. In markets where there is sufficient housing in good condition but units are beyond the reach of low income families, the recipient can provide direct assistance to help make the purchase feasible. This may include downpayment or closing cost assistance, an interest rate buydown, or other strategies discussed later in this chapter.
- Acquisition and rehabilitation assistance. In areas where there is not sufficient housing in good enough condition for simple direct assistance, the recipient may consider providing acquisition and rehabilitation assistance. Such an approach would allow new homebuyers to bring substandard housing up to code.

⇒ Where rehabilitation work is needed the property should be free from any defects that pose a danger to the health or safety of occupants. The recipient should adopt or develop minimum housing quality standards.

Note

Acquisition with rehabilitation and construction are subject to the Total Development Cost (TDC) limits (§ 1000.156).

❑ **Development of housing.** In markets where there is not enough housing for interested purchasers, the recipient or a subrecipient or developer may develop new affordable units or acquire and rehabilitate existing properties.

- The recipient can then sell these to qualified homebuyers at affordable prices. Approaches to development include donating the land or providing assistance to a developer to make the costs of construction more affordable.
- Development might also involve providing the infrastructure needed so that a developer can build a subdivision.

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- The goal of the development approach is to assist the developer (for profit, non-profit, or the tribe) to build housing that can be sold below market. The greater the subsidy to the developer, the lower the sale price should be.
- The recipient could reduce construction cost for the home (which could decrease the sale price of the home) through pre-development grants, low-interest construction loans and/or sweat equity.

□ Lease Purchase.

- Lease purchase programs, such as the old Mutual Help Program, allow families to reside in homes as renters with a certain percentage of their rent credited towards the payment of their home.
 - ⇒ When sufficient funds have been accumulated from these rent credits, the family can assume ownership of the home and begin making monthly mortgage payments.
 - ⇒ For multi-unit structures, families can own shares of cooperatives or condominiums.
 - ⇒ In a lease purchase program, monthly payments for units assisted with IHBG funds cannot exceed 30 percent of a family's adjusted income.
 - For example, if a family's adjusted income is \$1,000; their monthly payment cannot exceed \$300.
 - ⇒ Recipients can choose to establish monthly payments below the 30 percent limit.
 - ⇒ Recipients can elect to include the monthly utility payment in the monthly payment limit.
 - ⇒ In cases where the family is no longer a low-income family, homebuyer monthly payments may exceed 30 percent of adjusted income depending on the recipient's policies.
 - ⇒ Under the Mutual Help Program, the homebuyer payment is as described in the agreement until modifications are made to the agreement that is acceptable to the tribe/TDHE and the family. The modifications must be made in accordance with NAHASDA.
 - ⇒ Non low-income families cannot receive the same benefits provided low income Indian families (§ 1000.110(e)).

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- Purchase of a Mutual Help unit.
 - ⇒ A recipient could assist a family in finalizing the lease purchase through closing cost assistance.
 - ⇒ In addition tribes can assist families in existing lease purchase programs to purchase their homes.

TYPES OF UNITS

- ❑ Homebuyers may purchase almost any kind of dwelling unit under a homebuyer assistance program. Examples include the following.
 - Single family. Single family homes can house one family. They are generally “stick built”, i.e. built from the ground up without the use of prefabricated materials but can be other models, as described below.
 - Duplex, triplex or quad. These are attached dwelling units. They can be individually owned or a family may live in one unit and rent out the other unit(s) to an eligible income family.
 - Manufactured or modular housing. These units that were mostly or totally manufactured elsewhere and can be cost effectively put on a lot.
 - Condominiums. Condominium units are individually owned but have common space that is owned by all residents and maintained through monthly fees.
 - Cooperative housing is housing under common ownership.
 - Mobile homes can be placed on a lot but can be moved.
- ❑ Note: There are no property standards required under NAHASDA for units purchased under these programs. However, recipients may want to consider developing their own property standards for units purchased under the program to help ensure that homebuyers assisted under the program move into homes in good condition.
- ❑ See PIH Notice 2012-37 “*Recipient Inspection of Housing Units Assisted under the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) and Those Assisted Under the United States Housing Act of 1937*” for inspection requirements for constructing, rehabilitating or acquiring units with IHBG funds.

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FORMS OF OWNERSHIP

- ❑ Under NAHASDA there are many forms of land ownership as part of a homebuyer program, including.
 - Leasehold (tribal trust): The land is leased by the tribe, subject to approval by the Bureau of Indian Affairs (BIA), to the family for a minimum of 50 years, but the title of the property ultimately remains with the U.S. government on behalf of the tribe. This is the most common option.
 - Allotted or individual trust: BIA holds the land in trust for the benefit of an individual Native American. The individual may pledge the land as collateral for a mortgage subject to the approval of the BIA.
 - Fee simple title: The family owns the home and land the home stands on. This option is uncommon on reservation areas since BIA holds much of the land in trust for the benefit of a tribe or an individual Native American. However, NAHASDA funds can be used to help families purchase fee simple land in other areas.

THE ELIGIBLE HOMEBUYER

[§ 1000.104, § 1000.110, § 1000.146]

- ❑ Homebuyers must meet the eligibility requirements under NAHASDA (§ 1000.104).
 - This includes low-income families on a reservation or Indian area.
 - Non low-income families may receive assistance in accordance with § 1000.110.
 - ⇒ In such cases, the recipient must document that there is a need for housing the family that cannot reasonably be met without such assistance.
 - ⇒ A recipient may use up to 10 percent of the amount planned for the tribal program year for families whose income falls within 80 to 100 percent of the median income. HUD approval is required if the recipient plans to use more than 10 percent of its annual grant for such families or to assist families with incomes over 100 percent of median income.
 - ⇒ Non low-income families cannot receive the same benefits as low income families unless the recipient has determined this family to be essential to the well-being of

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the Indian families residing in the housing area. See the discussion in the section titled “Homebuyer Payment” for more information.

- ⇒ A non-Indian family may receive housing assistance on a reservation or Indian area if the non-Indian family’s housing needs cannot be reasonably met without such assistance and the recipient determines that the presence of that family on the reservation or Indian area is essential to the well-being of Indian families.
- Homebuyers are not required to remain low-income throughout their term participating in a housing program under NAHASDA (§ 1000.147).
- Such families may continue to participate in the program if the recipient’s admission and occupancy policies authorize such families to continue to receive assistance (including a determination that there is a need for housing for each family that cannot reasonably be met without such assistance)..
 - Depending on the recipient’s admission and occupancy policies, 24 CFR §1000.110(e)(1) may be applicable.
- ⇒ The rent (including homebuyer payments under the lease purchase agreement) to be paid by a non low-income family cannot be less than the following formula but need not exceed the fair market rent or value of the unit.

$$\frac{\text{Income of non low-income family}}{\text{Income of family at 80\% of median income}} \times \text{Rental payment of family at 80\% of median income}$$

FINANCING

To design an effective home purchase assistance program, it helps to understand the types of financing potentially available to homebuyers, sources of funds to be leveraged to support the program and the basics of underwriting. Each of these topics is discussed below.

Types of Financing

- The recipient can provide financing directly to the homebuyer or to the developer of the housing.

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Q: Can TDHEs develop mortgage financing or downpayment programs under NAHASDA?

A: Yes, as long as participants are eligible for the program. These are not model activities.

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Useful financing tools include:

- **Downpayment and closing cost assistance.** For homebuyers who have the steady income to make monthly payments but lack the savings for the upfront costs of buying a home, downpayment and closing cost assistance can be a good option. This assistance can be provided as a grant or deferred loan.
- **Purchase financing.** In this case the recipient provides a loan to the homebuyer to purchase the house, sometimes at a reduced interest rate.
- **Principal reduction.** If a homebuyer has steady income but it is not sufficient to pay the full monthly costs for the home, the recipient may want to reduce the monthly carrying costs by reducing the size of the mortgage on which the buyer must pay monthly interest. Generally, this is done by providing the buyer with a grant or deferred payment loan to reduce the principle amount of the mortgage.
- **Interest rate buydowns.** An alternative to reducing the principle is to reduce the amount of interest paid on the loan. The recipient can achieve this by “buying down” the interest rate (i.e. by providing funds directly to the lender to reduce the interest rate on the borrower’s mortgage).
- **Construction Financing.** The recipient may provide funding to the developer to lower the costs of developing the housing. These savings can then be passed on to eligible buyers. Construction financing usually involves a short term or interim loan to the developer to cover the cost of constructing or rehabilitating a home until the project is complete and the developer can obtain permanent financing.

Sources of Leverage

It is important that recipients seek to further the impact of their IHBG-funded homeownership programs by leveraging with additional resources.

Possible public funding sources include:

- Section 184 Indian Housing Loan Guarantee: This is a HUD guaranteed program where private lenders make loans to Indian families.
- Community Development Financial Institutions: A CDFI is a financial institution whose purpose is community development through the creation of programs and strategies

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designed to meet the needs of low-income communities. CDFIs make loans to entities or individuals unable to get approved by traditional banking institutions.

- State Agencies: States have their own affordable housing programs that might be available to tribes.
- Rural Housing Services (RHS): RHS administers a number of single and multifamily housing programs that are available to tribes, including:
 - ⇒ Section 502 Homeownership Loans, and
 - ⇒ Section 504 Rural Housing Loans and Grants.
- Federal Home Loan Bank: The Federal Home Loan Bank subsidizes the interest on advances and provides direct subsidies to member banks engaged in lending for long term, very-low, low- and moderate-income and affordable housing through its Affordable Housing Program.
- Foundations and Corporate Grants: Hundreds of grants are available from corporations and foundations that, in many cases, could be made available for affordable housing activities.

□ Private sources of funding are also important. Some key sources include:

- Local Private Lending Institutions: While such funding is limited on tribal lands, it is a significant resource that should not be overlooked. This can often be done through the Section 184 Program.
- Freddie Mac and Fannie Mae: Are nationally, Federally-chartered, publicly-traded corporations that purchase mortgages originated by local lending institutions, thereby providing local lenders with more money to invest. Both, as a result, have significant influence on lender motivation and interests. These entities offer programs that enable lenders to offer more affordable lending terms.
- Local Tribal Lenders: A growing number of tribes are establishing their own banks, credit unions or other revolving loan sources for affordable housing programs.
- Owner/Developer Cash: Home purchase downpayments and developers' equity contributions are both important financing sources.

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Chapter 6: Program Options — Home Purchase Assistance

Underwriting

- ❑ Underwriting is a process for determining if the homebuyer has the ability to repay the loan. Recipients developing a purchase program should be familiar with the underwriting process so that they can understand who is an appropriate applicant and how they can best be helped.
- ❑ Loan underwriting for homeowner units typically looks at three factors: willingness of the homebuyer to pay (based on their past credit history), the homebuyer's ability to pay (based on their income and expenses) and their collateral (i.e. the value of their home and their downpayment)
- ❑ **Willingness to Pay.** Methods for determining a borrower's willingness to pay rely on the borrower's past experience paying back credit. One tool is the credit score. Credit scores predict the borrower's likelihood of defaulting on the loan. A credit score is calculated by a mathematical equation that uses information from the borrower's credit report. These scores are based solely on credit information, not employment income and other factors. Heaviest weight is given to the applicant's previous credit performance and total indebtedness. Scores change monthly based on new information from credit bureaus. Sometimes an in-depth check of a borrower's credit history reveals no credit history which means that the borrower has none of the type of credit that is listed by the various credit reporting agencies. In such cases a borrower's rental history or utility history may be used to demonstrate an ability to make long-term ongoing payments on a timely basis.
- ❑ **Ability to pay.** Lenders review a household's income and expenses to understand an applicant's ability to pay the proposed loan payment. They calculate two ratios: the front-end ratio and the back-end ratio. The front-end ratio compares the loan payment (including principle, interest, taxes and insurance) to gross income. The back-end ratio compares the loan payment plus other debt to gross income. Common rules of thumb say that households should spend no more than 28 to 33 percent of their income on housing and no more than 36 to 38 percent on total debt but sometimes more flexible ratios are needed to make the homebuyer program accessible to its target population.
- ❑ **Collateral.** Lenders need to know the true market value of the home they will accept as collateral. They will not lend more for a property than its market value. To determine this value they need an appraisal. Appraisers look at comparable sales to determine the market value of single family residential properties. The size of the borrower's downpayment is related to collateral evaluation. It represents the financial stake that the borrower has invested in the properties and therefore must meet an established percentage of the house's market value.

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ONGOING ISSUES FOR HOMEBUYER ASSISTANCE PROGRAMS

The recipient has a number of ongoing responsibilities with respect to running a homebuyer program. These include taking applications, selecting eligible homebuyers, helping them through the purchase process, servicing the loan, and taking appropriate action if the property is resold. The recipient may do all these activities or may work with partners, such as lenders or nonprofits to perform some of these functions.

Who manages the program?

- ❑ A homeowner program can be managed by the recipient or undertaken in conjunction with a partner as described below.
 - A non-profit: A recipient may team with a not-for-profit organization that will act as a subrecipient and manage the program, screening and selecting applicants, providing counseling and other services.
 - A private lender: A recipient may arrange with a private lender to provide low interest rate loans to eligible applicants.

Application Intake

- ❑ The following are suggested key steps for application intake.
 - The application packet often consists of the following forms:
 - ⇒ Applicant checklist: This describes the items that the applicant must complete and include in the submission of an application. Space is provided for the recipient to include any other required documents they need to process the application.
 - The recipient should include its name, the name of the contact person and a telephone number to enable the prospective applicant to receive assistance in completing the application packet.
 - A copy of the checklist should be signed and returned with the application package.
 - ⇒ Application Form: This provides information on the prospective borrower(s), property information, the requested loan amount and applicant certifications needed to process the application. One copy of the application form must be completed in full and returned with the application package.

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Chapter 6: Program Options — Home Purchase Assistance

Homebuyer Selection

- Tribes have a variety of methods available to them to select homebuyers.
- Each recipient is required to develop a written policy on its selection process (Section 203 (d)).
- Three common selection methods are:
 - “First come, first served”: potential homebuyers are placed on a waiting list and assisted in the order in which they appear on the list.
 - Ranking: Potential homebuyers are ranked for assistance based on mortgage readiness, housing need, income, etc.
 - Lottery: Families are selected at random from a pool of eligible applicants.

Homebuyer Payment and Loan Servicing

- Homebuyer payment [NAHASDA 203, § 1000.124]**. Mortgage payments are not capped by the program. However, when a homebuyer is in a lease-purchase program, the low-income homebuyer payments cannot exceed 30 percent of the family’s adjusted income under NAHASDA.
 - NAHASDA does not require a minimum homebuyer payment; however, a recipient may elect to require a minimum amount be paid.
 - Non low-income homebuyers cannot receive the same level of assistance than low-income homebuyers except when determined essential (§ 1000.110).
 - ⇒ The homebuyer payment for a non low-income family need not exceed the fair market rent or the value of the unit but it cannot be less than (income of the family/income of a family at 80 percent of median income) x (homebuyer payment of family at 80 percent of median income).
 - ⇒ Other assistance, including downpayment assistance to non low-income families cannot exceed (income of the family/income of a family at 80 percent of median income) x (present value of the assistance provided to family at 80 percent of median income).

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- ❑ Loan servicing involves tracking payments, alerting homeowners to late payments, handling the payoff of the mortgage and more. Often this is done by the lender, but if the tribe made the loan, the recipient may be responsible for this function. Whoever services the loan must be mindful of NAHASDA requirements regarding the homebuyer payment.

Resale Restrictions

[NAHASDA 205(a)(2), § 1000.142, § 1000.144]

- ❑ NAHASDA does not impose resale restrictions on homeowner units. However, NAHASDA does require binding commitments where the recipient may impose resale restrictions on homeowner units.
- ❑ However, the affordability period of the unit, through the determination of “useful life” must be designated by the recipient and approved by HUD (§ 1000.142).
- ❑ Recipients have a lot of flexibility in defining “useful life”. They may want to impose resale restrictions based on the useful life of a property in order to ensure that it remains affordable for low-income purchasers.
 - **Example:** A recipient may decide that the useful life of a house is 10 years. The recipient could then decide to require that only low-income families are eligible to purchase the house for 10 years, regardless of how many owners the house has had.
- ❑ A family or household member who takes subsequent ownership of a homeownership unit is not subject to the requirements of binding commitments for remaining useful life of the unit.
- ❑ Mutual Help units developed under the 1937 Act are not subject to the useful life provisions (§ 1000.145).

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Sample Resale Restriction Options

Create another affordable unit

- The recipient may permit a sale of a property with a full or partial repayment of the assistance provided.
- The repayment can be used to assist another homebuyer.

Sell the existing property to a subsequent low-income purchaser

- The subsequent purchaser would have to be low-income and use the home as a primary residence.
- The sale of the property to the new low-income homebuyer would be at a price that allowed for a fair return on the investment, including any improvements, to the seller.

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CHAPTER 7: PROGRAM OPTIONS — HOMEOWNER REHABILITATION

This chapter covers program options available to IHBG recipients related to homeowner rehabilitation programs. It covers:

- *Homeowner rehabilitation program options;*
- *What are eligible types of activities;*
- *What are eligible costs;*
- *Construction management methods;*
- *Rehabilitation of private units and Mutual Help Units;*
and
Housing quality standards.

This chapter addresses the following statutory citations:

⇒ *Section 202 of NAHASDA.*

INTRODUCTION

Native American Housing Assistance and Self-Determination Act (NAHASDA) allows recipients to develop programs that help existing homeowners rehabilitate their homes to bring them into good condition. There are limited requirements regarding these homeowner rehabilitation requirements, leaving recipients significant flexibility in designing rehabilitation projects that meet the needs of its existing homeowners.

This chapter covers the regulatory and statutory requirements as well as some design choices to be considered by recipients for their homeowner rehabilitation program.

TYPES OF REHABILITATION

Recipients have many options on the type of rehabilitation program they can offer, ranging from moderate to substantial, including whole house rehabilitation, selected rehabilitation, emergency repairs, handicapped accessibility; and energy conservation. The only rehabilitation activities that cannot be covered by this type of program are minor repairs and maintenance because the Statute requires that rehabilitation be moderate or substantial.

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Chapter 7: Program Options — Homeowner Rehabilitation

- ❑ **Whole house rehabilitation**, also known as substantial rehab, involves the improvement of most of the main systems and interior structures of the house (i.e., upgrade of floors, interior walls, appliances, windows, etc.).
 - Whole house rehabilitation is most often used where an interior fire has occurred or where a house's major systems are outdated and likely to fail.
 - If the work to be done is extensive, whole house rehabilitation can be very expensive.
 - Tribes should compare the cost of demolition and new construction of a unit to whole house rehabilitation. It is sometimes less expensive to build new rather than to rehabilitate housing to this level. Reconstruction is an eligible activity under NAHASDA and the new unit is not required to be on the same foundation as the old unit.
- ❑ **Selected rehabilitation** – also known as moderate rehabilitation – allows a tribe to target a few features of each home that require repair (i.e., exterior doors, hot water heaters, etc.). Recipients are not required to bring the entire home up to code and, therefore, may select to pay for some substandard items in a moderate rehabilitation project rather than all substandard items in the home.
 - The recipient works with the homeowner to target those specific areas requiring home repair.
 - These types of activities would have formerly been completed under the Comprehensive Grant Program (CGP) or the Comprehensive Improvement Assistance Program (CIAP).
- ❑ **Emergency repairs** include items that jeopardize the safety of a family or the integrity of the home (i.e., a leaky roof, broken windows and doors, etc.).
 - Emergency programs are most often available on a first-come, first-served basis as families experience problems with their home.
 - Usually a recipient would set aside a portion of its Indian Housing Block Grant (IHBG) funds and make these funds available as eligible homeowners apply for assistance.
 - If a recipient chooses to offer an emergency repair program, it must carefully design its program to include an applicant screening process to ensure that it has clearly defined what an emergency repair is.
- ❑ **Accessibility** to persons with disabilities includes improvements to provide physical accessibility for disabled persons.

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- IHBG funds may be used to provide accessibility to persons with disabilities. Improvements may include, but are not limited to,
 - Interior and exterior ramps;
 - Bathroom modifications, such as handrails and modified bathroom hardware;
 - Kitchen modifications, such as height of counters, layout of appliances; and
 - Enlarged doorways and hallways to accommodate wheelchairs.
- Energy conservation** includes items that will make a home more energy efficient (i.e., insulation of pipes and hot water heater).
 - Recipients may set aside a portion of their IHBG funds and accept applications pertaining to this type of assistance.
 - Many states offer energy conservation programs. Recipients may wish to contact their state for ideas about program design and about effective energy conservation activities for their climate.

TYPES OF UNITS

NAHASDA allows recipients to provide homeowner rehabilitation assistance to units that were not originally constructed or purchased with IHBG funds such as units previously funded through Mutual Help and Homeownership Improvement Program (HIP).

Mutual Help Units

[NAHASDA Sections 202(1) and 202(2)]

- Mutual Help units are considered part of the tribe's or TDHE's housing stock and Mutual Help homebuyers may receive IHBG assistance to rehabilitate their home depending on the recipient's Indian Housing Plan and policies.
- Recipients may provide any type of rehabilitation assistance permitted by NAHASDA and the Mutual Help and Occupancy Agreement (MHOA) between the housing authority and homebuyer.
- The recipient may also provide rehabilitation assistance to homeowners where Mutual Help units have been conveyed, as long as these homeowners are eligible participants and the recipient makes this assistance available.

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Homeownership Improvement Program (HIP)

- HIP units are also considered part of the tribe's housing stock (but not for formula purpose) and recipients may provide assistance to these families to further rehabilitate their homes.
- Recipients may provide any type of rehabilitation assistance permitted by NAHASDA and HIP.

Private

- Homeowner rehabilitation activities can be done for homeowners who purchased their homes through private financing.
- Recipients may provide any type of rehabilitation assistance permitted by NAHASDA as long as these homeowners are eligible participants.

Eligible Costs

[NAHASDA Sections 202(2) and 202(3)]

- The recipient can use IHBG funds to cover the following rehabilitation costs in their homes:
 - Make general property improvements such as roof or window replacement, or other improvements to bring the home up to existing codes or otherwise bring the home into acceptable condition.
 - Restore a unit to the tribe's housing standards, including the removal of any lead-based paint hazards.
 - Conduct environmental reviews and increase energy efficiency for example replacing old windows and siding and installing better insulation.
 - Replace heating/ventilation, septic, plumbing or other home systems.
 - Allow utility connections.
 - Make a unit handicapped accessible by installing ramps, widening entryways, and other measures to improve accessibility.
- There are nine key areas of rehabilitation work:
 - Foundation structural integrity;

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Chapter 7: Program Options — Homeowner Rehabilitation

- Outside walls and windows;
 - Roofs;
 - Porches and steps;
 - Electric wiring;
 - Plumbing systems;
 - Heating facilities;
 - Kitchen facilities; and
 - Inside floors, walls and ceilings.
- In addition to the property construction costs listed above, the recipient may use the funds for the payment of services provided by third parties, such as lenders, architects or engineers that are involved in the rehabilitation program.
- The fees for these services are called “soft costs” and include:
 - ⇒ Marketing,
 - ⇒ Architectural, engineering, inspection services or related professional services associated with preparing work specifications, and
 - ⇒ Processing and financing fees, such as costs for building permits, private credit reports and loan origination fees, and fees for attorneys, appraisers, etc.
- Recipients must determine which specific types of rehabilitation costs it will cover. Costs should be consistent with the NAHASDA regulations and tribe’s housing quality standards and regulations.
- The amount of construction funds that can be spent per unit is limited by HUD determined “Total Development Costs” (TDC). Please refer to Chapter 11 for information on TDCs.

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FINANCING

Assistance limits

- A recipient should set the criteria for the assistance it will provide based on its assessment of the existing housing stock.
- Although NAHASDA does not require a recipient to set a minimum or maximum limit on assistance, the recipient may elect to set a cap on the amount of assistance one family will receive.
 - A recipient can decide whether to serve many families with little assistance or fewer families with full assistance.
 - There is a cap on total costs allowable for a home. See the discussion of TDCs in Chapter 11.
- With a cap on assistance, some families may not receive all the assistance they would like. However, the cap can help ensure that more families are assisted.
 - Ideally a cap will be established that allows a home to be fully brought up to the recipient's housing quality standards.
 - Recipients may elect to set a minimum cap to ensure that the funds are targeted toward more needy families.

Types of Assistance

- Homeowner rehabilitation assistance can be provided as:
 - Grants
 - ⇒ Grants are provided with no requirement or expectation of repayment.
 - Loans
 - ⇒ Interest-bearing loans require repayment on a regular basis, usually monthly, so over time all of the interest and principal is repaid.
 - Loans may have interest rates at or below the market rate.

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Chapter 7: Program Options — Homeowner Rehabilitation

- The property or some other asset is generally used as collateral.
 - The term of the loan may vary. A term of 10 to 15 years is common for rehabilitation.
- ⇒ Non-interest bearing loans require that the principal is paid back on a regular basis over time; no interest is charged.
- The property or other assets are generally used as collateral.
 - This type of loan is made when a borrower is able to make regular payments but not able to afford even a small amount of interest.
- ⇒ Deferred Payment Loans
- Deferred loans postpone some of the principal and interest payments until some point in the future. Deferred loans can be structured in many ways.
 - These loans can be forgivable or repayable.
 - If repayable, repayment may be required at sale or transfer of the property, or at the end of a fixed period in time.
 - Property or other assets are often required as collateral.

Leverage

IHBG recipients may use a range of other financing mechanisms to leverage their IHBG funds.

- ❑ **Indian Community Development Block Grant:** The ICDBG Program provides eligible grantees with direct grants for use in developing viable Indian and Alaska Native Communities, including decent housing, a suitable living environment, and economic opportunities, primarily for low and moderate income persons.
- ❑ **Title VI Loan Guarantee:** The purpose of the Title VI loan guarantee is to assist [Indian Housing Block Grant \(IHBG\)](#) recipients (borrowers) who want to finance eligible affordable housing activities, but are unable to secure financing without the assistance of a federal guarantee. (A federal guarantee is a pledge by the U.S. Government to repay all or a portion of the unpaid principal balance and accrued interest for an obligation by a borrower to a lender after a default under the terms of the repayment agreement.)

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Chapter 7: Program Options — Homeowner Rehabilitation

The borrower leverages IHBG funds to finance affordable housing activities today by pledging future grant funds as security for repayment of the guarantee obligation. A private lender or investor provides the financing and HUD provides the guarantee to the lender or investor.

The borrower repays the obligation. However, when if a borrower fails to repay the debt and a default is declared, HUD repays the obligation and will seek reimbursement from the borrower's future IHBG grant funds.

- ❑ **Section 184:** This is a HUD guaranteed program where private lenders make loans to Indian families. Congress established the Section 184 Indian Housing Loan Guarantee Program in 1994. The program is designed to offer home ownership, property rehabilitation, and new construction opportunities for eligible tribes, TDHEs and Native American individuals and families wanting to own a home. The 184 program offers a loan guarantee to private sector lenders who make mortgage loans to eligible borrowers for homes located in Indian Country.

- ❑ **Rural Development (RD) Section 504 Direct Loans/Grants:** Rural Development (RD) Section 504 Direct Loans/Grants, also known as Rural Housing Repair and Rehabilitation Loans, are funded directly by RD to assist very low-income rural residents who own and occupy a dwelling in need of repairs. This loan only charges **a 1 percent interest rate and may be repaid over a 20-year period**. Grants are only available to homeowners who are 62 years old and older and cannot repay a Section 504 loan. Funds are available for repairs:
 - To improve or modernize a home and
 - To remove health and safety hazards.

- ❑ **State HOME Program:** HUD's Office of Community Development Programs provides states with a formula grant to enable them to carry out housing assistance activities. HOME funds may be used to support a wide range of activities necessary to produce decent, affordable rental and homeownership housing, as well as transitional or permanent housing for people who are homeless. HOME program activities may include, but are not limited to, new construction, rehabilitation and acquisition of affordable housing. States may elect to fund tribes through their State HOME program application processes. Alternately, tribal nonprofits can form organizations that qualify as Community Housing Development Organizations (CHDOs) and these CHDOs may apply to the state for assistance. See your state's consolidated plan to learn about their HOME program.

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- ❑ **Rural Housing Site Loans (Sections 523 and 524):** Rural Housing Service has a number of financing options available including Rural Housing Site Loans, which are designed to provide financing for the purchase and development of affordable housing sites in rural areas for low- and moderate-income families. These loans are made to acquire and develop sites for housing to be constructed by the self-help method, or for site development to build a home for any low- or moderate-income family. Eligible organizations include non-profit organizations, public bodies and Federally-recognized Indian groups.

- ❑ **HIP:** Established by the Bureau of Indian Affairs (BIA), under 25 CFR 256. The purpose of this program is to provide assistance to needy families living on, or near, a reservation who have limited resources and do not qualify for other housing programs. The program is for the repair and renovation of existing housing.

There are different levels of assistance available under HIP. The following is a chart indicating which services are available for different types of assistance.

| Type of Assistance | What it provides | Where to find information |
|--------------------|--|-----------------------------|
| Category A | Up to \$2,500 in safety or sanitation repairs to the dwelling in which you live, which will remain substandard. Can be provided more than once, but for not more than one dwelling and the total assistance cannot exceed \$2,500. | Sec. 256.8 |
| Category B | Up to \$35,000 in repairs and renovation, which will bring your dwelling to Standard Housing condition, as defined in Sec. 256.2. Can only be provided once. | Sec. 256.9 |
| Category C | A modest dwelling that meets the criteria in Sec. 256.11; and the definition of Standard Housing in Sec. 256.2; and whose costs are determined by and limited to the criteria in 256.17(b). Can only be provided once. | Sec. 256.10 and Sec. 256.11 |

Regardless of the assistance provided, a recipient can choose to finance part of the rehabilitation cost, or it may structure its assistance to be used in combination with other financing.

If the recipient is financing all of the cost of rehabilitation, a grant or deferred payment loan is necessary to provide the deep subsidy required by very low-income participants of homebuyer/homeowner rehabilitation programs.

In some cases, a low-interest loan may be affordable or more appropriate.

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Chapter 7: Program Options — Homeowner Rehabilitation

The recipient may choose to use IHBG funds as a grant or deferred payment loan to “write down” the principal amount of a private loan, thus making the monthly loan payment affordable to the homeowner.

Underwriting

- The recipient’s homeowner rehabilitation program should be designed and financed to make the most of the resources while providing assistance to the targeted applicants. Underwriting is the process by which a recipient and possibly a lender review the completed loan application to determine whether or not to approve the loan request. The result is the determination of how large a rehabilitation loan the lender may be willing to provide, if any, and how much IHBG assistance and other gap financing will be needed.
- A recipient will need to compare a homeowner’s monthly income (family wages/salaries, tribal land payment, welfare, unemployment/disability, dividends and interest) with monthly housing expenses and/or total monthly debt to measure whether the homeowner/homebuyer can afford the additional monthly debt.
- When examining income, staff should ask:
 - How much income does the family receive monthly?
 - What is the source of income?
 - Does the income arrive regularly?
 - What are the families’ reasonable expenses?
 - A homeowner rehab program will operate more efficiently if partners (recipients and lenders) establish mutually acceptable underwriting criteria. If everyone knows what is “bankable” then time will not be wasted packaging and referring borrowers who are unlikely to receive loan approval. Factors to specify clearly include debt-to-income ratios, loan-to-value ratios, and credit benchmarks.
 - A homeowner rehab program will operate more efficiently if partners (recipients and lenders) establish mutually acceptable underwriting criteria. If everyone knows what is “bankable” then time will not be wasted packaging and referring borrowers who are unlikely to receive loan approval. Factors to specify clearly include debt-to-income ratios, loan-to-value ratios, and credit benchmarks.

NOTES

CONSTRUCTION OPTIONS

- There are three types of construction management methods which recipients can use to aid in the effectiveness and efficiency of the rehabilitation programs. These are:
 - Force Account,
 - Selected Contractor, and
 - Sweat Equity.

Force Account Method

- Under the force account method, the recipient performs most of the rehabilitation work itself. The recipient hires its own workers and provides the equipment and materials. The recipient is also responsible for overseeing all of the work, controlling costs, and ensuring that quality guidelines and time schedules are met.
- The force account method has several advantages:
 - Better work quality at reduced costs since the recipient controls the program.
 - By employing tribal members in construction work, job skills are improved and the tribe's economic base is broadened.
- If not managed properly, there is risk of cost over-runs, delays and poor construction quality. If such problems occur, the recipient must assume responsibility for correcting the problems, since it is serving as its own contractor.
- Recipients should consider the force account if they have, or can, hire staff with construction experience or have a large enough program to justify the necessary investments in equipment and staff.

Example: A recipient providing homeowner rehabilitation who wanted to develop the construction skills in local tribal members could give them the opportunity to work on the construction crew as employees of recipient. The tribal members hired by the recipient and supervised by construction experts would learn job skills related to construction, such as drywall and bricklaying. The more complicated and/or health and safety-related tasks would be carried out by professional contractors hired by the recipient.

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Chapter 7: Program Options — Homeowner Rehabilitation

Contractor

- The recipient may decide to hire a contractor rather than perform the rehabilitation work itself. In this case, the recipient must decide who will hire the contractor.
- Using private contractors has many advantages:
 - The responsibility for cost control, quality control and meeting time schedules rests with the contractor; the tribe is protected from cost over-runs on its contract.
 - Tribes can select contractors with the specific skills needed for the particular rehabilitation.
 - Contractors will provide records that help the tribe monitor and allocate costs.
 - The tribe does not have to purchase equipment or maintain a warehouse or inventory of materials.
- If the recipient elects to select the general contractor, it must follow the Indian preference requirements outlined under NAHASDA (§ 1000.48) or, if applicable under section 101(k) of NAHASDA, tribal preference in employment and contracting, and Procurement standards at § 85.36.
- The recipient may allow the homeowner to select a contractor. The level of guidance the recipient will provide the homeowner depends on the homeowner's level of experience regarding this responsibility. Allowing the homeowner to select the contractor has several advantages:
 - A recipient uses less staff time and saves program funds. Example: advertisements for requesting bids can be costly and time-consuming for the recipient to prepare.
 - This option generally expands the number of contractors participating in the program since the selection and review process is very similar to private transactions.
 - Most importantly, it encourages the owner to become involved in the process and accept responsibility for the choice of the contractor. Homeowners who are involved in this

The recipient may choose to allow the homebuyer to select the contractor.

- In which case the recipient may require that the homebuyer follow certain guidelines, such as hire a bonded contractor.
- The recipient may choose to procure a contractor itself, in which case, the recipient must follow the procurement process.

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Chapter 7: Program Options — Homeowner Rehabilitation

process often find that they gain the ability “to fend for themselves” during the rehabilitation process.

Sweat Equity

- In a sweat equity program, the homeowners do the construction work themselves. Few programs will depend on sweat equity alone, since this would only be feasible if minor repairs were required or if the homeowners were sufficiently skilled to perform the necessary work. Sweat equity has the following advantages:
 - Reduces costs since the family provides the labor in return for the improvements rather than for wages.
 - Homeowners gain a personal pride in their work and homes.
 - Homeowners gain valuable experience and job skills.
- If not managed carefully, sweat equity can result in poor quality work, delays in completion and inappropriate work methods.
- Sweat equity requires adequate supervision and technical assistance; these costs must be balanced against the potential benefits.

Example: A recipient may elect to combine sweat equity with the work of a contractor to decrease the cost of a moderate rehabilitation program. For example, if the home exterior to be repainted and the hot water heater needs to be replaced, rather than hire a contractor to provide both the services, the family could provide the labor for painting the home, and a contractor could be hired to replace the hot water heater. This would decrease the cost of the repairs substantially, and provide the homeowners with work experience and pride in their work and their homes.

HOUSING QUALITY

Rehabilitation Standards

- NAHASDA does not impose any specific level of rehabilitation standards.

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Chapter 7: Program Options — Homeowner Rehabilitation

The recipient may elect to:

- Use HUD's Housing Quality Standards (HQS) as the standard for decent, safe and sanitary conditions for its rehabilitation program. Copies of the HQS short and long forms 52580 and 52580a can be found at

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/hud5

The long form provides more detailed direction on items to look for. You may want to use this form rather than the short form if you are not experienced in this area. Although not required, you may find these forms helpful.

- Write its own rehabilitation standards, or
- Use a National Code such as the one from the Council of American Building Officials (CABO) or the Uniform Building Code (UBC).

Rehabilitation Standards can be established to:

- (1) require all non-conforming items to be corrected at each property being rehabilitated;
- (2) create a priority repair system requires the most serious problems be corrected first; or
- (3) modify existing local codes.

- Rehabilitation standards influence the amount of IHBG funds needed to rehabilitate a property. The higher the standards, the more funds needed to rehabilitate the property to meet those standards.
- **For example:** a standard which requires all existing windows to be replaced with more energy-efficient windows will require significantly greater expenditures than a standard which requires that all windows be free of cracks, properly glazed and operational.
- It is important to compare the existing housing stock with the rehabilitation standards that have been adopted to estimate the average rehabilitation cost in relation to the amount allocated to the program and the owner's ability to pay.

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Chapter 7: Program Options — Homeowner Rehabilitation

Unit Inspections

- Unit inspections made prior to rehabilitation are required under NAHASDA and are the best way to assess the needs of the homeowner.
- During the inspection, the rehabilitation specialist should:
 - Visit the property and identify deficiencies that need to be corrected to bring the property up to the recipient's housing standards, and
 - Review the inspection findings with the homeowner to discuss whether the deficiencies, as well as any improvements requested by the homeowner, can be corrected within the budget limits established in the program design.
- Recurring inspections are not required of owner-occupied units that receive NAHASDA assistance.
- Post-construction unit inspections are not required under NAHASDA, but are the best way to assess that the work has been completed as expected.
- See PIH Notice 2012-37 "*Recipient Inspection of Housing Units Assisted under the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) and Those Assisted Under the United States Housing Act of 1937*" for information on inspections.

Work Write-up and Cost Estimate

- Work write-ups serve as directions to contractors for the work that is being requested. The write-up should be very detailed, clear and complete.
- Once the scope of work is developed, the costs can be estimated. In rehabilitation projects, costs and construction needs must be carefully estimated.
- A recipient should have the following to accurately estimate costs:
 - Cost data base with up-to-date and reliable cost estimates, and
 - Detailed cost estimates which include all labor, material and equipment necessary to complete the project.

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The work write-up should answer the following:

- What work will be done?
- How will it be constructed?
- Where will the work be installed?
- What materials will be installed?
- How much material will be installed?
- What standards of workmanship will be used?
- Who will do the work?

USEFUL LIFE REQUIREMENTS

- Useful Life requirements are applicable to:
 - Section 205(a)(2) of NAHASDA requires that housing units remain affordable for either:
 - (1) The remaining useful life of the property (as determined by the Secretary) or
 - (2) A period of time that the Secretary determines is the longest feasible period of time.
- Useful life estimate should be based upon a physical inspection of the property by someone knowledgeable in construction and the conditions of the location.
- Useful life requirements are applicable when housing units are rehabilitated using IHBG funds. Provisions apply to:
 - All housing assisted with IHBG funds except for Mutual Help homes developed under the U.S. Housing Act of 1937 (see § 1000.144).
 - Title VI Loan Guarantee Program, except Section 184 loans unless IHBG funds are involved in the purchase of the property.
- Affordability must be secured through binding commitments.
 - See Program Guidance 2014-09(R) “*Useful Life and Binding Commitments*” for sample Useful Life/Use Restriction Agreements for Use on Trust Land and on Fee Land.
- A description of the recipient’s plan or system for determining the useful life of the housing it assists with IHBG funds shall be provided in the IHP.

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- This information should be provided in Section 6 - Other Submissions, 1 - Useful Life.
 - A record of the current, specific useful life for each individual property assisted with IHBG funds should be maintained in the recipient's files and available for review.
- Reference Program Guidance 2014-09(R) "*Useful Life and Binding Commitments*" for information on useful life requirements.

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CHAPTER 8: PROGRAM OPTIONS — HOUSING SERVICES, HOUSING MANAGEMENT SERVICES, AND CRIME PREVENTION

This chapter covers program options available to IHBG recipients related to housing services, housing management services, crime prevention, and model activities and includes:

- *Statutory and regulatory guidance and restrictions;*
- *Key relevant terms and definitions;*
- *A summary of eligible activities under NAHASDA;*
- *Program delivery options; and*
- *Other sources of funding, including ICDBG.*

This chapter addresses the following statutory and regulatory citations:

Section 202(3), 202(4), 202(5), 202(6), 202(7), and 202(9) of NAHASDA and 24 CFR 100.102.

Recipients of Indian Housing Block Grant (IHBG) funds can provide a wide array of housing-related services. These activities range from the actual acquisition, rehabilitation and construction of units (discussed in Chapters 5, 6, and 7) to the housing services we will discuss in this chapter.

The four general types of eligible activities we will discuss in this chapter include:

- Housing Services – Section 202(3);** the provision of services related to affordable housing such as housing counseling.
- Housing Management Services – Section 202(4);** activities related to undertaking affordable housing activities such as work specifications, loan processing, and inspections.
- Crime Prevention and Safety Activities – Section 202(5);** activities related to the safety, security and law enforcement of affordable housing and its residents.

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- Model Activities – Section 202(6)**; housing activities that are within the goal of the affordable housing but not explicitly listed in the Statute such as development of a community facilities for the use of affordable housing residents.

A key point to understand is the difference between **housing services** and **housing management services**. As described above, housing services under NAHASDA are defined as those services that are provided directly to individual or groups of affordable housing residents.

In contrast, housing management services are related to the implementation of affordable housing programs. These costs are incurred by the recipient and are not typically related to services for one particular household.

TIE TO AFFORDABLE HOUSING

As mentioned in Chapter 1, both the NAHASDA statute and the regulations clearly state that in order for any housing service activity to be eligible, it must be related in some fashion to affordable housing.

Remember

Any activity that is unrelated to affordable housing is not considered eligible under NAHASDA.

For any activities or services that the recipient provides that are not housing-related, the costs of providing those activities or services must be pro-rated. The percentage of costs that can be considered eligible under NAHASDA can be determined by their use for affordable housing activities and use by participants of 1937 Act and NAHASDA housing. See PIH Notice 2011-40 “*Limiting Housing to Indian Families or Tribal Members when using Indian Housing Block Grant (IHBG) funds*” and Chapter 5 for more information on pro-rating.

OVERVIEW OF ELIGIBLE TYPES OF HOUSING SERVICES

[NAHASDA Section 202(3)]

There are many types of activities that are permitted under the housing services category, including:

- Housing counseling in connection with rental or homeownership assistance;
- Establishment and support of resident organizations and resident management corporations;

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- Energy auditing;

Example: Assume that a NAHASDA-assisted unit in Alaska is receiving unusually high heating bills. An energy audit would look for the causes of such high bills, such as leaks between the windows and window frames.

- Individual Development Account (IDA);
- Self-sufficiency activities, such as child care costs for residents, or job placement and training for residents;

Note: This can consist of subsidies to residents of affordable housing or operating costs of a facility (but not construction or rehabilitation of a facility) for residents of affordable housing.

- Homelessness prevention activities;
- Security deposits and/or first month's rent to permit a family to move into an apartment;
- Payments to prevent foreclosure;
- Tenant-based rental assistance (TBRA) and project-based rental assistance (PBRA) payments, including those for college students;
- Youth activities for residents of affordable housing, which include youth sports, drug abuse educational programs, or Boys and Girls Clubs; and
- Other services related to assisting owners, tenants, contractors and other entities that participate in the program.

Q: Is van service for the elderly an eligible activity?

A: The answer depends upon the purpose of the service. If the service is for low-income, elderly residents of affordable housing, then the tribe must determine whether the activity is linked to that housing (such as for homebuyer counseling or to TDHE classes or events). If the van will also be used for non-related activities – such as sightseeing or medical – then the costs would be pro-rated.

The following sections describe some of the possible activities and program design options under this statutory section.

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□ Housing Counseling

The establishment and day-to-day operations of a housing counseling program is one of the major categories of eligible housing service programs under NAHASDA. Housing counseling in its most common forms is:

- A training program that informs families about the steps they need to take to prepare themselves for the financial obligations and responsibilities of home ownership,
- Commonly presented in a group setting, and
- Features one-on-one appointments between families and a housing counselor, making the counseling personal and specific to each family.

The goals of housing counseling are generally to:

- Increase home ownership opportunities for low income families,
- Foster the development of life skills such as household budgeting, financial management and home maintenance, and
- Provide a case management approach to serve clients in which both housing and non-housing needs are addressed through a comprehensive community resource network.

Q: Can a tribe/TDHE provide housing service activities under 202(3), i.e., counseling or utility programs using IHBG funds for all low-income families residing in their Indian area?

A: IHBG funds may be used only for affordable housing activities. Listed in Section 202(3)(4) and (5) are various types of housing services. These activities are limited to affordable housing which is current assisted stock developed under the 1937 Housing Act (Section 202(1)) and housing acquired, constructed or rehabilitated under NAHASDA (Section 202(2)) and housing that meets the requirements of Title II of NAHASDA. These types of activities are eligible only to the extent that the assistance or service is provided to families living in affordable housing as defined above.

Q: Can housing counseling be provided to low-income families who are not residents of affordable housing?

A: The answer depends on whether this is a part of a tribe's program for new occupants of affordable housing. If the family is getting counseling and then will buy or rent an affordable housing unit under NAHASDA, then the counseling is an eligible activity. However, a general housing counseling program would not be an eligible NAHASDA expense.

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While no two housing counseling programs are ever exactly the same, many rely on certain common elements to achieve their goals. Some of these elements include:

- Outreach;
- Orientation;
- Prequalifying and family assessment;
- Formal classes for tenants and homebuyers;
- One-on-One Counseling;
- Tracking and evaluation;
- Comprehensive homebuyer education, including information on
 - ⇒ Affordability;
 - ⇒ Credit counseling;
 - ⇒ Debt management;
 - ⇒ Budgeting; and
 - ⇒ Loan application process for home purchase and improvement.
- Home selection process;
- Acquiring a homesite on trust land;
- Mortgage application;
- Loan processing;
- Post-purchase services, including:
- Homeowner education on maintenance and repairs;

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- Early delinquency intervention and prevention system; and
- Insurance and record-keeping assistance.

Homeownership counseling programs are common when NAHASDA is used in conjunction with tribal or Federal loan guarantee or downpayment assistance programs. In addition, housing counselors often assist families in determining what sort of loan package (i.e. Section 184 Loan Guarantee, Rural Development 502 and 504 loans, FHA 248 loans, VA loans, conventional loans) may be best suited to their needs.

Resident Activities and Self Sufficiency Services

The establishment and day-to-day operations of resident activities and services programs are also an eligible activity under NAHASDA. Examples of this sort of program include:

- **Jobs Programs.** Although economic development activities are not considered eligible under NAHASDA, those job programs that occur in conjunction with housing construction or rehabilitation programs are considered eligible.
- **Educational Programs.** The recipient could offer a number of courses for residents of affordable housing. These could include reading and computer literacy courses or literacy and reading courses.
- **Youth activities** for residents of affordable housing that might help to reduce or eliminate the use of drugs are also eligible programs. Activities that can be funded with IHBG funds include:
 - ⇒ Salaries and expenses for staff for youth sports or other youth programs;
 - ⇒ Development and operation of educational programs relating to drug abuse;
 - ⇒ Establishment and operation of Boys and Girls Clubs; and
 - ⇒ Sports and recreation equipment.

TBRA and PBRA Services

The establishment of TBRA and PBRA programs are eligible activities under NAHASDA.

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TBRA is a rental subsidy that recipients can use to help individual households afford housing costs such as:

- Rent;
- Utility costs;
- Security deposits; and
- Utility deposits.

There are many types of TBRA programs. The most common type provides payments to make up the difference between the amount that a household can afford to pay for housing and local rent standards. Other TBRA programs help tenants pay for costs associated with their housing such as security and utility deposits.

Some common advantages to establishing a TBRA program include:

- Flexibility to Households. TBRA offers households the opportunity to choose its neighborhood as well as type of housing.
- Flexibility to Recipients. A TBRA program offers recipients a way to meet a fluctuating demand for housing. A recipient may elect to provide TBRA assistance to as many or as few families as it chooses.
- Cost-effectiveness. In communities where large public subsidies are needed to spur the new construction or rehabilitation of units, TBRA may be less expensive than using IHBG for rehabilitation or new construction.
- Risk Avoidance. TBRA poses no long-term financial obligation to the recipient. Recipients can terminate the assistance if the tenant fails to meet program requirements.

When designing a TBRA program a recipient may elect to serve the general objective of making housing more affordable for a wide range of low-income families or may elect to focus on a special purpose such as:

- Self-sufficiency programs. Recipients may require families to participate in a job training program as a condition of rental assistance.

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- Homebuyer programs.** Recipients may elect to assist potential homebuyers by providing monthly lease purchase or utility payment assistance.
- Targeted population programs.** Recipients may select preferences for special needs groups and design a program that exclusively serves a special group, such as the persons with disabilities.

PBRA is a rental subsidy that enables property owners to offer affordable housing to eligible low-income households. The subsidy is tied to the property and is used to reduce the rent payments made by eligible tenant households in assisted units. TBRA and PBRA are different!

- TBRA programs help individual households. PBRA programs subsidize particular rental projects.
- TBRA moves with the tenant. If the household no longer wishes to rent a particular unit, the household may take its TBRA and move to another rental unit. PBRA stays with the unit. If the household no longer wishes to rent a particular unit and vacates, the assistance remains with the unit and the new tenant that moves in must be income eligible.

ELIGIBLE TYPES OF HOUSING MANAGEMENT SERVICES

[NAHASDA Section 202(4)]

As noted above, activities under the housing management services category are related to the development and management of units. Examples of affordable housing management services include:

- Application Intake.** Activities include assisting clients in obtaining and completing the necessary forms required by various programs.
- Preparation of work specifications.** Activities include detail work write ups to obtain a cost estimate from a subcontractor who will be building a NAHASDA rental unit;
- Loan processing.** Activities include assisting a homebuyer to obtain a mortgage to purchase a home;
- Inspections:** Activities include reviewing property standards of a homeowner rehabilitation project;
- Tenant selection:** Activities include properly selecting tenants to ensure the beneficiaries of the recipient's activities are the families the recipient wants to assist;

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- Mediation programs for landlord-tenant disputes for affordable housing:** Activities include assisting landlords and tenants to come to an agreement over an issue; and
- Management of TBRA:** Activities include ensuring that occupancy requirements are met.

Note that in some cases, some activities can be charged either to this category or as part of the development cost under Section 202(2). For example, preparation of work specifications could be charged as a housing management item or as a part of the development cost for that project.

ELIGIBLE TYPES OF CRIME PREVENTION AND COMMUNITY SAFETY SERVICES

[NAHASDA Section 202(5)]

Recipients can use their IHBG funds for activities that are related to crime prevention and ensure the continued safety of those families living in affordable housing developments. Remember that these services must be related to affordable housing residents.

- Examples of eligible crime prevention and community safety programs include physical improvements and services related to crime prevention.
- Eligible **physical improvements** for affordable housing to enhance security and otherwise prevent crime include:
 - Fencing;
 - Speed bumps;
 - Monitors; and
 - Locks.
- Services** related to crime prevention include:
 - Employment of security personnel for affordable housing; and
 - Equipment for law enforcement activities for affordable housing residents.

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ELIGIBLE TYPES OF COMMUNITY FACILITIES

[NAHASDA Section 202(6)]

The construction and rehabilitation of some community facilities can be an eligible activity under NAHASDA. They are considered model activities under NAHASDA and can be submitted at any time. As with all eligible housing service programs, community facilities must support or be related to affordable housing.

- The construction of any community facility is an expensive undertaking. As a result, consider identifying multiple uses for the same facility. For example:
 - Construction of a community building or center, including the rehabilitation of an existing facility can be used for a variety of activities including education and job programs, Headstart activities and day care, computer labs, social and family services, and agency offices as they relate to affordable housing.
- Construction of office space can be used by recipient staff, tribal council members and can serve as a meeting space for all recipient business.

Remember: For community facilities to be an eligible activity under NAHASDA:

- The **primary** users must be affordable housing residents, and
 - If others are permitted to use the facility, the costs must be pro-rated.
- The activity must be described in the Indian Housing Plan (IHP) and may be approved by the Area ONAP Administrator for certain model activities that have been previously approved or by the Headquarters Office of Grants Management for other proposed model activities before the recipient begins service delivery.

OTHER MODEL PROGRAMS

Recipients may undertake a number of affordable housing related activities that are within the goals of the statute but not explicitly listed. These activities require HUD approval. Recipients may propose model activities as part of their IHP or in an IHP amendment at any time.

| |
|--|
| <p>Q: Can IHBG funds be used to fund construction of a new housing office and materials warehouse?</p> <p>A: Yes, but they must be approved as a model activity. If these facilities will be used for anything other than activities related to affordable housing, costs must be pro-rated.</p> |
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- Some model activities have been approved by the Secretary for consideration at the Area Office of Native American Programs (ONAP) level and therefore may be approved by the Area Administrator (or designee). Examples of these projects include:
 - New housing office buildings;
 - Warehouse, maintenance and storage facilities for housing materials;
 - Day care centers;
 - Community buildings;
 - Master Plan Studies;
 - Home loan revolving fund;
 - Biomass wood space heating plant;
 - Construction of student housing;
 - Upgrade for a community generator system; and
 - Water treatment system.
- All other model activities require approval from the ONAP Administrators. See Program Guidance 2013-09 “*Indian Housing Block Grant Model Activities*” for further guidance on model activities.

PROGRAM DELIVERY OPTIONS

Recipients generally have two options in terms of housing services program delivery:
(1) programs can either be administered and delivered by the recipients themselves, or
(2) programs can be administered and delivered by other organizations under a subcontract.

Recipient-Delivered Programs

Recipient-delivered programs are those that are administered and managed by the recipient themselves. These include:

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- Grant application and management;
- Program design and administration;
- Facility design, construction and operation; and
- Planning and reporting.

If you are to deliver any housing service program yourself, keep in mind the following issues:

- **Control and Decision-Making.** Self-administering any housing service program means you have significantly more control over the program. You can decide who you will serve, what your programs will focus on, the location and design of any facilities, etc.
- **Staff Capacity.** If you deliver your own housing service programs, you must depend upon your staff resources and abilities. In addition, you will build your staff capacity by self-administering your housing services programs.
- **Conflict of Interest.** Conflict of interest may be a more significant concern if you administer your own programs. As a result, you and your staff will have to ensure that you are compliant with all conflict of interest regulations.

☐ Subcontractor Delivered Programs

Programs delivered by a subcontractor are another option available to recipients. Subcontractors can be responsible for any part of a housing service program, from design to construction to management. Conversely, a separate subcontractor may administer each individual section of a program. If you are to deliver any housing service program using subcontractors, keep in mind the following issues:

- **Control and Decision-Making.** Using subcontractors to administer any housing service program means you have less control over the program. If using subcontractors, you will need to have significant oversight of those subcontractors in order to control decision-making.
- **Cost.** As with many things, cost is an issue to consider with subcontractors. While hiring subcontractors may be more expensive than using your staff, you may receive cost savings in that subcontractors will have more expertise in a certain area. Carefully consider all cost implications before hiring any subcontractors.

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Chapter 8: Program Options — Housing Services, Housing Management Services, and Crime Prevention

Chapter 10: Compliance with Administrative Requirements details the specific items that must be included in subrecipient agreements in order to comply with the NAHASDA regulations. See Chapter 10 for additional information.

OTHER SOURCES OF FUNDING

Other sources of funding can be used to provide housing services, housing management services, crime prevention, and community facilities. NAHASDA recipients should consider combining other funding sources, such as the ones listed below, when undertaking a NAHASDA eligible activity.

Often for tribes, the amount of IHBG funding cannot meet the housing needs of tribal communities. By combining program funds, recipients will be better enabled to support the management and development of housing needs of their tribe.

- Part of your work with residents of affordable housing could include identifying other financial resources for their use. These resources could include:
 - Other Federal resources (BIA, USDA Rural Development);
 - Bank resources (loan packages);
 - Community resources (CDFIs, churches, community-based programs); and
 - Foundation resources (grants, research programs, model activity programs).
 - Below are descriptions of three funding sources which could be combined with NAHASDA funds.
 - ⇒ Indian Community Development Block Grant (ICDBG) Program,
 - ⇒ Community Service Block Grant (CSBG) Program, and
 - ⇒ Social Economic Development Strategies (SEDS) Grant.

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□ Indian Community Development Block Grant Program [§ 1003.2, § 1003.100 and § 1003.200]

The ICDBG Program provides Native American tribes and Alaska Native villages with assistance to develop viable communities, including decent housing, a suitable living environment, and economic development opportunities. Applicants compete for funding with other tribes or eligible tribal organizations within their area.

The ICDBG Program funds two types of grants:

- **Single purpose grants.** These are competitively-awarded grants that provide funds for activities designed to meet a specific community development need. A single purpose grant must primarily benefit persons with low- or moderate-income (“LMI”) as defined in § 1003.4. Selection criteria are published in the HUD SuperNOFA.
- **Imminent threat grants.** This grant is awarded only if the Area ONAP determines that the requirements of § 1003.400 – Criteria for Funding are met and funds are available. Selection is based on an emergency need.

Funding [§ 1003.101]

HUD annually allocates available ICDBG funds to each of the six Area ONAPs responsible for the program. Pursuant to § 1003.101, each Area ONAP receives \$1 million as a base amount and a share of the balance according to the following formula:

- Forty percent based on the Area ONAP’s total eligible Indian population.
- Forty percent based upon the Area ONAP’s share of the total extent of poverty among the eligible Indian population.
- Twenty percent based upon each Area ONAP’s share of the total extent of overcrowded housing among the eligible Indian population.
- Applicants within an Area ONAP’s geographic jurisdiction compete only against each other for that Area ONAP’s allocation of funds.

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HUD also may reserve some of the ICDBG program funds for imminent threat grants. The amount of funds reserved for imminent threat grants during each funding cycle will be stated in the NOFA.

Grant Availability

[§§ 1003.100(a)(1) and (b)(1)]

ICDBGs are awarded competitively each year in response to a published Notice of Funding Availability (NOFA). The NOFA establishes grant ceilings for each Area ONAP jurisdiction. Applicants may request funding for any number of projects as long as the total amount of ICDBG funds requested is within the maximum grant ceiling. ICDBG NOFA can be found at <http://www.hud.gov>.

Eligible Activities

[§§ 1003, Subpart C, §§ 200-207]

ICDBG funds can be used for a wide range of activities which can be grouped into eight general categories. Examples of activities for each include the following:

- Public facilities and improvement: construction of a water treatment system;
- Housing activities: rehabilitation of an privately owned home;
- Public services: providing funding to improve neighborhood schools;
- Economic development: providing credit for a business start up costs;
- Community-Based Development Organizations: providing funding to a CBDO to undertake community economic development activities;
- Planning and administration: administering an economic development project; and
- Other types of activities.

❑ Community Service Block Grant Program

The Community Service Block Grant (CSBG) is a formula grant that provides funds to States, Territories, and Federally and State-recognized Indian tribes/tribal organizations so that they may provide supportive services and activities to assist low-income individuals and families to become self-sufficient. Typically, States fund these services by making sub-grants to locally

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based Community Action Agencies and other eligible entities that provide services to low-income individuals and families.

Funding

CSBG is administered by U.S. Department of Health and Human Service's Administration for Children and Families.

Operational Project (OP) Grants are awarded to community development corporations (CDCs) that are experienced in developing economic development projects. The primary purpose of operational projects is to assist eligible CDCs, including American Indian and Native Alaskan, and faith-based organizations.

Grant Availability

CSBGs are awarded competitively each year in response to a published NOFA.

Eligible Activities

Grantees can use CSBG funds to support a variety of services that help low-income people. Services typically assist with:

- Childcare;
- Employment;
- Education;
- Emergency services;
- Health care;
- Housing;
- Nutrition;
- Transportation;
- Youth development; and

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- Coordination of resources and community participation.

□ Social and Economic Development Strategies Grant

The Social and Economic Development Strategies (SEDS) Grant is administered by the Administration for Native Americans (ANA), an agency within the U.S. Department of Health and Human Services. SEDS is one of three sources of ANA grant funding to Native American organizations, including tribes offered. The Alaska Region T/TA Center offers technical assistance. More information can be found at www.ANAAlaska.org.

The primary purpose of all three of ANA's grants is to promote self-sufficiency for Native Americans by providing social and economic development opportunities through financial assistance, training, and technical assistance.

ANA's policy is based on three interrelated goals:

- **Economic Development.** To foster the development of stable diversified local economies and economic activities that provide jobs, options and opportunities that promote economic well-being in Native American communities.
- **Social Development.** To support local access to, control of, and coordination with, programs and services that safeguard the health, well-being, and culture of native peoples and
- **Governance.** To assist Tribes and Alaska Native village governments to build capacity that results in local control and decision-making over their resources.

Funding

Social and Economic Development Strategies awards are competitive financial assistance grants in support of locally determined and designed projects to address community needs and goals.

ANA assistance is available to all Native Americans, including federally recognized tribes, American Indian and Alaska Native organizations, Native Hawaiian organizations, and Native populations throughout the Pacific basin (including American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands).

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Grant Availability

SEDs are awarded competitively each year in response to a published NOFA.

Eligible Activities

Eligible activities include the following:

- The promotion of the physical, commercial, technological, industrial, and/or agricultural components necessary for a sustainable local community. For example,
 - ⇒ Projects to strengthen an organization's capacity to deliver business technical assistance, workshops, and financial literacy programs that create, expand, and retain public and private sector community-based businesses.
- The investment in human and social capital for advancing people's well-being. Applicants are encouraged to develop and implement culturally appropriate projects to enhance tribal, community, and village activities.
- Social development projects under this area support families, elders, parents, positive youth development, healthy marriage, individuals with disabilities, and personal commitment.
- Assistance to federally recognized tribal and Alaska Native Village governments to increase their ability to exercise local control and decision-making over their resources. Governance projects under this area may be used for leadership and management training or to assist eligible applicants in the development of laws, regulations, codes, policies, and practices that support and promote community-based activities. Program Areas of Interest include:
 - ⇒ Projects to enact laws, ordinances, and policies, to develop, expand, and/or enhance utility and communications infrastructures.

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CHAPTER 9: THE INDIAN HOUSING PLAN AND THE ANNUAL PERFORMANCE REPORT

This chapter will cover the following topics related to writing a housing plan and an annual performance report:

- *An overview of planning and why the Indian Housing Plan (IHP) and the Annual Performance Report (APR) are important*
- *The contents of the combined IHP/APR form*
- *The contents of the IHP (One-Year Plan)*
- *How to submit the IHP*
- *How HUD reviews the IHP*
- *The contents of the APR*
- *How to submit the APR*
- *How HUD reviews the APR*

This chapter addresses the following statutory and regulatory citations:

- *NAHASDA Section [101(b)(1), [101(b)(2), [102 (a)(1)(A)], [102(b)(2)(A)], [102(b)(2)(A)(v)], [102(b)(2)(A)(iv)(I-III)], [102(b)(2)(B)], [102(b)(2)(C)], [102(b)(2)(D)], [102(b)(2)(D)(vi)], [104(b)], [201(b)(5)], [202(6)], [205(a)(2)], [209], [233(a)], [235(c)], [403(b)], [404(a)(2)], [404(b)]*
- *24 CFR §§ 85.37, 85.40, 1000.26, 1000.108, 1000.120, 1000.142, 1000.214-230, 1000.238, 1000.512, 1000.518, 1000.544*

PART I: OVERVIEW

WHAT IS A PLAN?

A plan is a roadmap for responding to a changing environment. Plans articulate current and future needs, goals and outcomes, and strategies and action plans. In effect, a plan is a means to an end. The process of writing a plan will:

- Identify and address the recipient's most critical housing needs,
- Enable the recipient to anticipate and effectively cope with future housing needs,

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- Allow the recipient to be prepared with responses and alternatives that reflect the needs of the tribe when changes occur, and
- Enable the recipient to think realistically about available resources in the short term and in the long term.

WHY IS PLANNING IMPORTANT?

Planning can be a daunting task. It is important to remember that the benefits of planning usually far outweigh the hardships resulting from the absence of a plan. Lack of planning can cost additional valuable time and money. Planning is an approach to community problem-solving that can offer your tribe the benefits described below:

- A clearly defined framework in which to bring people together in a coordinated effort, providing an opportunity for:
 - Representation of the full community, and
 - Coalition-building among persons or entities among whom there may have been a lack of communication in the past.
- A method for involving and developing additional leadership.
 - Developing a plan may be too much work and responsibility for one person.
 - Allocating tasks to members of a planning team and community participants can foster skill development and increase the leadership capacity of some members.
- A shared mission and goals.
 - Having a shared mission and goal develops a common perspective on the current housing situation and future needs.
 - The process of arriving at a shared mission and goal helps you achieve the desired outcome(s) in the most effective and efficient way possible.
- The ability to set priorities and match resources to opportunities.
 - It is virtually impossible to do everything and fix everything at once. Planning requires priority-setting to accomplish incremental goals.

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- Completing the planning process will help your tribe to outline its budget and prioritize its activities.
- ❑ The ability to meet requirements for Federal funding.
 - Each year, a recipient must complete an Indian Housing Plan (IHP) in order to receive Federal funding under the Indian Housing Block Grant (IHBG) program.
 - Each recipient of IHBG funding must submit to the ONAP an Annual Performance Report (APR) outlining program accomplishments during the 12-month period.
- ❑ An organized, comprehensive planning process can help you complete the IHP and the APR efficiently and effectively.

COMBINED IHP/APR FORM APPROACH

Recipients are required to submit IHP and APR data using the combined IHP/APR Excel form (Form HUD-52737). Program Guidance 2015-03 (Attachment 9-1) updates Program Guidance 2014-11 to inform recipients of IHBG funds that the Word version of the Indian Housing Plan/Annual Performance Report (IHP/APR) is no longer available on HUDCLIPS. Recipients should use the Excel version of HUD-52737 as provided on HUDCLIPS at:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/hud5a. Program Guidance 2014-11 “*Guidance for the Word and Excel Versions of the Indian Housing Plan/Annual Performance Report*,” contains the “*The IHP/APR Report Form Guidance*” which provides line by line instructions on how to complete the IHP and the APR. See Attachment 9-2 for further information.

The combined form requires that IHP data is entered in the clear sections of the form while the grey sections represent APR data. Unexpended funds from open IHBGs as of fiscal year 2012 were carried over into the next fiscal year eliminating future IHBG grant closeouts. The combined IHP/APR approach includes:

- ❑ Ready comparison of programs and outcomes.
- ❑ Reduced administrative burden due to
 - No IHBG closeouts
 - No source year tracking
 - One SF425 quarterly submission

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- One IHBG, one LOCCS account
 - Single grant numbering system
- ☐ Expedited data retrieval
- ☐ Simple, straight-forward data entry check boxes

KEY CONCEPTS WITH THE IHP

When describing the evolution of the IHP and what it is to be used for, there are three key concepts that come to mind. These are collaboration, comprehensive planning, and locally-driven decision-making.

- ☐ **Collaboration in the development of the IHP:** Recommendations from tribal consultation sessions held in 2001 and 2005 included combining the IHP and the APR into one form and changing reporting from a grant-based to a program-year based system. As a result of these negotiations, the IHP and the APR process and documents were combined into one document providing for a more streamlined planning and reporting process.

The following are the major changes in the IHP/APR process:

- The IHP and APR forms are now combined into one document Form HUD-52737 Attachment 9-3; many items no longer required by Statute have been eliminated;
- Instead of planning and reporting for each open grant, the new process calls for one plan and one report for the 12-month program year;
- A comprehensive listing of eligible activities and proposed outcomes are included in the form; and
- Program results will be collected in a standardized manner to facilitate reporting of accomplishments under NAHASDA.

HUD's commitment on this collaborative effort extends even to changes to the IHP/APR.

- ☐ **Comprehensive planning:** The IHP is intended to be a planning document as well as the means for HUD to provide funding to recipients under the IHBG program.

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- Recipients are strongly encouraged to take a comprehensive approach to planning and look at the big picture.
 - Recipients should not limit their planning process only to those housing efforts/activities funded under the IHBG program for the 12-month period.
 - Recipients can now focus their planning on the total funds available rather than the source year associated with funding.
- Locally-driven decision-making:** Activities described in the IHP are to be locally-driven.
- IHPs will vary from recipient to recipient, depending upon the individual needs and capabilities of each tribe.
 - Community involvement and participation in the planning process is strongly encouraged.
 - Recipients need to develop local partnerships with public, private, and non-profit entities that can contribute to the recipient's successful implementation of its IHP.

RELATIONSHIP BETWEEN THE IHBG FORMULA AND THE IHP

- It is important to understand that there is no relationship between the components of the formula which are used to determine the tribe's IHBG allocation and the activities the recipient proposes in the IHP.
- The purpose of the IHBG formula is to provide the means for an equitable and fair distribution among eligible Indian tribes of the funds Congress appropriates for NAHASDA.
- The IHP is a planning document for the recipient and is required by HUD prior to awarding any IHBG funds to an eligible recipient.
- The IHBG formula consists of two components: need and formula current assisted-housing stock (what we commonly refer to as 1937 inventory).
 - The IHP spells out how the recipient intends to use the funds it receives under its IHBG.
 - The formula components do not dictate or limit how the recipient can use its IHBG funds.

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- Section 203(b) of the Act does require that grant funds be used for operating assistance to 1937 Housing Act units. Neither the statute nor regulation mandates how this is to be accomplished.

PART II - THE IHP/APR COMBINED FORM

BENEFITS

- The combined IHP/APR document is available in an electronic Excel fillable format that includes check boxes and pick lists.
- The IHP identifies housing needs, planned activities to address needs, and the funds allocated for the 12-month program year.
- The APR reflects what was actually accomplished with the funds spent in a 12-month program year.

PART III: THE ONE-YEAR PLAN

[NAHASDA Section 102(b), 24 CFR §§1000.232, 1000.236, 1000.238]

PURPOSE OF THE ONE-YEAR PLAN

Effective plans look at both short- and long-term objectives. The IHP required under NAHASDA addresses the activities for which funds will be expended in the recipient's 12-month program year. The purpose of the One-Year Plan is to:

- Describe the specific types of activities that the recipient will undertake with IHBG and other funding anticipated within the 12-month program year,
- Guide the recipient's project selection decisions by providing a framework,
- Indicate how the recipient will allocate its resources expected over the coming year,
- Establish measurable benchmarks for the recipient's achievements, and
- Provide specific details regarding budget allocations.

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COMPONENTS OF A ONE-YEAR PLAN

An effective One-Year Plan includes information on the needs of the community and exactly how the recipient will address those needs. The One-Year Plan is organized as follows:

- Cover page:** The cover page must be completed when submitting an IHP, APR, or amendment to the IHP. Information requested includes the following:
 - Name of the recipient;
 - Contact information;
 - List of tribes covered by IHP if applicable;
 - Federal tax ID;
 - DUNS number;
 - **CCR/SAM expiration date**
 - Estimated amount of IHBG formula funds;
 - Recipient's program year;
 - Name and title of person authorized to submit the IHP;
 - Signature of person authorized to submit the IHP; and
 - Date of submission.

- Housing needs [NAHASDA Section 102(b)(2)(B)]:** This section describes the housing issues faced by tribal members. Elements of this section include:
 - A summary of housing needs for the tribe by low-income Indian families and all Indian families,
 - A description of how the planned activities address identified housing needs, and
 - A description of how assistance will be distributed geographically.

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- ❑ **Program descriptions [NAHASDA Sections 102(b)(2)(A), [233(a), [235(c)], [404(b), 24 CFR §1000.512]:** This section describes the recipient's planned eligible activities, and intended outcomes and outputs planned for the One-Year IHP. IHP elements to be competed are:
 - A program name and unique identifier.
 - A program description which defines the specific type of project to be developed, (i.e., down payment assistance, tenant-based rental assistance, emergency housing, etc.).
 - An eligibility activity number for the identified program description.
 - The intended outcome number that best describes the impact to be achieved through the implementation of the program description.
 - An identification of who will be assisted by the planned program activity.
 - A description of the types and levels of assistance to be provided.
 - The planned and actual outputs for the 12-month program year.

- ❑ **Maintaining 1937 Act Units [NAHASDA Sections[102(b)(2)(A)(iv)(I-III)] and 102(b)(2)(A)(v)]:** This section asks the recipient to identify how it intends to maintain and operate 1937 Act housing units and whether it plans to demolish or sell any of those units during the 12-month period. Any units that are planned to be demolished or disposed of must be supported with a timetable and financial analysis regarding the proposed demolition/disposition.

- ❑ **Budgets [NAHASDA Section 102(b)(2)(C)], [404(b)]:** This section describes the sources and uses of funds for eligible activities. The budget section includes the following:
 - A description of the estimated or anticipated sources of funds, which indicates the estimated funds on hand, expected funds to be received, and the estimated funds that will be used to leverage the IHBG funds.
 - A description of the uses of estimated or anticipated sources of funding for the upcoming 12-month period will be used.
 - A discussion explaining estimated sources of funding, any leveraging, or any loan repayments.

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- ❑ **Other submission items:** This section describes additional elements of the NAHASDA program. The key subsections are:
 - **Useful life/affordability period(s) [NAHASDA Sections 205(a)(2), 209 and 24 CFR § 1000.142]:** Defines the term “useful life” for affordable housing units to demonstrate that the recipient is meeting its statutory requirement that housing remain affordable.

The NAHASDA statute mandates that each NAHASDA-assisted rental or homeownership unit must remain affordable to low-income families for its remaining “useful life,” or for such other period such as the Secretary determines is the longest feasible period of time consistent with sound economics and the purpose of NAHASDA.

Useful life requirements apply to both newly constructed and rehabilitated units. Mutual Help homes developed under the 1937 Act are not subject to the useful life provisions.

For additional information see Program Guidance 2014-09(R), “*Useful Life and Binding Commitments*”.

- **Model housing and over-income activities [NAHASDA Sections 201(b), 202(6), and 24 CFR § 1000.108]:** If appropriate, propose to undertake a model housing program or other program for non low-income families, DO NOT begin these activities until you get HUD approval from the Area Administrator or Deputy Assistant Secretary (DAS).
 - For more information on Model Activities, refer to NAHASDA Program Guidance 2013-09 “*Indian Housing Block Grant Model Activities*”. For additional information on assisting non-low income households, refer to 24 CFR §1000.110 and PIH Notice 2014-02 “*Providing Assistance to Non-Low-Income Families under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA)*.”
- **Tribal and other Indian preference [NAHASDA Section 201(b)(5) and 24 CFR § 1000.120]:** If the recipient elects to serve only members of its tribe, it must establish a preference policy describing who will be given preference and how the preference will work. See

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| <p>Q: Can an IHP be found in compliance without approving a model activity? What is the timeframe for approving or disapproving the model activity?</p> <p>A: Yes, HUD can find a plan in compliance but reject the proposed model activity. However, HUD must make a determination of approval or disapproval on the model activity within the 60-day timeframe or the activity is deemed approved</p> |
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Program Guidance 2013-07 “*Indian and Tribal Preferences in Employment and Contracting in IHBG*” for additional information.

- **Administrative [24 CFR § 1000.236 & §1000.238]:** The recipient must identify the percentage of grant funds that it will use for administrative and planning costs. The recipient may request more with HUD approval. **24 CFR § 1000.238** provides for the following limitations:
 - ⇒ 20% of grant for recipients receiving >\$500,000
 - ⇒ 30% of grant for recipients receiving <\$500,000
 - ⇒ Refer to PIH Notice 2014-15 “*Administrative and Planning Expenses in the Indian Housing Block Grant (IHBG) Program*” for additional information.
- **Expanded formula area:** If the recipient has expanded its formula area, the recipient must define its expanded formula area boundaries and identify the amount of IHBG funds it plans to spend in the expanded area.

IHP Certification of Compliance [NAHASDA Section 102(b)(2)(D)]: This is an assurance that the recipient will comply with all the other types of requirements that accompany the delivery of housing under NAHASDA, such as:

- Compliance with the Civil Rights Act and other applicable federal statutes and
- Required policies are in effect and available for review.

IHP Tribal Certification [NAHASDA Section 102(c) and 24 CFR § 1000.232]: This certification is used if a TDHE has prepared the plan for the tribe. It authorizes the DHE to prepare and submit the plan on behalf of the tribe.

A recipient may submit modifications or revisions to its IHP. Tribal certifications must accompany submissions of IHP amendments, unless the initial IHP certification allowed for IHP amendments without further tribal certifications.

Tribal Wage Rate Certification [NAHASDA Sections 102(b)(2)(D)(vi)] and [104(b)]: This section requires recipients to identify the wage rates to be applied to IHBG projects. The three choices provided include:

- Use of tribally determined wage rates for all construction activities,

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- Use of Davis-Bacon wage rates, or
- Use of tribally determined wage rates and Davis-Bacon.

For additional information, see Program Guidance 2003-04 “*Application of Tribal Laws Pertaining to the Use of Tribally Determined Wages*”.

❑ **IHP Waiver Requests [NAHASDA Section 101(b)(2)]:** This section of the IHP is only required if the recipient is requesting a waiver of an IHP section or of the IHP submission date. If granted, a waiver is valid for a period not to exceed 90 days.

❑ **IHP Amendments [24 CFR §1000.232]:** A recipient may revise an IHP. The amendment section is only filled out if the recipient is making an official amendment to an IHP that was previously determined to be in compliance by HUD, and the recipient is required to send the amended IHP to HUD for review. The recipient may amend its IHP at any time. There are only two instances when an IHP amendment must be submitted to HUD for review and determination of compliance:

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| Q: | Is there a prescribed format for IHP amendments? |
| A: | Yes. The IHP/APR combined form contains a section that must be completed when submitting an amendment. |

- When the recipient is adding a new activity that was not described in the current One-Year Plan that was determined to be in compliance by HUD; or
- When the recipient is reducing the amount of funds budgeted to protect and maintain the viability of housing assisted under the 1937 Act.
- If a TDHE is submitting a revised IHP, a Tribal Certification must accompany the revision, unless the original Tribal Certification allowed for the submission of IHP amendments by the TDHE without further Tribal Certifications. HUD will act on amended IHPs within 30 days.
- HUD’s review of an amendment and determination of compliance will be limited to modifications of an IHP which add new activities or involve a decrease in the amount of funds provided for 1937 housing stock.

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PART IV: SUBMITTING THE IHP

WHEN/WHERE DUE?

NAHASDA Section 102(a)(1)

- IHPs should be submitted to your Area ONAP no later than 75 calendar days prior to the beginning of a recipient’s 12-month program year.
- The chart below identifies the various program years (PY) and IHP due dates. IHPs should be submitted to your Area ONAP no later than 75 calendar days prior to the beginning of a recipient’s 12-month program year. Funds are made available only after the funds are appropriated by Congress and made available to HUD for distribution. The January due date will change during leap years.

| FFY 2016 | PY 2016 | IHP Due Date | Waiver Deadline |
|----------------------------------|-------------------|---------------------|------------------------|
| Oct. 1, 2015 - Sept. 30, 2016 | Oct. 1 – Sept. 30 | July 18, 2015 | October 16, 2015 |
| | Jan. 1, - Dec. 31 | October 18, 2015 | January 16, 2016 |
| | Apr 1, - Mar. 31 | January 17, 2016 | April 16, 2016 |
| | Jul. 1, - June 30 | April 17, 2016 | July 16, 2016 |

| FFY 2017 | PY 2017 | IHP Due Date | Waiver Deadline |
|----------------------------------|-------------------|---------------------|----------------------------|
| Oct. 1, 2015 – Sept. 30, 2016 | Oct. 1 – Sept. 30 | July 18, 2016 | Thursday, October 16, 2016 |
| | Jan. 1, - Dec. 31 | October 18, 2016 | Friday, January 16, 2017 |
| | Apr 1, - Mar. 31 | January 17, 2017 | Thursday, April 16, 2017 |
| | Jul. 1, - June 30 | April 17, 2017 | Thursday, July 16, 2017 |

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WHO SUBMITS?

[24 CFR §§1000.212 and 1000.218]

- An Indian tribe submits the IHP.
- If a TDHE has been designated by the tribe as the recipient, the TDHE may submit the IHP.
- If a TDHE has been designated by more than one tribe, the TDHE can submit a separate IHP for each tribe or it may submit a single IHP for all the tribes over which the TDHE has jurisdiction.

SUBMITTING THE IHP/APR ELECTRONICALLY

- The IHP/APR form may be completed either in hard copy or electronically. Hard copy versions may be completed either by hand or typewriter. Alternatively, the form may be completed electronically using the latest version of Excel.
- The Excel versions of the IHP/APR form can be accessed at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/hud5a. If the recipient does not have Internet access, contact the local ONAP office for assistance.
- It is recommended that the form be completed and submitted electronically because it is more efficient to complete, submit, and review the form.
- HUD's Energy and Performance Information Center (EPIC) web-based system will allow electronic submission of IHP, IHP Amendment, IHP Waiver, and APR as well as SF-425. Registering for eLOCCS (Program Guidance 2014-08(R) "*The Voice Response System (VRS) of the Line of Credit Control System (LOCCS) is being replaced by the Electronic Line of Credit System (eLOCCS) throughout Housing and Urban Development (HUD)*") will simplify the EPIC registration process. This Guidance discusses how to register for eLOCCS.

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| <p>Q: Does HUD accept electronic signatures for IHPs?</p> <p>A: Yes. To document official signatures on the electronic version, you should sign a hard copy of the pages and either fax or email them as an attachment to your Area ONAP.</p> |
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THE REVIEW PROCESS

[24 CFR §1000.230]

- Section 103 of the NAHASDA statute specifies that ONAP shall conduct a limited review of each IHP submitted to determine whether the contents of the plan:
 - Set forth the information required by Section 102 of NAHASDA, which outlines the IHP submission requirements,
 - Are consistent with the information and data available to HUD,
 - Are not prohibited by, or inconsistent with any provisions of NAHASDA or other applicable law, and
 - Include the appropriate certifications.
- ONAP's review of the IHP will focus on the eligibility of the proposed activities and compliance with the limited review criteria noted above.

Remember!

Keep in mind that a limited review does not mean that the statutory and regulatory requirements are overlooked.

TIMING

[CFR 24 §1000.230]

- Within 60 days of submission of the IHP, HUD will notify the recipient of the following:
 - Whether the IHP is in compliance with Section 102 of NAHASDA, or
 - Whether the IHP is in non-compliance with Section 102 of NAHASDA. A final determination of non-compliance will be made if the IHP is not consistent with information and data available to HUD, the additional information requested is not submitted or inadequate, or the IHP activities are prohibited by, or inconsistent with, any NAHASDA provision or other applicable law.
- At the conclusion of the IHP review, but no later than 60 days from the date of submission, ONAP will notify the recipient as to whether their plan is in compliance or not in compliance with the IHP requirements. If ONAP fails to provide notification of compliance/non-compliance within 60 days of submission of the IHP, the IHP will be considered in compliance with Section 102 of NAHASDA.

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APPEALS

[CFR 24 §1000.230]

- The final rule contains an appeals process that recipients can exercise if an IHP is determined to be in non-compliance. This appeals process pertains also to the denial of an amendment and a model housing activity request to assist over-income families.
- The process states that within 30 days of receiving HUD's notification of non-compliance of an IHP or of a modification to an IHP, the recipient may submit a written request for reconsideration.
 - This request must include justification for the reconsideration.
 - This reconsideration request is submitted to the Area ONAP.
- The Area ONAP will then have 20 days to act on the reconsideration request. HUD must provide written notification to the recipient of its decision to affirm, modify or reverse its initial determination. This notification will also include the reasons for HUD's decision.
- If the Area ONAP denies the request for reconsideration, the recipient may file an appeal with the Assistant Secretary within 20 days of receiving the denial. This appeal must include the reasons why the recipient does not agree with HUD's decision. It must also include justification for reconsideration by the Assistant Secretary.
- The Assistant Secretary will act on the appeal within 20 days of receipt. The Assistant Secretary will provide written notification to the recipient, setting forth the reasons for the decision. The Assistant Secretary's decision constitutes final agency action.

PART V - KEY CONCEPTS WITH THE APR

An effective housing strategy requires ongoing assessment of activities which embraces the concepts of accountability, resource management and performance evaluation.

- Accountability:** Tribal members are all affected by how IHBG recipients use their resources to address tribal housing needs. Periodic performance reports keep stakeholders apprised of the steps taken to address challenges, the strategies mapped to address priorities, and the performance of professional duties carried out with stakeholders and partners.

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- Resource Management:** Reporting provides management the opportunity to better plan the allocation of resources in a more efficient and cost-effective manner.
- Performance Evaluation:** Performance reports serve as a measure of progress achieved on a project and help to identify programmatic and administrative problems that may need to be resolved before they become unmanageable. Reporting during the course of a project can ensure that long-term outcomes will be met more efficiently. Performance reports become a permanent record of project accomplishments. These reports provide information that the recipient uses to evaluate the significance and impact of IHBG funds.

PART VI – THE APR

PURPOSE OF THE APR

The APR design enables the recipient to track the programs outlined in the One-Year IHP. A properly completed APR will provide the following information:

- Comparison of actual accomplishments with outcomes established for the 12-month reporting period,
- Whenever possible, quantitative and qualitative descriptions of work accomplished.
- Reasons explaining why outcomes or program delays may have occurred and what steps have been taken to get the project back on schedule.
- Description of favorable developments that will enable project outcomes to be realized sooner or at less cost than anticipated,
- Description of any changes that have been made or are anticipated in the project work plan or methodology.
- Information on the status of any matching funds received that are a component of the award.

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COMPONENTS OF AN APR

- Cover page:** The cover page must be completed when submitting an IHP, APR, or amendment to the IHP. Information requested for the APR includes the following:
 - Name of the recipient,
 - Name and title of person authorized to submit the APR,
 - Signature of person authorized to submit the APR, and
 - Date of submission.

- Program descriptions:** For the APR, complete the shaded sections of the form to describe actual accomplishments, outcomes, and outputs for the previous 12-month program year. In particular, complete Lines 1.5, 1.8, 1.9, and 1.10 for each program included in the IHP as follows:
 - The actual outcome number that best describes the impact achieved through the implementation of the program description (Line 1.5),
 - A description of the accomplishments for the APR in the 12-month program year (Line 1.8),
 - The planned and actual outputs for the 12-month program year (Line 1.9),and
 - If applicable, the recipient must explain why the IHBG funded activity is behind schedule, or completed fewer units than anticipated. There may have been circumstances beyond the recipient’s control that affected the program. If this is so, the recipient should describe those issues and the actions taken to address the problem(s) (Line 1.10).

- Budgets [NAHASDA Section 404(b)]:** This section of the APR requires the recipient to report on the actual expenditures during the program year by program. This section should only include actual funds expended, not commitments or planned draws. It would not include amounts drawn down and placed in investments. The APR sources and uses of funds for eligible activities. includes the following:
 - A description of the actual sources of funds, which indicates:
 - ⇒ The actual funds on hand,

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- ⇒ The actual funds received during the 12-month program year, and
 - ⇒ The actual funds used to leverage IHBG funds.
 - A description of the how the sources of funding for the 12-month period were actually used.
 - Provide any additional information about the actual sources or uses of funding, including leverage (if any). You must provide the relevant information for any actual loan repayment listed in the Uses Table on the previous page.
- ☐ **Expanded formula area:** For each separate formula area expansion, the recipient must list the actual amount of IHBG and other funds expended for all AIAN households and for only AIAN households with incomes 80% of median income or lower during the recipient's 12-month program year.
- ☐ **Self-monitoring [NAHASDA Section 403(b)], 24 CFR §§ 1000.26, 85.37, and 85.40:** This section provides additional monitoring information to HUD regarding the recipient and any sub-recipients. For additional information, see Program Guidance 2007-08 "Self-Monitoring and 2012-03 Monitoring Plans for Recipients". For the APR the recipient must address the following:
- Whether and how the recipient conducted self-monitoring or an annual compliance assessment.
 - A description of the monitoring or assessment results and planned corrections of the issues identified.
 - If the recipient has executed a Self-Monitoring Mutual Agreement with its Area ONAP, then the recipient should submit the annual independent assessment of the recipient's program(s) with the APR to the Area ONAP. This would include any deficiencies that were identified during the assessment and the actions to be taken to correct the deficiencies. If the self-monitoring plan and/or policy have changed since the last year, the recipient should also submit a copy of the revised plan and/or policy.
- ☐ **Inspections [NAHASDA Section 403(b)]:** This table records the number and conditions of the units the recipient inspected. Units are categorized as either in standard condition, in need of rehabilitation, or in need of replacement. For more information on the inspection requirements, see Notice PIH 2010-36 "Recipient Inspection of Housing Units Assisted under the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) and Those Assisted Under the United States Housing Act of 1937".

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- Audits [24 CFR § 1000.544]:** An IHBG recipient must comply with the requirements of the Single Audit Act and Office of Management and Budget Circular A-133. This section must be completed to indicate whether an A-133 audit is required.
- Public Accountability [24 CFR § 1000.518]:** The recipient verifies that the APR was made public and summarizes the citizens' reaction to this report.
- Jobs Created [NAHASDA Section [404(a)(2)]:** This should include the number of recipient staff positions, sub-recipient staff positions, and related construction jobs paid in whole or in part with IHBG funds.

State all information pertaining to job creation in this section, including:

- Number of permanent jobs funded with IHBG funds and
- Number of temporary jobs funded with IHBG funds.

PART VII: SUBMITTING THE APR

WHEN/WHERE DUE?

[CFR 24 § 1000.514]

- At the end of the recipient's program year, the recipient will complete the APR by opening the IHP file (if the IHP has been updated or amended, use the most recent (i.e., last version) and enter the APR data for that applicable 12-month program year in the appropriate grey shaded sections).
- APRs should be submitted to your Area ONAP no later than 90 calendar days after the end of a recipient's 12-month program year.
- An extension to the submission date may be granted by HUD under the provisions of § 1000.514.
- The reporting period that is covered by the APR is the same as the recipient's program year.
- The APR (HUD-52737) can be downloaded at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/hud5a.

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- If an APR is delinquent or not submitted, ONAP will inform the recipient with a Letter of Warning that it will initiate the remedies process under Subpart F of 24 CFR Part 1000 if the APR is not submitted in an identified timeframe.

WHO SUBMITS?

- An Indian tribe submits the APR.
- If a TDHE has been designated by the tribe as the recipient, the TDHE may submit the APR.
- If a TDHE has been designated by more than one tribe, the TDHE can submit a separate APR for each tribe or it may submit a single APR for all the tribes over which the TDHE has jurisdiction.

APR REVIEW PROCESS

[CFR 24 §§ 1000.521 and 1000.524]

- Review of a recipient's IHP requires the Area ONAP to make a determination that the plan is in compliance with Section 102 of NAHASDA.
- ONAP Review of the APR establishes whether or not the recipient is progressing towards the outcomes that are stated in its IHP.
- The Area ONAP will assign a primary reviewer for the review of each APR, and this reviewer will remain as the central contact for all activities and correspondence regarding the APR.
- What if the APR submitted is incomplete?

In certain cases APRs will be considered too incomplete for HUD to perform a review and develop recommendations.

For the APR to be found acceptable, it must at least:

- Describe the use of grant funds provided to the recipient,
- Assess the relationship of such use of funds to the programs described in the IHP,
- Indicate programmatic accomplishments, and
- Describe changes that the recipient would make given its experiences.

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The Area ONAP may take the following appropriate actions if a submitted APR is found substantially incomplete:

- Provide assistance so recipients can develop procedures for the thorough preparation of future reports;
 - Provide assistance to recipients who have not made appropriate progress towards accomplishments of the outcomes as stated in its IHP;
 - Monitor recipients on-site;
 - Take corrective and/or remedial action; and
 - Identify performance deficiencies to be noted in the annual review.
- In the event that after providing the recipient the opportunity to complete and/or correct it the APR is considered too incomplete for ONAP to determine the recipient's progress, the APR will be rejected and it will be treated as if the recipient is delinquent in submitting the APR.
- Unlike the review of the IHP (where plans can be referred to the ONAP Headquarters for special circumstances), the APR review process does not include a corresponding ONAP Headquarters' review.
- HUD will complete its review of the APR within 60 days of receipt.

NOTES

**ATTACHMENT 9-1: PROGRAM GUIDANCE 2015-03(R):
DISCONTINUATION OF WORD VERSION OF IHP/APR
REPORT (HUD-52737)**



No. 2015-03(R)
May 20, 2015

PROGRAM GUIDANCE

PROGRAM: Indian Housing Block Grant

FOR: Tribal Government Leaders and Tribally Designated Housing Entities

FROM:  for Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, PN

TOPIC: Discontinuation of Word Version of the Indian Housing Plan/Annual Performance Report (HUD-52737)

PURPOSE: This guidance updates Program Guidance 2014-11 to inform recipients of Indian Housing Block Grant funds that the Word version of the Indian Housing Plan/Annual Performance Report (IHP/APR) is no longer available on HUDCLIPS. Recipients should use the Excel version of HUD-52737 as provided on HUDCLIPS.

BACKGROUND: The Excel version of the form is superior to the Word version because of its automated capabilities that save time and promote accuracy. The Excel version of the IHP/APR is available at this location:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips/forms/hud5a

The attachment to Program Guidance 2014-11 provides step-by step instructions for completing the Excel version of the IHP/APR and is at this location:

<http://portal.hud.gov/hudportal/documents/huddoc?id=2014-14WordExcelIHPAPR.pdf>

ADDITIONAL GUIDANCE: Contact your Area ONAP if you have questions regarding completion of the Excel version of the IHP/APR.

**ATTACHMENT 9-2:
HUD GUIDANCE 2014-11F THE INDIAN HOUSING
PLAN/ANNUAL PERFORMANCE REPORT FORM GUIDANCE
(INSTRUCTIONS)**

INDIAN HOUSING PLAN AND ANNUAL PERFORMANCE REPORT FORM GUIDANCE

This guidance is designed to assist tribes and tribally designated housing entities (TDHEs) to develop the Indian Housing Plan (IHP) and Annual Performance Report (APR). Specifically, this guidance describes how a recipient of the Indian Housing Block Grant (IHBG) can complete the required IHP and APR forms.

The guidance includes citations to relevant sections of the Native American Housing Assistance and Self-Determination Act (NAHASDA) and IHBG regulations at 24 CFR Part 1000. NAHASDA is located at: http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_8141.pdf and its regulations are at http://www.ecfr.gov/cgi-bin/text-idx?SID=853acf98c627081a79fae4a1b70290c3&tpl=/ecfrbrowse/Title24/24cfr1000_main_02.tpl

Statutory citations are identified in brackets [] and regulatory citations are identified by the section symbol §. The recipient is encouraged to review both the regulatory and the statutory sections to obtain a complete understanding of what is required for the IHP and APR.

The guidance is organized in the same order as the IHP and APR form sections. The line numbers in the guidance correspond exactly with the line numbers in the form. Examples and illustrations related to the guidance are set off by a bullet or a text box. Guidance on completing the IHP is in white, non-highlighted text, and guidance on completing the APR is highlighted in grey.

Throughout this guidance, a reference to a “Line” means a component of the form (i.e., text box or table) and a “Row” means a row in a table.

The IHP/APR has undergone several revisions, one of which changed the section numbers. Confirm a section by its title rather than its number. Also, in the Uses of Funding table in Section 5 (Budgets), pay attention to the column headings not the column letters because two columns that had been separate are now combined.

Recipients with additional questions about the IHP/APR form or guidance should contact their Area Office of Native American Programs (Area ONAP).

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Note: The page numbers in the Table of Contents of the IHP/APR can update automatically as the IHP or APR is completed. To update the page numbers, right-click anywhere in the table, select “Update Field” and select “update page numbers only.”

GENERAL INSTRUCTIONS

TIMING AND FORMAT OF SUBMISSIONS

To receive an IHBG, a recipient must submit a One-Year IHP, as required by NAHASDA Section 101(b)(1). Recipient programs that are fully or partially funded by IHBG, IHBG program income, Title VI funds, Title VI program income, or 1937 Housing Act funds must be included in the IHP. For the remainder of this guidance, the term IHBG resources refers to IHBG funds, IHBG program income, Title VI funds, Title VI program income, and 1937 Housing Act funds. The recipient is required to submit the IHP to HUD at least 75 days prior to the start of its 12-month program year, as required by NAHASDA Section 102(a)(1)(A). When filling out the IHP, the recipient should leave blank the grey sections that represent the APR.

At the end of the recipient's program year, the recipient will complete the APR by opening the IHP file (if the IHP has been updated or amended, use the most recent (i.e., last version) and enter the APR data for that applicable 12-month program year in the appropriate grey colored sections). The APR has been designed to track the programs and the 12-month tasks outlined in the One-Year IHP. The APR describes annual accomplishments and shows the progress made toward planned eligible activities, intended outcomes, and programs. At a minimum, the APR text must describe the results of expending IHBG resources, as applicable. Recipient programs that are partially funded by IHBG resources must be included in the APR. If the recipient wishes to report on programs funded by other sources, it may do so.

TWELVE-MONTH APPROACH

This IHP and APR form represents a new approach to planning and tracking annual expenditures. In Federal Fiscal Year (FFY) 2011 and prior, IHPs and APRs were exclusively tied to each federal funding award, and the recipient was required to have an IHP and an APR for each open federal grant. The approach implemented in FFY 2012 ties planning and reporting to the recipient's 12-month program year. Thus, each recipient submits one IHP each year that covers the activities it plans to undertake during its upcoming 12-month program year, including any uncompleted activities carried over from a prior year plan.

The IHP must be postmarked no later than 75 days before the beginning of the recipient's program year. If the deadline date falls on a Saturday or Sunday, the postmark date must be the following Monday. The IHP also can be faxed or sent electronically to the Area ONAP. Title I, Section 101(b)(2) of NAHASDA provides authority for HUD to waive the submission requirements of Section 101(b)(1) for up to 90 days. Requests for waivers of the deadline for IHP submission should be submitted to the recipient's Area ONAP. The waiver request can be submitted at any time before or after the IHP submission deadline; however, an extension may only be granted for up to 90 days after the original deadline.

- The FFY is always October 1 to September 30, and is always in advance of the calendar year. For example, FFY 2015 starts on October 1, 2014, and ends on September 30, 2015.
- The recipient's program year for 2015 could start on October 1, 2014, January 1, 2015, April 1, 2015, or July 1, 2015. If the recipient follows the guidance above, the due date of the IHP will

depend on the recipient’s chosen program year (PY). Examples for FFY 2015 and 2016 are provided below.

| FFY 2015 | Recipient PY | IHP Due Date (75 calendar days prior to start of PY) |
|-------------------------------|--------------------------|---|
| Oct. 1, 2014 – Sept. 30, 2015 | October 1 – September 30 | July 18, 2014 |
| | January 1 – December 31 | October 18, 2014 |
| | April 1 – March 31 | January 16, 2015 |
| | July 1 – June 30 | April 17, 2015 |

| FFY 2016 | Recipient PY | IHP Due Date (75 calendar days prior to start of PY) |
|-------------------------------|--------------------------|---|
| Oct. 1, 2015 – Sept. 30, 2016 | October 1 – September 30 | July 18, 2014 |
| | January 1 – December 31 | October 18, 2014 |
| | April 1 – March 31 | January 17, 2016 |
| | July 1 – June 30 | April 17, 2016 |

In some federal funding years, the U.S. Congress does not appropriate funds until well into the FFY. For example, even though the FFY starts on October 1, it is not uncommon to have the IHBG appropriation occur in January. Thus, the recipient may not know its final IHBG grant amount until January. To address these instances, HUD runs a draft of the IHBG formula using the anticipated level of funding, and sends this information to the recipient using the Formula Response Form.

If the final appropriation is unknown at the time the IHP is due, the recipient may base its IHP budget on this estimated IHBG amount or the previous year’s IHBG amount. When the final appropriation is known, the recipient should update the IHP in its files to include the final amount. For any recipient whose IHP has already been found in compliance, once the final budget appropriation is available, the Area ONAP will automatically process the grant agreement and send it to the recipient.

If the recipient adds a new activity or reduces its support for 1937 Act housing, it must submit an IHP amendment using the form provided in Section 16 of the IHP. If the recipient does not add a new activity or reduce its support for 1937 Act housing, then any other changes can be reflected in the APR submission.

The recipient can access interim funding after a Notice has been published by HUD, it has submitted an IHP, and HUD has determined the IHP to be in compliance. In order to take advantage of this flexibility, the recipient’s authorizing official must submit a written request to HUD.

The APR is due to the Area ONAP no later than 90 calendar days after the end of the recipient’s program year. The APR must describe the activities and expenses from the previous 12-month program year. The APR is designed to track to the IHP sections so that the recipient can easily report on progress toward IHP eligible activities.

The recipient is required to submit its IHP and APR data using the completed IHP and APR form (form HUD-52737). However, the recipient is welcome to expand beyond the IHP and APR form and

submit additional data. This data may be presented in the form of text, charts, tables, maps, etc. The recipient may choose to submit this additional data to HUD, or use it solely for its own local purposes.

1. COVER PAGE

- Line 1:** Enter the number of the grant covered by the IHP and APR sections of the form. Under the 12-month program, the recipient will have only one IHBG number and all of the recipient's future IHBG allocations will be assigned the same grant number. The grant number will be in a format of 55IT##### or 55IH#####.
- Line 2:** Identify the recipient's IHBG program year by showing the start and end dates that correspond with the IHP and APR. The program year should be the same as the recipient's fiscal year. For example, a recipient's program year could be from October 1, 2014 to September 30, 2015; January 1, 2015 to December 31, 2015; April 1, 2015 to March 31, 2016; or July 1, 2015 to June 30, 2016. The program year period should always be 12 months.
- Line 3:** Enter the Federal Fiscal Year (FFY) that corresponds with the IHP and APR. The FFY always begins on October 1; for example, FFY 2015 runs from October 1, 2014 to September 30, 2015; or FFY 2016 runs from October 1, 2015 to September 30, 2016.
- Lines 4-8:** Check the box to indicate whether the submission is an Initial IHP, an Amended IHP, or an APR. Then check whether the recipient is a tribe or a TDHE.
- Lines 9-17:** Fill out the name of the tribe or TDHE; and the contact person's name, telephone number, mailing address, fax number, and email address.
- Line 18:** If the recipient is a TDHE working on behalf of one or more tribes, list the tribes covered by the IHP or APR. If the TDHE is an umbrella organization submitting one IHP or APR on behalf of multiple tribes, each of the tribes must be listed on Line 18. It is important that all tribes intended to be covered by the IHP be listed on Line 18 and that this tribal listing match with a tribal certification provided by each tribe authorizing IHP submission on its behalf. See Section 8 for the IHP Tribal Certification form that must be completed by each tribe and included in the IHP.
- Line 19:** Enter the recipient's federal tax identification (ID) number. This should be the tax ID number for the entity that will act as the recipient of the IHBG grant. For example, if a TDHE will be the recipient, the tax ID number should be for the TDHE and not the tribe or tribes.
- Line 20:** Enter the DUNS number for the recipient. All recipients of federal funds must have a DUNS number. If the recipient does not yet have a DUNS number, one can be obtained for free at:
<http://fedgov.dnb.com/webform/displayHomePage.do;jsessionid=52851D14B430CB42326E99FC379D6F33>
- Line 21:** Enter the date that the recipient's Central Contractor Registration (CCR)/System for Award Management (SAM) number expires. Recipients must have an active registration to receive funding from HUD and execute a grant agreement. Recipients are required to complete a one-time registration to provide basic information relevant to procurement and financial transactions. Registrations must updated or renewed at least

once a year to maintain a valid status. To register or update a current registration visit <https://www.sam.gov/portal/public/SAM/>.

Line 22: Fill in the recipient's actual or estimated amount of IHBG formula funds. If the grant amount has not yet been finalized for the specific FFY, the recipient may either use the IHBG estimate provided by HUD on the Formula Response Form or the previous FFY IHBG amount. Once the final IHBG grant amount is known, the recipient should update the IHP in its files to reflect that actual grant amount. HUD will not conduct a second review of the IHP once the actual grant amount is known unless the recipient chooses to add additional activities not already described in the plan, or the recipient chooses to reduce funding to protect and maintain the viability of 1937 Act housing. In that case, the recipient will be required to amend the IHP and submit it to the Area ONAP for review. See Section 16 for more information on amending an IHP.

Lines 23-24: Enter the name and title of the person authorized to submit the IHP.

Lines 25-26: The person authorized to submit the IHP must sign and enter the date of the IHP submission. By signing the IHP, the authorized person is accepting and endorsing the certifications in Section 7 (Indian Housing Plan Certification of Compliance) and Section 9 (Tribal Wage Rate Certification).

Lines 27-28: Enter the name and title of the person authorized to submit the APR.

Lines 29-30: The person authorized to submit the APR must sign and enter the date of the APR submission. By signing the APR, the authorized person is certifying that the document is accurate and reflects the activities actually accomplished during the program year.

2. HOUSING NEEDS

Statutory Reference: [102(b)(2)(B)]

The purpose of this section is to identify the types of housing needs that the recipient has identified for low-income Indian families and all Indian families in the tribe's jurisdiction.

Line 1: Type of Need. Check the appropriate boxes in Column B and C to identify the types of housing need.

Column B. (*Low-Income Indian Families*) Check the boxes that describe the estimated types of housing needed and the need for other housing-related assistance for low-income Indian families in the tribe's jurisdiction (those earning less than 80 percent of median income). This list should reflect the needs of all low-income Native Americans in the jurisdiction, including tribal and non-tribal members. Check as many or as few needs as are applicable to the recipient's community.

Column C. (*All Indian Families*) Check the boxes that describe the estimated types of housing needed and the need for other housing-related assistance for all Indian families in the tribe's jurisdiction, including non-low-income families.

Line 2: Other Needs. If “Other” was checked for Line 1, describe the specific housing needs that are not included among the other types of need. This line should include a description of the housing needs of low-income and non-low-income Indian families in the tribe’s jurisdiction, as applicable.

Line 3: Planned Program Benefits. Describe how the One-Year IHP’s planned IHBG programs will address the affordable housing needs identified in Lines 1 and 2. For example, if the recipient checked that there is a need for college housing, it would then describe how the recipient’s planned program(s) addresses this need.

For many tribes, affordable housing need far exceeds funding, and so it is not expected that all identified needs will be able to be addressed through the One-Year Plan.

Line 4: Geographic Distribution. Describe how the program intends to distribute assistance throughout the geographic area, and how this ties to the housing needs of low-income families. For example, if the recipient intends to focus its rental housing program on buying units in a nearby county, the recipient should explain that this distribution of assistance meets the needs of low-income tribal members living in that area.

3. PROGRAM DESCRIPTIONS

Statutory and Regulatory References: [102(b)(2)(A)], [233(a)], [235(c)], [404(b)], 24 CFR §1000.512(b)(2) and (3)

In this section, the recipient must provide a description of its planned eligible activities, and intended outcomes and outputs for the One-Year IHP. The recipient can select any combination of activities eligible under NAHASDA and intended outcomes and outputs that are based on local needs and priorities. There is no maximum or minimum number of eligible activities or intended outcomes and outputs. Rather, the One-Year IHP should include a sufficient number of eligible activities and intended outcomes to fully describe any tasks that the recipient intends to fund in whole or in part with IHBG resources during the coming program year.

Subtitle B of NAHASDA authorizes recipients to establish a program for self-determined housing activities involving construction, acquisition, rehabilitation, or infrastructure relating to housing activities or housing that will benefit the low-income households served by the Indian tribe. A recipient may use up to 20 percent of its annual allocation, but not more than \$2 Million, for this program. Section 233(a) of NAHASDA requires a recipient to include its planned self-determination program activities in the IHP, and Section 235(c) requires the recipient to report the expenditures, outputs, and outcomes for its self-determination program in the APR. For more information, see PIH Notice 2010-35 (Demonstration Program - Self-Determined Housing Activities for Tribal Governments) at http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_8814.pdf

The One-Year IHP is not required to include eligible activities or intended outcomes and outputs that will not receive IHBG resources. For example, the recipient may be planning to apply for Low Income Housing Tax Credits (LIHTC) from its state. If those tax credit projects will not receive IHBG resources, they are not required to be described in the IHP. However, the recipient may wish to

include non-IHBG activities in the IHP to provide tribal members with a more complete picture of housing activities.

- If an activity will receive partial funding from an IHBG resource, it must be described in the IHP.
- For example, if the recipient uses IHBG-funded staff persons to manage, inspect, or maintain an LIHTC-funded rental project, that project would be considered an IHBG-assisted project and the related activities must be described in the IHP.

Planning and Administrative expenses and loan repayments should not be identified as programs in the IHP. That is why there are dedicated rows in the Uses of Funding budget for these expenses. Instead, describe anticipated planning and administrative expenses in Section 6, Line 4 of the IHP, and describe actual planning and administration expenses in Section 6, Line 5 of the APR. Report the planned and actual amount of planning and administrative expenses in the dedicated row of the Uses of Funding budget (Section 5, Line 2). Please note that Reserve Accounts to support planning and administration is an eligible activity and should be identified as a program in the IHP, and any planned or actual expenditure from the Reserve Account would be reported by its program name in the Uses of Funding table.

With regard to loan repayments made with IHBG funds, describe planned loan repayments in Section 5, Line 4 of the IHP, and describe actual loan repayments in Section 5, Line 5 of the APR. Report the planned and actual amount of loan repayments in the dedicated row of the Uses of Funding budget (Section 5, Line 2), except as noted in the following instructions for Column O in the Uses of Funding table. Column O should show the IHBG funds that were expended in the previous 12-month program year. If the recipient borrowed and repaid a loan or a portion of a loan in the same year using IHBG funds, show the repayment of the principal amount in the IHBG program line in the Uses of Funding table and report loan interest payments and loan expenses in the Loan Repayment line in the Uses of Funding table. The Administrative and Planning spending cap must be based on the actual expenditures incurred during the 12-month period, and not on the amount shown in the IHP. These expenditures should be reported on the Planning and Administration row. The total amount of IHBG funds expended cannot exceed the total amount in Column H, Row 1 of Line 1 (Sources of Funding table).

For the IHP, complete the **unshaded** sections to describe the planned activities, outcomes and outputs in the coming 12-month program year. The recipient must complete Lines 1.1 through 1.4, Lines 1.6 and 1.7, and Line 1.9 for each eligible activity or program planned for the One-Year IHP. For the APR, complete the shaded sections to describe actual accomplishments, outcomes, and outputs for the previous 12-month program year. In particular, complete Lines 1.5, 1.8, 1.9, and 1.10 for each program included in the IHP.

Line 1.1: Program Name and Unique Identifier. The program name should easily identify the program and should be unique. It is recommended that a unique identification number be used in front of each One-Year Plan program. This might be especially helpful for tracking similar program types from year to year or within a single 12-month period. This unique number can be any number of the recipient's choosing, but it should be simple and clear so that staff can track tasks and results under the program and maintain appropriate file documentation tied to this program.

- One way to number the programs is chronologically. For example, the recipient could number its programs 2014-1, 2014-2, 2014-3 etc.
- Or, the recipient may wish to number the programs based on type. For example rental 1, rental 2, homebuyer 1, homebuyer 2 etc. This numbering system might be appropriate for a recipient with many programs that last over several years.
- Finally, the recipient may wish to use an outline style of numbering. For example, all programs under the first eligible activity would start with the number 1 and then be consecutively numbered as 1.1, 1.2, 1.3 etc. The programs under the second eligible activity would be numbered as 2.1, 2.2., 2.3 etc.

Line 1.2: Program Description. The program description summarizes each program that will be funded with IHBG resources during the 12-month program year. At a minimum, the recipient must describe what specific type of projects will be developed under the planned program.

- In writing the program description, the recipient should determine how it wants to describe the planned activities that will benefit eligible families.

For example, assume that the recipient has chosen the eligible activity of “Tenant Based Rental Assistance” and an intended outcome that will “Assist Affordable Housing for College Students.” The program description might then highlight that the recipient’s program is designed to assist college-bound, eligible Native Americans to pay their rent while attending any university in the state. It might highlight that this program is designed to assist tribal members who wish to become certified teachers or medical professionals, because these professions are needed within the tribal community. The section might also state that the assistance is to be used to pay rent in private-market rental units in the areas surrounding the educational institution. The description might go on to say that the purpose of the program is to enable low-income tribal members to better afford higher education in professional fields that are important to the tribe’s continued well-being.

- If a recipient intends to provide housing assistance to families whose incomes fall within 80 to 100 percent of the median income, this planned activity should be included as a separate program.
- If a recipient wants to track two types of outcomes for a program it must identify each program separately. For example a recipient may have a program description of Tenant Based Rental Assistance for both College Housing Students and other Rental Assistance. If the recipient wants to track outcome (6) Assist affordable housing for low income households and outcome (8) Assist affordable housing for college students, it must have two programs for Tenant Based Rental Housing.
- **If a recipient chooses to establish and maintain a Reserve Account for planning and administrative expenses, the recipient should include a**

program for this eligible activity in its annual IHP. The program description should identify the actual amount of funds set aside to establish or maintain the Reserve Account. The recipient must also ensure that the maximum amount of reserves, whether in one or more accounts, that a recipient may have available at any one time is calculated in accordance with 24 CFR § 1000.239 and Program Guidance 2014-10 (R) (Reserve Accounts for Administration and Planning). In Line 1.2, the recipient must describe how it determined the allowable reserve amount. NOTE: Planned or actual expenditures from a Reserve Account should be included in the allowable spending cap for planning and administrative expenses.

The One-Year Plan program descriptions should include any program that will receive IHBG resources during the upcoming 12-month program year, even if some of the program tasks will take longer than 12 months to complete.

- For example, assume the recipient is going to run a program that will construct 20 new rental units. However, during the coming program year the recipient will only acquire the land and develop the plans and specifications.
- Even though the units will not be completed during the 12-month program year, the program must still be described in the IHP, and the IHP must still be determined to be compliant by HUD before the recipient can spend IHBG funds on these tasks.

In many cases, the recipient may be funding programs on an on-going basis year after year.

- For example, some recipients have an on-going program to modernize their 1937 Act rental units. In these instances, the activity should be listed in each One-Year Plan over the entire period of the program.
- In some cases, the program will stay the same year to year. The recipient can copy the program/activity description from one IHP to the next year's IHP.
- However, the recipient should be careful to update the budget (Section 5) and planned outputs table (Line 1.9) to reflect the actual volume of work anticipated in the coming program year.

Line 1.3: **Eligible Activity Number.** Select one activity from the Eligible Activities list for each identified program. Select the eligible activity that best fits the program. Otherwise, the recipient may wish to establish separate programs or change the eligible activity in a subsequent year. For example: a housing construction program could be done in a phased approach and each phase would be a separate program. Land acquisition and site preparation could a program and the project's housing construction could be another program. This approach makes it easier to plan and track a complex, multi-year project such as housing construction. Write the eligible activity number in the space provided and then write the text of the eligible activity in the space next to the number.

| |
|---|
| Eligible Activity Number: (4) Construction of Rental Housing |
|---|

Do not combine homeownership and rental housing in one activity, so that when housing units are reported in the APR the units are correctly identified as homeownership or

rental. Combining homeownership and rental activities will cause the APR to be incorrect and the Area ONAP may reject the APR.

Each of the eligible activities has a specific, measurable output. These output measures include the number of housing units constructed, rehabilitated, or acquired; number of acres of land purchased for the development of rental or homeownership units; number of households served with various services and assistance; and the number of dollars spent on crime prevention and safety, Model Activities, and infrastructure (roads, water/sewer, and utilities) to support housing.

Eligible activities and associated output measures may include those listed below. (Citations reference sections in NAHASDA):

| Eligible Activity | Output Measure | Eligible Activity | Output Measure |
|---|----------------|---|----------------|
| (1) Modernization of 1937 Act Housing [202(1)] | Units | (13) Down Payment/Closing Cost Assistance [202(2)] | Units |
| (2) Operation of 1937 Act Housing [202(1)] | Units | (14) Lending Subsidies for Homebuyers (Loan) [202(2)] | Units |
| (3) Acquisition of Rental Housing [202(2)] | Units | (15) Other Homebuyer Assistance Activities [202(2)] | Units |
| (4) Construction of Rental Housing [202(2)] | Units | (16) Rehabilitation Assistance to Existing Homeowners [202(2)] | Units |
| (5) Rehabilitation of Rental Housing [202(2)] | Units | 17) Tenant Based Rental Assistance [202(3)] | Households |
| (6) Acquisition of Land for Rental Housing Development [202(2)] | Acres | (18) Other Housing Services [202(3)] | Households |
| (7) Development of Emergency Shelters [202(2)] | Households | (19) Housing Management Services [202(4)] | Households |
| (8) Conversion of Other Structures to Affordable Housing [202(2)] | Units | (20) Operation and Maintenance of NAHASDA-Assisted Units [202(4)] | Units |
| (9) Other Rental Housing Development [202(2)] | Units | (21) Crime Prevention and Safety [202(5)] | Dollars |
| (10) Acquisition of Land for Homebuyer Unit Development [202(2)] | Acres | (22) Model Activities [202(6)] | Dollars |
| (11) New Construction of Homebuyer Units [202(2)] | Units | (23) Expired, No longer available. | N/A |
| (12) Acquisition of Homebuyer Units [202(2)] | Units | (24) Infrastructure to Support Housing [202(2)] | Dollars |
| | | (25) Reserve Accounts [202(9)] | N/A |

Line 1.4: Intended Outcome Number. Intended outcomes are the impacts that the recipient hopes to achieve through the implementation of the activities described in the IHP. There are 11 common outcomes and one ‘other’ outcome listed in the IHP/APR form. Intended outcomes may include those listed below.

This line is not applicable to a Reserve Account.

| | |
|---|--|
| (1) Reduce over-crowding | (7) Create new affordable rental units |
| (2) Assist renters to become homeowners | (8) Assist affordable housing for college students |

| | |
|---|--|
| (3) Improve quality of substandard units | (9) Provide accessibility for disabled/elderly persons |
| (4) Improve quality of existing infrastructure | (10) Improve energy efficiency |
| (5) Address homelessness | (11) Reduction in crime reports |
| (6) Assist affordable housing for low income households | (12) Other – must provide description in Line 1.4 (IHP) and Line 1.5 (APR) |

Write the intended outcome number(s) in Line 1.4 and then write the text of the intended outcomes in the space next to the number. For example:

Intended Outcome Number: (2) Assist renters to become homeowners

Choose the intended outcome that most closely corresponds with the program description in Line 2. Another option for this line would be to choose one of the “other” activity categories listed in Line 1.3 (Activity Numbers 9, 15, or 18) and use it to describe an intended outcome as described below. If the recipient is still unsure about how to categorize/describe an outcome for a program the recipient wishes to fund, the recipient should contact the Area ONAP for guidance. If a program meets more than one intended outcome, select the outcome that best matches the program type. An example for describing an intended outcome for an “other” activity category is shown below.

| | |
|------------------------------------|--|
| Intended outcome(s) Number: | (18) Other Housing Services The intended outcome of this program is to provide self-sufficiency classes for residents of affordable housing projects. |
|------------------------------------|--|

If the intended outcome is categorized as “(12) Other,” describe the nature of the outcome in ways that distinguish it from the intended outcomes in the list. In providing the explanation, it may become clear that the “Other” outcome actually fits one of the listed outcomes.

All activities that will use IHBG funds must be eligible under the statute and regulations. The recipient should ensure that any planned “other” intended outcomes are eligible under NAHASDA if it intends to fund them with IHBG resources. If the recipient is unsure about the eligibility of an activity, contact your Area ONAP. It may be necessary to propose a model activity for HUD review and approval.

Line 1.5: Actual Outcome Number. Identify the actual outcome as a result of the activity funded with IHBG resources. In many instances, the actual outcome will match the intended outcome identified in Line 1.4. If the actual outcome was not the intended outcome, select the most appropriate outcome from the list above and enter that number and the text of the intended outcome in the space next to the number.

This line is not applicable to a Reserve Account.

For example, if the program to assist renters to become homeowners did not actually result in homeownership but did result in reduced over-crowding, Line 1.5 would show the following.

Actual Outcome Number: (1) Reduce over-crowding

If the actual outcome is categorized as “(12) Other,” describe the nature of the outcome in ways that distinguish it from the intended outcomes in the list. In providing the explanation, it may become clear that the “Other” outcome actually fits one of the listed outcomes.

Line 1.6: Who Will Be Assisted. After describing the eligible activities and intended outcomes, the recipient must then describe the targeted types of households to be assisted under the One-Year Plan. Please note that assistance made available to families whose incomes fall within 80 to 100 percent of the median should be established as a separate program.

- Using the example provided previously in Line 1.2 about the college student rental assistance program, this section might highlight that the program is open to any low-income Native American residing in the recipient’s Indian Area, but that a preference is given to tribal members.
- This line is not applicable to a Reserve Account.

Line 1.7: Types and Level of Assistance. Describe types and level of assistance to be provided to each household. The description should include any anticipated caps on the amount of assistance.

- Continuing with the college student example, the description should include the type of rental assistance that is planned, what type and size of rental units will be considered acceptable, whether utilities will be included in the assistance, and the like. The recipient might want to determine that the amount of the rental assistance for each household will be based upon the difference between 20 percent of the household’s adjusted monthly income and the private-market rent to be charged by the owner. In addition, the recipient might set an overall rent limit of \$1,000 per month. These program restrictions about how the level of assistance is determined and calculated would be described at Line 1.7
- In some cases, the recipient may choose to establish limits on the level of assistance per household based on HUD’s Total Development Cost (TDC) limits. In these cases, the recipient should explain how it will determine the amount of assistance intended for each household or project. For example, the recipient might state that it will base assistance on the work write-up for a rehabilitation program, capped by the TDC.
- This line is not applicable to a Reserve Account.

Line 1.8: APR. Describe what the recipient was able to accomplish during the past 12-month period as a result of expending IHBG resources. If the recipient wishes to report on programs funded by other sources, it may do so. As noted above, programs that are partially funded by IHBG resources must be planned and reported. The recipient should be specific enough about the actual tasks and accomplishments so that the HUD reviewer can understand how IHBG resources were spent.

- For example, the recipient might report that it was able to complete all its IHP activities because it constructed 10 new homes using IHBG funds and all passed

final inspection, rehabilitated 3 homes using IHBG program income, and/or completed the planning phase of a 13-unit subdivision using a Title VI loan.

- Another example might be that the recipient reports it was able to initiate a housing rehabilitation program by completing the installation of new roofs on all identified units; however, it was unable to complete interior renovations on the units because of unanticipated plumbing repairs. Therefore, the recipient could not complete its rehabilitation program.

If the recipient established a Reserve Account during the reporting period, it must be described as an accomplishment. Also, any expenditures from the Reserve Account during the reporting period must be described as an accomplishment.

Provide an analysis and explanation of cost overruns or high unit costs, in accordance with 24 CFR 1000.512(b)(3). HUD publishes total development costs periodically. For current and prior total development cost limits, visit:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/regs/notices. Specifically, Notices PIH 2014-16 and 2010-47 provide, respectively, the current cost limits and additional information about total development costs.

Line 1.9: Planned and Actual Outputs for 12-Month Program Year. The table starting on the following page identifies the basis for which an output is considered completed and can be counted. Refer to this table when estimating the planned number of outputs and reporting on the actual number of outputs for each activity. On the IHP side of Line 1.9, the recipient must estimate the number of IHBG-assisted units to be completed, households to be served, and/or acres to be purchased for IHBG-assisted housing development for each planned activity during the upcoming 12-month program year.

NOTE: If the planned output is dollars spent (i.e., Crime Prevention and Safety, Model Activities, or Infrastructure to Support Housing), skip Line 1.9 and enter these planned expenditures in Column L and Column M, if applicable, of the Uses of Funding Table in Section 5.

- In completing this section of the IHP for activities related to unit construction, rehabilitation, or acquisition, the recipient should estimate the number IHBG-assisted units that will be completed during upcoming the 12-month program year. If the recipient estimates that the construction/rehab/acquisition will be started in the coming 12 months but will be completed in a future program year, that unit should not be listed on Line 1.9 (Planned and Actual Outputs for the 12-Month Program Year).
- The recipient should enter the number of IHBG-assisted units ONLY. When estimating the number of IHBG-assisted units to be completed, identify whole units only. For example, if a project includes 5 units and half the project is IHBG-assisted, the number of IHBG-assisted units would be 3 rather than 2.5.
- For assistance to households, the recipient should estimate the total number of households that will be assisted by that particular activity during the

upcoming 12-month program year. In some cases, these households may also be assisted by other programs offered by the recipient and listed in the IHP. Each program should be counted separately and the recipient is not required to deduct the number of households assisted under more than one program.

- This line is not applicable to a Reserve Account.

On the APR side of Line 1.9, enter the actual number of IHBG-assisted units completed, households assisted, and/or acres purchased for IHBG-assisted housing development during the 12-month program year. Use the same guidelines described in the bulleted items above when defining the actual number of outputs. NOTE: If the actual output is dollars spent (i.e., Crime Prevention and Safety, Model Activities, Self-Determination Program, or Infrastructure to Support Housing), skip Line 1.9 and enter these actual expenditures in Column O and Column P, if applicable, of the Uses of Funding Table in Section 5.

Accuracy in reporting actual outputs is very important. If there are any questions, please contact your Area ONAP for assistance.

For the IHP and APR, rely on the table below to determine how and when to count outputs of eligible activities. The first column lists all eligible activities, the second column identifies the output measure for each eligible activity, and the third column identifies when to consider an output as completed for each eligible activity.

| Eligible Activity | Output Measure | Output Completion |
|--|----------------|---|
| (1) Modernization of 1937 Act Housing | Units | All work completed and unit passed final inspection |
| (2) Operation of 1937 Act Housing | Units | Number of units in inventory at Program Year End (PYE) |
| (3) Acquisition of Rental Housing | Units | When recipient takes title to the unit |
| (4) Construction of Rental Housing | Units | All work completed and unit passed final inspection |
| (5) Rehabilitation of Rental Housing | Units | All work completed and unit passed final inspection |
| (6) Acquisition of Land for Rental Housing Development | Acres | When recipient takes title to the land |
| (7) Development of Emergency Shelters | Households | Number of households served at any one time, based on capacity of the shelter |
| (8) Conversion of Other Structures to Affordable Housing | Units | All work completed and unit passed final inspection |
| (9) Other Rental Housing Development | Units | All work completed and unit passed final inspection |
| (10) Acquisition of Land for Homebuyer Unit Development | Acres | When recipient takes title to the land |
| (11) New Construction of Homebuyer Units | Units | All work completed and unit passed final inspection |
| (12) Acquisition of Homebuyer Units | Units | When recipient takes title to the unit |
| (13) Down Payment/Closing Cost Assistance | Units | When binding commitment signed |
| (14) Lending Subsidies for Homebuyers (Loan) | Units | When binding commitment signed |

| | | |
|--|------------|--|
| (15) Other Homebuyer Assistance Activities | Units | When binding commitment signed |
| (16) Rehabilitation Assistance to Existing Homeowners | Units | All work completed and unit passed final inspection |
| (17) Tenant Based Rental Assistance | Households | Count each household once per year |
| (18) Other Housing Service | Households | Count each household once per year |
| (19) Housing Management Services | Households | Count each household once per year |
| (20) Operation and Maintenance of NAHASDA-Assisted Units | Units | Number of units in inventory at PYE |
| (21) Crime Prevention and Safety | Dollars | Dollars spent (report in Uses of Funding Table only) |
| (22) Model Activities | Dollars | Dollars spent (report in Uses of Funding Table only) |
| (23) Self-Determination Program | N/A | Expired, No longer available. |
| (24) Infrastructure to Support Housing | Dollars | Dollars spent (report in Uses of Funding Table only) |
| (25) Reserve Accounts | N/A | N/A |

Line 1.10: **APR.** If applicable, the recipient must explain why the IHBG-funded activity is behind schedule, or completed fewer units than anticipated. There may have been circumstances beyond the recipient’s control that affected the program. If this is so, the recipient should describe those issues and the actions taken to address the problem(s).

- For example, severe weather or natural disasters can cause significant delays in project schedules. Explain the situation and how it affected planned programs.
- Sometimes programs simply do not turn out as planned. Perhaps demand for the housing was not at the level the recipient expected, or perhaps it took more time to design the needed administrative procedures, and thus the project is behind schedule. Explain these delays and actions taken to address any issues.
- This line is not applicable to a Reserve Account.

Remember to complete Lines 1.1 through 1.10 for each planned activity funded by IHBG resources. For each new planned activity, copy Lines 1.1 through 1.10 and paste them immediately after the previous Section 3. Repeat the copying and pasting of Lines 1.1 through 1.10 as many times as needed so that all planned activities are described.

4. MAINTAINING 1937 ACT UNITS, AND DEMOLITION AND DISPOSITION

Statutory and Regulatory References: [102(b)(2)(A)(v)], [102(b)(2)(A)(iv)(I-III)], 24 CFR § 1000.134

The purpose of this section is to identify how the recipient intends to maintain and operate its 1937 Act housing units and whether it intends to demolish or sell any units during the upcoming 12-month period.

Line 1: Maintaining 1937 Act Units. Describe specifically how the recipient will maintain and operate 1937 Act housing units in order to ensure that these units will remain viable. If the recipient does not have any 1937 Act housing units in its inventory, enter N/A and continue to Line 2. The description could include how the recipient intends to adhere to its maintenance and inspections policies during the upcoming 12-month period, and the relationship between the planned budget for maintaining and operating 1937 Act housing units to the planned maintenance and operation expenditures. The recipient can use this space to describe any special initiatives to improve the viability of 1937 Act housing units through targeted or intensified maintenance.

Line 2: Demolition and Disposition. Describe any planned demolition or sale of 1937 Act or NAHASDA-assisted housing units. If the recipient is planning on demolition or disposition of these housing units, be certain to include the timetable for any planned demolition or disposition and any other information that is required by HUD with respect to the demolition or disposition, in accordance with 24 CFR § 1000.134.

The recipient must secure HUD approval prior to the demolition or disposal of a 1937 Act or NAHASDA-assisted housing unit. Once a 1937 Act housing unit is demolished or disposed, the recipient must complete and submit to HUD the Formula Response Form (HUD-4117) that provides an accurate, up-to-date count of the recipient's inventory of 1937 Act units.

5. BUDGETS

Statutory References: [102(b)(2)(C)(i) and (ii)], [404(b)],

The purpose of this section is to describe the sources and uses of the recipient's funds for eligible housing activities. In the IHP portion of this section, the recipient identifies the anticipated or planned sources and uses of the funds, including available or planned program income. **In the APR portion of this section, the recipient describes the actual sources and uses of the funds.**

For the IHP, the tables at Line 1 (Sources of Funding) and Line 2 (Uses of Funding) show the estimated sources of funding and then the planned uses of funding. The recipient must fill out these two tables to show the amount of IHBG resources that are expected, and how these funds are planned to be spent. The recipient is also required to report on other sources of funds (leveraged funds such as Indian Community Development Block Grant, other federal funds, Low Income Housing Tax Credit, and non federal funds) if those funds will be used in combination with IHBG resources for a project or program. If other, leveraged, sources (Rows 7-10) of funds are **not** combined with IHBG resources, reporting on them is optional.

- For example, assume that a recipient has \$300,000 of ICDBG assistance that it plans to use to build a community center. IHBG funds will not be used to construct this center. So, these ICDBG funds do not need to be listed in the IHP or APR. The recipient could describe the community center in its IHP but would need to clarify that IHBG funds are not planned for that activity.

- Conversely, if a recipient uses IHBG funds for the operation of the ICDBG-funded community center that provides IHBG-funded services, then that ICDBG expenditure is for an IHBG-assisted project and it must be described in both tables.
- Continuing with this example, whether or not the recipient intends to use IHBG program income for the operation of the community center, the estimated amount of program income on hand and estimated amount of program income to be received must be shown on Row 2 of the Sources of Funding table.

Line 1: Sources of Funding. For the IHP, this table identifies the estimated or anticipated sources of funding for the upcoming 12-month program year. The table is intended to cover all of the funds to be expended on IHBG-assisted activities during the One-Year Plan period. As noted above, the recipient is not required to list other sources of leveraged funds (Rows 7-10) unless those funds will be combined with IHBG in a project.

The Sources of Funding table must include the amounts of private loans or tribal loans that will be used for NAHASDA-eligible activities, which will later be reimbursed with IHBG funds. For example, assume that a tribe lends \$100,000 for the acquisition of land that will be used to develop affordable housing for low-income Native American families. At a later time, the recipient will use its IHBG grant to repay this loan. The \$100,000 of assistance must be listed as a source of funds in the chart as “non-federal funds.” The recipient is cautioned that all such transactions must follow all applicable NAHASDA and other federal rules, such as environmental review, labor standards, relocation/acquisition, etc.

For the IHP, fill Columns A, B, C, D, and E, as described below.

Column A (*Estimated Amount on Hand at Beginning of Program Year*): This column should show the amount of funds already sitting in an account for the recipient (whether at U.S. Treasury, in a local investment account, or cash on hand). This includes all “carry over” IHBG funds from previous years. The recipient is required to include all sources that will be used to leverage projects or programs with IHBG resources. In addition, the recipient is required to include program income, 1937 Act program funds that remain with the TDHE or tribe and have not yet been spent, as well as remaining 1937 Act reserves, both of which must be used for eligible affordable housing activities. The types of leveraged non-IHBG funds include:

- “ICDBG,” the Indian Community Development Block Grant is a competitive grant program available to tribes and administered by HUD;
- “Other Federal Program Funds” might include funds from the U.S. Department of Agriculture, Indian Health Service, Bureau of Indian Affairs or any other federal agency;
- “LIHTC,” the Low Income Housing Tax Credit is an IRS program that works through state agencies and provides developers with tax credits in return for funding affordable housing; and
- “Non-Federal Funds” could be any other type of funds that will be used for projects or programs in combination with IHBG resources, including tribal contributions, tribal loans, private funds, non-program income, or assistance from nonprofits.
- **Note:** Estimated, expected leveraged funding must be described in Line 3.

Column B (*Estimated Amount to be Received During 12-Month Program Year*): This column should show the new funding to be received, including the total of the new IHBG grant for the FFY and any funds that are expected to be received at any point during the 12 months (including program income), if those funds are associated with a program or activity outlined in the plan.

Column C (*Estimated Total Sources of Funds*): This column should show the sum of the funds on hand from Column A and the new funds received from Column B.

Column D (*Estimated Funds to be Expended During 12-Month Program Year*): This column should show the amount of funds from Column C that the recipient anticipates expending during the upcoming 12-month program year. The amount in Column D must never exceed the amount in Column C. The amount in Column D should be directly related to the 12-month activities listed in the One-Year Plan. Note: The total for Column D should match the total of Column N in Line 2 (Uses of Funding table).

Column E (*Estimated Unexpended Funds Remaining at the End of the Program Year*): This column should show the amount of funds that the recipient anticipates will be left over at the end of the 12-month program year. The calculation is based on the amount of available funds and the amount budgeted to be spent, or the amount in Column C minus the amount in Column D.

With HUD approval, the recipient is permitted to draw down IHBG funds and invest those funds for a maximum five-year period in a secure, approved type of investment. (For additional information, see Notice PIH 2010-33, extended by Notice PIH 2011-43.) The Estimated Sources of Funding table does not have a separate row for IHBG investments as a source of funds. For the purposes of the IHP, invested IHBG funds are treated exactly the same as if the IHBG funds were in the recipient's LOCCS account.

Hypothetical Example: Assume that a recipient has \$200,000 of IHBG funds currently in an investment account, it has another \$250,000 of existing IHBG assistance in its LOCCS account at HUD and it anticipates receiving another \$800,000 in IHBG grant funds during the year. It intends to expend \$100,000 of the existing investments in the next program year and it will invest another \$300,000 during the program year. In total, the recipient plans to expend \$700,000 on eligible affordable housing activities during its program year, of which \$100,000 will come from the investment account and \$600,000 will come from its LOCCS account.

- The decision to invest an additional \$300,000 of IHBG funds would have no effect on Column A. The estimated amount of IHBG on hand at the beginning of the year would be \$450,000 (\$250,000 in LOCCS and \$200,000 in investments), regardless of whether these funds are in LOCCS, or in an approved investment.
- The amount of funds expected to be received during the program year at Column B, Row 1 would be the \$800,000 in new IHBG grants. Any interest anticipated or actually earned on the investments during the program year would be reported on the Row 2 for "IHBG Program Income."
- Thus, the estimated total sources of IHBG funds at Column C would be \$1,250,000 (\$800,000 plus \$450,000).

- In Column D the recipient would indicate the \$700,000 IHBG funds it intends to expend on eligible activities during the program year, regardless of whether the funds are drawn from LOCCS or from an investment account.
- In this example, the IHBG carryover would be \$550,000 (\$1,250,000 - \$700,000). Of this amount, the recipient would know that \$400,000 is in an investment account (\$200,000 originally invested, minus \$100,000 of investments withdrawn, plus \$300,000 of new investments) and \$150,000 will remain in its LOCCS account (\$1,250,000 total available, minus \$700,000 expended, minus \$400,000 in investments), but this would not be separately listed in the Sources of Funding table. In Column E, if the recipient plans to leave funds in an approved investment and plans that those funds will remain at the end of the program year, or if the recipient plans to add new investments during the year, then those would be indicated together with the other IHBG funds as a part of the estimated unexpended funds, in Column E.
- Regardless of the decisions regarding investments, the recipient’s IHP must clearly indicate how the \$700,000 will be used during the upcoming 12-month program year.

Line 1: Sources of Funding. For the APR, the recipient reports on the actual sources of funding received and expended during the program year. Fill Columns F, G, H, I, J, and K.

NOTE: Funds used for Title VI loan repayments should not be included in the Sources of Funding table; rather, Title VI loan repayments should be shown on the Loan Repayment line in the Uses of Funding table.

Column F (*Actual Amount on Hand at Beginning of Program Year*): This column should show the amount of funds actually on-hand at the beginning of the program year covered by the APR. Examples of “funds on hand” would be funds undisbursed from the recipient’s LOCCS account, funds that are in the recipient’s bank account, or any funds that are available to the recipient that have not yet been expended. In addition, “funds on hand” includes any IHBG amounts invested pursuant to 24 CFR 1000.58.

Column G (*Actual Amount Received During 12-Month Program Year*): This column should show the funds that were actually received under a grant agreement or other firm commitment during the previous 12-month program year. The recipient must report on any funds received that were used in conjunction with IHBG resources. Describe actual leveraged funding received in Line 4.

Note that the IHBG program income was an estimate in the IHP; for the APR it should be an accurate accounting of the entire amount of program income received in the previous 12-month program year. Thus, the recipient must track the receipt and expenditure of program income throughout the year so that it can provide an accurate accounting of the total amount received in Row 2. It is not sufficient to only report on the program income “on hand” at the end of the program year. Rather, the recipient must account for all program income earned throughout the year, including that program income that has already been disbursed for an activity.

Column H (*Actual Total Sources of Funding*): This column should show the total amount of actual funding available during the previous 12-month program year or the sum of Columns F and G.

Column I (*Actual Funds Expended During 12-Month Program Year*): This column should show the actual funds expended during the previous 12-month program year. The amount should include any funds actually drawn down from LOCCS or other accounts, but not commitments or obligations for which funds have not yet been spent. Do not include IHBG deposits to HUD-approved investment accounts. Note: The total of Column I should match the total of Column Q in Line 2 (Uses of Funding table)

Column J (*Actual Unexpended Funds Remaining at the End of the Program Year*): This column should show the amount of unspent funds based on the amount of funds actually available less the amount spent during the program year, or the amount in Column H minus the amount in Column I.

Column K (*Actual Unexpended Funds Obligated but not Expended at End of 12-Month Program Year*): This column should show the amount of funds that have been obligated by the recipient through a signed contract or other legally binding agreement but have not yet been expended in the previous 12-month program year. For a definition of fund obligation, see Notice PIH 2000-26 (TDHEs) at <http://www.hud.gov/offices/pih/publications/notices/00/pih2000-26.pdf>. This notice provides recipients with guidance regarding what constitutes an obligation of grant funds. NOTE: Effective January 2, 2013, the IHBG regulations no longer include the two-year, 90 percent fund obligation requirement. However, the recipient must continue to report in Column K the amount of funds that have been obligated but not expended.

Line 2: Uses of Funding. For the IHP, this table shows how the anticipated funds are planned to be used during the upcoming 12-month program year. The table is organized by the programs identified by the recipient in Section 3. Each intended program name and unique identifier from Section 3, Line 1.1 should appear as a row on this table. For the IHP, enter each program name and associated unique identifier (Line 1.1.) from Section 3 (Program Descriptions) and fill Columns L, M, and N, as described below.

- It is not acceptable to show a use of funds that does not correspond to a planned one-year program.
- If the Area ONAP cannot readily tie a planned use of funds to a stated one-year program, HUD will notify the recipient that the IHP must be revised prior to a determination that the IHP is in compliance with NAHASDA.
- For the purposes of the Uses of Funding table, IHBG (only) refers to the grant amount. Any IHBG program income, Title VI funds, or Title VI program income should be included with “All Other Funds” in Column M.
- See Section 6, Line 4 for information on calculating planning and administrative expenses.

If the recipient plans to use some of its IHBG funds during the upcoming 12-month program year to repay an existing Title VI loan or a private loan, then that planned repayment must be listed on the Loan Repayment row at the bottom of the Uses of Funding table. If the recipient lists a loan repayment, it must describe at Line 3 the associated loan and the eligible activity the loan repayment supports. The recipient must ensure that all IHBG and other federal requirements were followed at the time that the

project was initially funded. The recipient should not repay any loan with IHBG resources if the program was not previously listed in an IHP that HUD determined to be in compliance with NAHASDA.

Column L (*Prior and Current Year IHBG (Only) Funds to be Expended in 12-Month Program Year*): This column should show the cumulative, previous FFY allocations of IHBG funds plus the current year IHBG funds that are dedicated to the planned activities. The total in Column L must not exceed the IHBG funds from Columns A and B, Row 1 in Line 2 (Estimated Sources of Funding table). The recipient's planning and administrative expenses cannot exceed the planning and administrative spending cap without HUD approval.

Column M (*Total All Other Funds to be Expended in the 12-Month Program Year*): This column should show the planned expenditure of other, non-IHBG funds during the upcoming 12-month period. The total of Column M must not exceed the total from Column C, Rows 2-10 in Line 1 (Sources of Funding table).

Column N (*Total Funds to be Expended in 12-Month Program Year*): This column should show the sum of the IHBG-budgeted expenditures and the non-IHBG budgeted expenditures over the upcoming 12-month program year, or Column L plus Column M. The total of Column N should equal the total of Column D in Line 1 (Sources of Funding table).

Line 2: Uses of Funding. For the APR, the recipient reports on the actual expenditures during the program year by program. This section should only include actual funds expended, not commitments or planned draws. It would not include amounts drawn down and placed in investments.

If the recipient is showing actual expenditures for a program or eligible activity that was not included in the IHP found in compliance by HUD, it must submit an amended IHP before the APR can be accepted.

For the APR, the recipient will report on the actual uses of funding received during the previous 12-month program year. Fill Columns O, P, and Q. **NOTE:** For the purposes of the Uses of Funding table, IHBG (only) refers to the grant amount. Any IHBG program income, Title VI funds, or Title VI program income should be included with "All Other Funds" in Column P.

Column O (*Total IHBG (Only) Funds Expended in 12-Month Program Year*): This column should show the IHBG funds that were expended in the previous 12-month program year. If the recipient borrowed and repaid a loan or a portion of a loan in the same year using IHBG funds, show the repayment of the principal amount in the IHBG program line in the Uses of Funding table and report loan interest payments and loan expenses in the Loan Repayment line in the Uses of Funding table.

The Administrative and Planning spending cap must be based either on the actual expenditures incurred during the 12-month period or the actual grant award amount, and not

on the amount shown in the IHP. These expenditures should be reported on the Planning and Administration row.

The total amount of IHBG funds expended cannot exceed the total amount in Column H, Row 1 of Line 1 (Sources of Funding table).

Column P (*Total All Other Funds Expended in 12-Month Program Year*): This column should show all other funds that were expended in the previous 12-month program year. Other funds include any program income, Title VI, and all non-IHBG funds used to leverage IHBG projects, such as any LIHTC or ICDBG funds in an IHBG-funded project. The total of Column P cannot exceed the total of Column H, Rows 2-10 in Line 1 (Sources of Funding table).

Column Q (*Total Funds Expended in 12-Month Program Year*): This column should show the total funds expended during the previous 12-month program year. It is the sum of Column O and Column P. The total for Column Q should equal the total of Column I in Line 1 (Sources of Funding table).

Line 3: Estimated Sources or Uses of Funding. This text box can be used to further explain any estimated amounts in the budget. If IHBG resources will be leveraged with other funds in the same projects or programs, the recipient must describe that planned leveraging in this box. The recipient also must use this box if it has stated that it plans to use IHBG grant funds or IHBG program income to repay an existing loan. In that case, describe the loan and the associated eligible activity and the IHP program number.

Line 4: APR. This text box can be used to further describe any actual expenditure during the previous 12-month program year. This box must be used if a loan repayment has been listed on the Uses of Funding table. The text must describe how the repayment was used, including listing the IHP program number associated with the repayment. In addition, this box should be used to describe any leveraged funds that were received during the previous 12-month program year and expended in conjunction with IHBG funds.

6. OTHER SUBMISSION ITEMS

Statutory and Regulatory References: [102(b)(2)(C)(ii)], [201(b)(5)], [202(6)], [205(a)(2)], [209], 24 CFR §§ 1000.108, 1000.120, 1000.142, 1000.238, 1000.302

This section covers several IHP and APR sections required by NAHASDA or its regulations. Some of the sections must be submitted by all recipients, and others may not be applicable to a particular recipient. See the text below for more information on required submissions.

Line 1: Useful Life/Affordability Period(s). Sections 205(a)(2) and 209 of NAHASDA and 24 CFR § 1000.142 require that housing units that are assisted with IHBG resources remain affordable to low-income families over a period known as the “useful life” of the unit. Each recipient must determine the useful life timeframe for the units that will be assisted with IHBG resources during the One-Year Plan period. The useful life provisions apply to all housing units assisted with IHBG resources except for Mutual Help homes developed

under the U.S. Housing Act of 1937 (see 24 CFR § 1000.145). See Recipient Guidance 2013-06(R) for further information on useful life and binding commitments.

The affordability period should be the remaining useful life of the property, as approved by HUD, or the longest feasible period of time consistent with sound economics and the purposes of NAHASDA, as approved by HUD. In determining a property’s affordability period or useful life, a recipient could use a tiered schedule similar to that used in HUD’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 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 upon local conditions. The recipient may choose to assign a longer affordability period in order to ensure the availability of a larger continuing affordable housing supply for low-income families.

If the recipient chooses to use some other method of assigning the affordability period, the IHP should describe how the method provides for an affordability period with appropriate consideration given to any unique local conditions. In setting a useful life, a specific number of years should be given for the affordability period, not a range of years (e.g., 30 to 40 years) or a general statement. The designated affordability period should in no way be contingent upon the continuation of IHBG resources.

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. A record of the current, specific useful life for HUD-assisted housing units should be maintained in the recipient’s files and available for review.

Line 2: Model Housing and Over-Income Activities. A Model Activity is one that is related to affordable housing, but is not specifically described as eligible in NAHASDA. (See NAHASDA Section 202(6), and 24 CFR § 1000.108.) Line 2 is only applicable if the recipient intends to fund a Model Activity **or** if it wishes to serve Native American households whose incomes exceed 100 percent of the median income **or** anticipates expending more than 10 percent of its IHBG to serve families whose incomes fall between 80 percent and 100 percent of the median.

The recipient must get HUD approval if it wants to serve households above 100 percent of median **or** if it wants to spend more than 10 percent of its IHBG funds to assist households at between 80 percent and 100 percent of median income.

If the recipient wishes to implement a Model Activity under Section 202(6) of NAHASDA, or if it wishes to serve non-low-income households (as identified in Section 201(b) of NAHASDA and 24 CFR § 1000.108), those activities may be described in Line 2 or as a separate submission. If the recipient has not already included a completed Section 3 with the Model Activity request the recipient **must** complete the IHP portions of Section 3 (Program Descriptions) for each approved Model Activity **by submitting an IHP amendment. The amended IHP, including the approved model activity, must be used when submitting the APR.**

Any proposed Model Activity must be approved by HUD before incurring any expenses and beginning any work on that activity.

- For more information on Model Activities, refer to Recipient Guidance 2013-09 at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/codetalk/nahasda/guidance
- For additional information on assisting non-low-income households, refer to PIH Notice 2014-02 at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/regs/notices

Line 3: Tribal and Other Indian Preference. This section is only required if the recipient will offer a preference in housing for tribal members over all other Native American households. Section 201(b)(5) of NAHASDA and 24 CFR § 1000.120 allow preference for tribal members and other Indian families. If preference will be given to tribal members or other Indian families, the preference policy must be described in the text box.

Line 4: Anticipated Administrative and Planning Expenses. NAHASDA Section 102(b)(2)(C)(ii) and 24 CFR § 1000.238 specify spending caps for planning and administrative expenses, as shown below. For further information on administrative and planning expenses, see Notice PIH 2014-15 at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/regs/notices.

| <i>Annual IHBG Grant Amount</i> | <i>Administrative and Planning Spending Cap</i> |
|---------------------------------|---|
| \$500,000 or Less | 30% |
| More than \$500,000 | 20% |

In accordance with 24 CFR § 1000.238, a recipient may request HUD approval to exceed the 20 or 30 percent spending cap.

A recipient that receives more than \$500,000 may use up to 20 percent of the annual expenditures of grant funds or up to 20 percent of the annual grant amount, whichever is greater. When a recipient is receiving grant funds on behalf of one or more grant beneficiaries, the recipient may use up to 20 percent of the annual expenditure of grant funds or up to 20 percent of the annual grant amount, whichever is greater, of each beneficiary whose grant amount is greater than \$500,000.

A recipient that receives \$500,000 or less may use up to 30 percent of the annual expenditures of grant funds or up to 30 percent of the annual grant amount, whichever is greater. When a recipient is receiving grant funds on behalf of one or more grant beneficiaries, the recipient may use up to 30 percent of the annual expenditure of grant funds or up to 30 percent of the annual grant amount, whichever is greater, of each beneficiary whose grant amount is \$500,000 or less.

If a recipient receives IHBG funds on behalf of one or more beneficiaries and there is a blend of spending cap maximums among the beneficiaries, the recipient must describe if the percentage was higher for some beneficiary grant amounts than for others. If a different percentage was applied to each beneficiary, identify the percentage applied to each beneficiary grant amount.

If the recipient applies the same percentage cap to all its beneficiary grant allocations, the recipient should state the grant amount or expenditure amount, the cap percentage applied, and the actual dollar amount of the cap.

If the recipient applies a different cap percentage for each beneficiary, the following information must be provided:

- 1) Name of each beneficiary
- 2) Amount of each beneficiary allocation or annual expenditures
- 3) Applicable percentage cap for each beneficiary allocation
- 4) Actual dollar amount of each cap
- 5) Expenditures (if cap is based on amount expended)
- 6) Combined cap dollar amount

The following is an example of a recipient’s calculation of the maximum planning and administrative expenses when multiple grant beneficiaries are included in the grant.

| Name of each beneficiary | a) Formula Allocation | b) Percentage Allowed | c) Cap Based on Annual Grant Amount (ab x b) | d) Annual Expenditures | e) Cap based on expenditures (d x b) | |
|--------------------------|--------------------------|--------------------------|--|---------------------------|---|--|
| Tribe A | \$600,000 | 20% | \$120,000 | \$450,000 | \$90,000 | |
| Tribe B | \$300,000 | 30% | \$90,000 | \$600,000 | \$180,000 | |
| Subtotal | | | \$210,000 | | \$270,000 | |

In this example, the maximum amount that the recipient can spend on administrative and planning expenses is \$270,000. The calculation for the budgeted administrative and planning expense must be included on Line 4 in Section 6 of the IHP. Any revision to the calculation based upon actual expenditures must be included in Line 5 in Section 6 of the APR.

A recipient may use IHBG funds for expenses related to the planning and administration of affordable housing activities funded with non-IHBG funds. The total amount of IHBG funds spent on planning and administration for both IHBG and non-IHBG funded activities may not exceed the recipient's allowable spending cap, except with HUD approval. The use of IHBG funds for planning and administration of activities funded with non-IHBG funds must comply with the IHBG restrictions on using funds for planning and administration, in addition to any requirement on planning and administrative expenses imposed by the non-IHBG funds (not including non-IHBG spending limits).

Line 5: Actual Administrative and Planning Expenses. In Line 5, the recipient is required to state if and why it exceeded the allowable planning and administrative spending cap. Expenditures drawn from a Reserve Account(s) should be included when calculating the actual planning and administrative spending cap.

A recipient who receives grant funds on behalf of other grant beneficiaries should explain in Line 5 if and how the calculation of actual planning and administrative expenses was modified from what was stated in the IHP (Line 4 above).

Line 6: Expanded Formula Area – Verification of Substantial Housing Services. This section is only required if the recipient expanded its Formula Area after Federal Fiscal Year 2003 in accordance with 24 CFR § 1000.302 Formula Area (2).

The recipient must annually demonstrate that it provides Substantial Housing Services in that expanded formula area. If the recipient was approved for expansion after Federal Fiscal Year 2003 but before May 21, 2007, the effective date of the regulations, then it must demonstrate compliance in accordance with the provision 24 CFR § 1000.302 Substantial Housing Services (1). If the recipient was approved for an expansion on or after May 21, 2007, it must demonstrate compliance in accordance with the provision (24 CFR § 1000.302 Substantial Housing Services (1) or (2)) in which it was originally approved. If the recipient cannot demonstrate compliance with the provision under which it was initially approved, then the recipient must resubmit a Formula Area expansion request to the IHBG Formula Customer Service Center for consideration.

In this section of the IHP, the recipient must list its expanded Formula Area name. For example, if an expansion of the Formula Area has been approved by HUD to include fee simple land in two counties, this box must indicate the name of each the county.

If the recipient was approved in accordance with 24 CFR § 1000.302 Substantial Housing Services (1), then the recipient must then indicate the amount of IHBG funds and funds from other sources that the recipient plans to spend in that expanded area during the upcoming 12-month program year for all American Indian and Alaska Native (AIAN) households and for only those AIAN households with incomes 80 percent of median income or lower. In this case, the recipient does not need to report the number of tribal members residing within each Formula Area expansion.

If the recipient was approved in accordance with 24 CFR § 1000.302 Substantial Housing Services (2), the recipient must only indicate IHBG funds planned for that timeframe and those income categories. Furthermore, the recipient must annually document the number of tribal members residing within each Formula Area expansion.

Line 7: **APR.** If the recipient was approved in accordance with 24 CFR 1000.302 Substantial Housing Services (1) or if the recipient was approved for expansion after Federal Fiscal Year 2003 but before May 21, 2007, list the actual amount of IHBG funds and funds from other sources expended by the recipient in that expanded area during the recipient's previous 12-month program year for all AIAN households and for only AIAN households with incomes 80 percent of median income or lower.

If the recipient was approved on or after May 21, 2007, in accordance with 24 CFR 1000.302 Substantial Housing Services (2), only list the actual amount of IHBG funds expended by the recipient in that expanded area for all AIAN households and for only AIAN households with incomes 80 percent of median income or lower during the recipient's previous 12-month program year.

7. INDIAN HOUSING PLAN CERTIFICATION OF COMPLIANCE

Statutory Reference: [102(b)(2)(D)]

By signing the IHP, the recipient certifies its compliance with Title II of the Civil Rights Act of 1968 (25 USC Part 1301 et seq.), and ensures that the recipient has all appropriate policies and procedures in place to operate its planned programs. The recipient should not assert that it has the appropriate policies and procedures in place if these documents do not exist in its files, as this will be one of the items verified during any HUD monitoring review.

- Line 1:** A recipient must certify whether it will comply with the Civil Rights Act of 1968 and other federal statutes and regulations, to the extent that they apply to tribes and TDHEs.
- Line 2:** A recipient receiving less than \$200,000 under Formula Current Assisted Stock must certify whether there are households within its jurisdiction at or below 80 percent of median income.
- Line 3:** The recipient must certify whether certain policies are in effect and available for HUD review. Note that some of the policies may not be applicable to a particular recipient, depending on program design. For example, some recipients only operate homeownership programs, not rental programs, and so they should indicate "Not Applicable" on the form next to the items that are related to rental housing policies.

8. IHP TRIBAL CERTIFICATION

Statutory Reference: [102(c)]

If the tribe is the IHBG recipient and is submitting the IHP or IHP amendment, there is no need to complete this certification. This certification is used when a TDHE prepares the IHP or IHP amendment on behalf of a tribe. The certification must be executed by the recognized tribal government covered under the IHP and signed and dated by the proper tribal authority. If a TDHE is submitting the IHP or IHP amendment and the form is not signed by an authorized official of the tribe, HUD will notify the TDHE that this must be corrected before the plan or amendment can be

determined to be in compliance. A plan or amendment submitted by a TDHE cannot be processed without tribal approval. For cases in which a TDHE prepares an IHP or IHP amendment that covers more than one tribe, a separate certification for each tribe covered must be included in the IHP or IHP amendment.

Lines 1-3: Check only one box. The tribe certifies that either it had an opportunity to review the IHP or IHP amendment and has authorized the TDHE to submit the document **or** the tribe allows the TDHE to submit the IHP or IHP amendment on behalf of the tribe, without prior review by the tribe.

Lines 4-7: Identify the name of the tribe and the official authorized to sign the certification. The official must sign and date the certification.

9. TRIBAL WAGE RATE CERTIFICATION

Statutory Reference: [102(b)(2)(D)(vi)], [104(b)]

A recipient is allowed to adopt and use tribally determined wage rates instead of Davis-Bacon and HUD determined wage rates for IHBG-assisted construction or maintenance. For additional information, see Program Guidance 2003-04 (Application of Tribal Laws Pertaining to the Use of Tribally Determined Wages) at http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_8221.pdf.

By signing the IHP, the recipient informs HUD of its wage rate decision, and if it has decided to use tribally determined wage rates, it must adopt the appropriate tribal laws and regulations establishing tribally determined wage rates. Note that the certification allows for three options and only one option may be selected.

Line 1: Check this box if the recipient will use tribally determined wage rates for all construction and maintenance activities involving IHBG funds.

Line 2: Check this box if the recipient will use Davis-Bacon or HUD determined wage rates for all construction and maintenance activities involving IHBG funds.

Line 3: Check this box if the recipient will use Davis-Bacon and/or HUD determined wage rates for some types of construction involving IHBG funds and tribally determined wage rates for other types of construction involving IHBG funds.

Line 4: If the box on Line 3 was checked, identify the specific IHBG-funded activities that will use tribally determined wage rates.

10. SELF-MONITORING

Statutory and Regulatory References: [403(b)], 24 CFR § 1000.502

This section provides additional monitoring information for HUD. The recipient must describe whether and how it conducted self monitoring or an annual compliance assessment. The recipient must then describe the monitoring or assessment results and planned corrections of the issues

identified. Recipient self-monitoring or annual compliance assessment must include any sub-recipients, if applicable.

If the recipient has executed a Self-Monitoring Mutual Agreement with its Area ONAP, then the recipient should submit the annual independent assessment of the recipient's program(s) with the APR to the Area ONAP. This would include any deficiencies that were identified during the assessment and the actions to be taken to correct the deficiencies. If the self-monitoring plan and/or policy have changed since the last year, the recipient should also submit a copy of the revised plan and/or policy. For additional information, see Program Guidance 2007-08 at <http://www.hud.gov/offices/pih/ih/codetalk/nahasda/2008/2007-08sm.pdf>

Line 1: Indicate whether the recipient has a self-monitoring procedure and/or policy.

Line 2: If the recipient is a TDHE, indicate whether the tribe conducted formal monitoring of the TDHE's compliance with IHBG requirements.

Line 3: Indicate whether the recipient completed the annual compliance assessment of its IHBG activities, including monitoring of its sub-recipients, as required. For more information, see Program Guidance 2005-04 (Recipient Self-Monitoring) at: http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_8194.pdf, and Program Guidance 2012-03 (Monitoring Plans for Recipients) at: <http://portal.hud.gov/hudportal/documents/huddoc?id=guidance2012-03.pdf>

Line 4: Describe the self-monitoring activities conducted during the previous 12-month program year, including housing inspections conducted. Identify the corrective actions taken or planned to improve performance and ensure compliance with IHBG requirements.

11. INSPECTIONS

Statutory Reference: [403(b)]

The Inspection of Units table is used to record the results of the inspections of the recipient's HUD-assisted housing. The requirement to periodically inspect units applies to all units under the recipient's control. The recipient is not required to inspect every assisted unit every year; however, over time, all units should be inspected. The recipient may take a representative sample of its units and rotate which units are inspected each year. This would include any 1937 Act units, as well as IHBG-assisted units owned by the tribe or TDHE. Because the tribe or TDHE holds the title to Mutual Help units until they are conveyed to the homebuyer, these units need to be inspected as long as the units are within the recipient's control. This does not include units that were assisted under the 1937 Act or NAHASDA, but which are now privately owned, such as private homeownership units. For more information on the inspection requirements, see Notice PIH 2012-45 (Recipient Inspection of Housing Units Assisted under the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) and those Assisted Under the United States Housing Act of 1937) at <http://portal.hud.gov/hudportal/documents/huddoc?id=pih2012-45.pdf>

If the recipient conducted more than one inspection of the same unit during the 12-month program year, the recipient should only report the condition of the unit based upon the last inspection of that unit. For example, a rental unit is inspected in July as part of an annual inspection program and the

unit is in standard condition, but then the family moves out in September and the move-out inspection reveals considerable damage to the unit, then the unit should be reported based on the September inspection.

Line 1: Inspection of Units. Identify the total number of housing units in the recipient’s 1937 Act and NAHASDA inventory, the number of units inspected, and the condition of the inspected units. NOTE: For the totals of each column, be careful to add only the subtotal for 1937 Act units and the subtotal for NAHASDA units. Calculating column totals based on all rows will result in over-counting units so it is important to only total the subtotals. Do not include 1937 Act units with the NAHASDA-assisted units, even if the 1937 Act units have also received NAHASDA funding.

Column A (Activity): Lists the types of HUD assistance; namely, units funded under the 1937 Act and those assisted by NAHASDA.

Column B (Total Number of Units): Enter the total number of units in the recipient’s inventory by the types of HUD assistance provided.

Column C (Units in Standard Condition): As a result of the inspections, enter the number of units that are determined to be in standard condition. The definition of “standard” is based on local tribal policy.

Column D (Units Needing Rehabilitation): As a result of the inspections, enter the number of units that are in need of rehabilitation. The need for rehabilitation is based on local tribal policy.

Column E (Units Needing to be Replaced): As a result of the inspections, enter the number of units that need to be replaced. The need for replacement is based on local tribal policy.

Column F (Total Number of Units Inspected): Enter the total number of units inspected. This number should be the total of Columns C, D and E.

Line 2: This line asks whether the recipient complied with its inspection policy.

Line 3: If the recipient answered “no” in Line 2, it must explain why these inspections did not occur during the previous 12-month period, as described in the recipient’s inspection policy.

12. AUDITS

Regulatory References: 24 CFR §§ 1000.544 and 1000.548

An IHBG recipient must comply with the requirements of the Single Audit Act and Office of Management and Budget (OMB) Circular A-133. These requirements mandate that the recipient conduct an A-133 audit if it expended \$500,000 or more in federal funds during the APR reporting period.

For example, if the APR reporting period ended on December 31, 2012, the corresponding audit period also would end on December 31, 2012.

If the recipient did reach or exceed the expenditure threshold, check the Yes box. If the Yes box is checked, the recipient is required to submit an OMB Circular A-133 audit to the Federal Audit Clearinghouse and, at the same time, to the recipient's Area ONAP.

If the recipient's financial records document that it did not reach this expenditure threshold and an OMB Circular A-133 audit is not required, check the No box.

13. PUBLIC AVAILABILITY

Statutory and Regulatory References: [404], [408], 24 CFR § 1000.518

The IHBG statute requires that the recipient shall make the APR available to citizens in its jurisdiction for public review and comment before it is submitted to HUD. ~~In addition, if the recipient is a TDHE, it also must submit the APR to the tribe for its review and comment. Failure to make the APR available for public comment prior to submission may result in the APR being rejected for a statutory violation. A resubmitted APR requires public comment if significant changes were made such as new table data or new activities. There is no need for public comment on a resubmitted APR when only technical corrections were made.~~

Line 1: Indicate whether the recipient made this APR available for public review and comment before it was submitted to HUD.

Line 2: If the recipient is a TDHE, did it submit the APR to the tribe for review and comment before it was submitted to HUD?

Line 3: If the recipient did not make the APR available to the public or to the tribe and answered "No" in Line 1 or 2, it must explain why not and when it plans to make the APR available.

Line 4: The recipient must summarize the comments it received and how it addressed these comments. The recipient does not have to provide each and every comment, but it should generally summarize all comments and describe its plan for addressing any significant issues.

14. JOBS SUPPORTED BY NAHASDA

Statutory Reference: [404(b)]

The purpose of this table is to provide HUD with the estimated number of permanent and temporary jobs that are paid each year in whole or in part with IHBG funds. This estimate should include the number of recipient staff positions, sub-recipient staff positions, and related construction jobs. Unlike in the past, this information is no longer optional.

HUD's Office of Labor Relations uses the definitions of permanent and temporary employment as provided below.

A permanent employee, full-time or part-time, is one who's employment agreement with the employer is not limited by duration and remains continuous until employment is terminated, voluntarily or otherwise, or unless the employment agreement is altered to include a limit on duration.

A temporary employee, full-time or part-time, is one who's employment agreement with the employer contains conditions under which the employment is limited by duration involving time or task (e.g., not to exceed six months from hire, or on a date determined by the employer, or upon completion of a specified task(s)).

Line 1: Enter the number of permanent jobs funded with IHBG funds each year.

Line 2: Enter the number of temporary jobs funded with IHBG funds each year. If the recipient has reliable information about jobs supported through contracts with construction companies or the like, identify the number of temporary construction jobs.

Line 3: The recipient may provide additional information about the nature of these jobs if it wishes.

15. IHP WAIVER REQUESTS

Statutory Reference: [101(b)(2)]

This section of the IHP is only required if the recipient is requesting a waiver of an IHP section or of the IHP submission date. If the recipient requests a waiver, be aware that the IHBG statute requires the waiver be approved before the 90th day after the IHP due date. Waiver requests should be submitted as soon as possible in case HUD determines the waiver needs to be corrected and resubmitted. No resubmission will be accepted after the waiver period has expired. If granted, a waiver is valid for a period not to exceed 90 days. This is not a waiver of IHBG requirements. For further information, see the soon to be published Program Guidance for Waivers for IHBG Program.

Line 1: If the recipient needs a waiver of any sections of the IHP, identify those sections by name and section number. If the recipient needs a waiver for the IHP submission date, enter the request.

Line 2: Describe the reason(s) that the recipient is requesting the waiver(s) from Line 1.

Line 3: Describe the specific actions the recipient will take to ensure that it will be able to submit a complete IHP in the future and/or submit the IHP by the required due date. Identify the administrative corrections the recipient intends to implement so that future IHPs will be complete and submitted no later than 75 days prior to the start of the recipient's 12-month program year.

Lines 4-7: Identify the name of the recipient and the official authorized to sign the waiver request. The official must sign and date the waiver request.

16. IHP AMENDMENTS

Regulatory Reference: 24 CFR §1000.232

This section is only filled out if the recipient is making an official amendment to an IHP that was previously determined to be in compliance by HUD, and the recipient is required to send the amended IHP to HUD for review. The recipient may amend its IHP at any time during the Program Year.

There are only two instances when an IHP amendment must be submitted to HUD for review and determination of compliance:

- (1) When the recipient is adding a new activity that was not described in the current One-Year Plan that was determined to be in compliance by HUD; or
- (2) When the recipient is reducing the amount of funds budgeted to protect and maintain the viability of housing assisted under the 1937 Act.

The recipient is not required to submit an amended IHP to HUD:

- If the revision simply alters the IHBG budget, including moving funds among planned tasks, or
- If it deletes a planned activity, *unless* the re-programmed funds from the budget amendment or task deletion will be used for a new task not currently in an IHP determined by HUD to be in compliance, *or unless* the change is to reduce the budget supporting 1937 Act units.

NOTES:

- (1) If Line 2 in Section 8 (IHP Tribal Certification) is checked in the current IHP, a new certification must be signed and dated by the authorized tribal official and submitted with the IHP Amendment.
- (2) Section 1 (Cover Page) is recommended but not required with an IHP Amendment submission.

Lines 1-10: See Section 3 (Program Descriptions), Lines 1.1 through 1.10 for instructions on completing these lines.

Line 11: Amended Sources of Funding. The Amended Sources of Funding budget should show any new sources of funding associated with a new or revised program that were not included in the previously submitted One-Year IHP. The amended budget should list all sources that were described in the previously submitted One-Year IHP that will continue to be funded under the amended IHP. In effect, the Amended Sources of Funding budget replaces the Sources of Funding budget. Complete the Amended Sources of Funding budget by inserting all existing sources from the Sources of Funding budget in Section 5 and change the amount of funding in Row 8 (Other Federal Funds) and/or Row 10 (Non-

Federal Funds). For additional information on completing an Amended Sources of Funding budget, see Section 5, Line 1.

Line 12: Amended Uses of Funding. The Amended Uses of Funding budget is not just for the new or revised program, but should list all programs that were described in the previously submitted One-Year IHP that will continue to be funded under the amended One-Year IHP. In effect, the Amended Uses of Funding budget replaces the Uses of Funding budget. Complete the Amended Uses of Funding budget by inserting all existing programs from the Uses of Funding Budget in Section 5 and add a new row for each new or revised program. The recipient is required to fill out the budget on Line 12 for all IHBG resources allocated to each of the IHBG-eligible activities. The revised budget must include both the IHBG funds from the current FY funding allocation and the IHBG funds to be expended in the 12-month program year. The recipient is not required to include other funding sources such as Indian Community Development Block Grant (ICDBG) funds or Low Income Housing Tax Credits (LIHTC) unless these funds will be combined with IHBG resources. For additional information on completing a Uses of Funding budget, see Section 5, Line 2.

- For example, assume that a recipient has \$500,000 in IHBG grant and anticipated program income available. The recipient's initial IHP submission planned on spending \$300,000 on a homeownership program, \$100,000 on a crime prevention program, and \$100,000 on planning and administration. Early in the year, the recipient decides that it really needs an owner-occupied unit rehabilitation program. So, it elects to cancel the crime prevention program and reduce the homeownership funding to \$250,000. The amended budget should show \$150,000 for owner-occupied rehabilitation, \$250,000 for homeownership and continue to show \$100,000 for planning and administration for a budget total of \$500,000. See Section 5, Line 3 in this guidance for more information.

Line 13: Estimated Sources or Uses of Funding. This text box can be used to further explain any estimated amounts in the budget. If IHBG resources will be leveraged with other funds in the same projects or programs, the recipient must describe that planned leveraging in this box. The recipient also must use this box if it has stated that it plans to use IHBG grant funds or IHBG program income to repay an existing loan. In that case, describe the loan and the associated eligible activity and the IHP program number.

Line 14: APR. This text box can be used to further describe any actual expenditure during the previous 12-month program year. This box must be used if a loan repayment has been listed on the Uses of Funding table. The text must describe how the repayment was used, including listing the IHP program number associated with the repayment. In addition, this box should be used to describe any leveraged funds that were received during the previous 12-month program year and expended in conjunction with IHBG funds.

Lines 15-18: Identify the name of the recipient and the official authorized to sign the IHP Amendment. The official must sign and date the IHP Amendment.

**ATTACHMENT 9-3:
SAMPLE IHP/APR FORM**

Automated Indian Housing Plan/Annual Performance Report Version 1.0

The automated version of the IHP/APR simplifies the completion of the form by providing drop-down menus, check boxes, auto-filling data fields, columns and rows that total automatically, text fields that expand to accommodate narratives of any size, data quality checks, and other enhancements.

This version also features comment boxes that provide additional information on almost all elements of the form. Wherever there is a small red triangle in the corner of a cell, there is a comment box. Simply place the cursor over the cell with a red triangle and the comment box will appear. There is no requirement to read the comments, they are merely provided to make it easier to understand and complete the form. The comments were extracted from Program Guidance 2013- 04 (Revised Guidance for the Indian Housing Plan/Annual Performance Report).

For full functionality it is recommended that Excel 2007 or higher be used.

Saving the Form

The automated form contains macros that must be enabled in order for the form to be fully functional. To retain the macros, save the document to another location (such as your desktop) and open the form from that location. Select "Save As" in the Office Button and select "Excel Macro-Enabled Workbook." This step only needs to be done when first saving the form, subsequent saves will automatically retain the macros.

Completing the Form

Click the tabs at the bottom starting with "Section 1" and fill out all applicable information in the yellow or green fields. Yellow fields are the IHP and green fields are the APR. IHP fields will turn white when completed and APR fields will turn gray when completed. If any of the yellow or green fields don't apply, enter "N/A".

The tab for each section of the form will turn from red to blue once all the required fields in an IHP or APR are completed. If one or more fields in a tab are not completed, the tab will remain red. If this occurs, review all the fields and identify where information or data still needs to be entered. Once all the fields are completed, the tab will turn blue. In the tables, enter a 0 (zero) if there are no units or dollar amounts for that cell; otherwise, the tab will not turn from red to blue.

Once a text field is completed it is necessary to click anywhere outside the field in order for the text to be accepted. If pasting text from a Word document into a text field, it is necessary to click in the text field before pasting. Use the scroll bar to navigate through a section, rather than the Enter key.

Section 3 (Program Descriptions) Instructions

Fill out all the information for the first program that plans to use IHBG funds. To fill out and describe additional programs, click the "**Add New Program**" button. This will create an additional tab for the new program, and the new tab will be identified as 3.2.,3.3, etc. To delete a program, click the "**Remove This Program**" button, and the program tab will be deleted. The addition of a new program in Section 3 will automatically create a new row for the program in Line 2 (Uses of Funding) of Section 5. Similarly, the deletion of a program in Section 3 will automatically delete the row in Line 2.

Section 5 (Budgets) and Section 11 (Inspections) Data Quality Assurance

Line 2 (Uses of Funding) has several instances where data must not exceed data provided in Line 1 (Sources of Funding). For example, it is not possible to expend more IHBG funds than are budgeted. If there is a data mismatch, the corresponding cell in the "TOTAL" row of Line 2 will turn red. Correct the data in the table(s) until the cell is no longer red and becomes purple.

In Section 11 (Inspections) if the number of housing units inspected exceeds the number of housing units, the cell(s) in the "Total Number of Units Inspected" column will turn red. Correct the data until the cell(s) becomes blue.

Printing the Form

In addition to retaining an electronic version of the automated form, it is possible to retain a hard copy for filing. To print all sections of the form, select "Print" in the Office Button and check "Entire Workbook" in the "Print What" portion of the Print window. To print a specific section of the form, select "Print" in the Office Button and check "All" in the "Print Range" portion of the Print window.

Submitting the Form

Once the automated IHP or APR is completed, it may be submitted to your Area Office of Native American Programs as an email attachment or sent by fax or regular mail. It is recommended that the form be submitted as an email attachment in order for the form to retain its automated capabilities.

To document official signatures, print and sign hard copies of the pages that require signatures, and send the signed pages as an email

To document official signatures, print and sign hard copies of the pages that require signatures, and submit the signed pages as an e-mail attachment or by fax or regular mail. The sections of the IHP that require the signature of the authorized official are Sections 1 and 8, and Sections 15 and 16, if applicable. For the APR, Section 1 requires an official signature.

General Instructions

This form meets the requirements for an Indian Housing Plan (IHP) and Annual Performance Report (APR) required by the United States Department of Housing and Urban Development. In addition to these requirements, a tribe or tribally designated housing entity (TDHE) may elect to prepare a more comprehensive IHP. If a tribe or TDHE elects to prepare a more comprehensive IHP, the required elements of this IHP must still be submitted on the prescribed HUD form. The information requested does not lend itself to confidentiality.

Regulatory and statutory citations are provided throughout this form as applicable. Recipients are encouraged to review these citations when completing the IHP and APR sections of the form.

Under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4101 et seq.), HUD will provide grants, loan guarantees, and technical assistance to Indian tribes and Alaska Native villages for the development and operation of low-income housing in Indian areas. Grants will be made to eligible recipients under the Indian Housing Block Grant (IHBG) program. To be eligible for the grants, recipients must submit an IHP that meets the requirements of the Act. The recipient is required to submit the IHP to HUD at least 75 days prior to the start of its 12-month program year (NAHASDA § 102(a)(1)). The APR is due no later than 90 days after the end of the recipient's program year (24 CFR § 1000.514).

The IHP and the APR (previously two separate forms) are now combined into one form. The sections pertaining to the IHP are submitted **before** the beginning of the 12-month program year, leaving the APR (shaded) sections blank. If the IHP has been updated or amended, use the most recent version when preparing the APR. After the 12-month program year, enter the results from the 12-month program year in the shaded sections of the form to complete the APR. More details on how to complete the IHP and APR sections of the form can be found in the body of this form. In addition, a separate IHP and APR report form guidance is available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/codetalk/nahasda/guidance.

Public reporting burden for the collection of information is estimated to average 62 hours, 25 hours for the IHP and 37 hours for the APR. This includes the time for collecting, reviewing, and reporting the data. The IHP data is used to verify that planned activities are eligible, expenditures are reasonable, and recipient certifies compliance with related requirements. The APR data is used to audit the program accurately and monitor recipient progress in completing approved activities, including reported expenditures, outputs, and outcomes. This agency may not collect this information, and you are not required to complete this form unless it displays a currently valid OMB control number.

Form HUD-52737 (06/17/2013)

SECTION 1: COVER PAGE

(1) Grant Number:

(2) Recipient Program Year:

(3) Federal Fiscal Year:

(4) Initial Plan (Complete this Section then proceed to Section 2)

(5) Amended Plan (Complete this Section, Section 8 if applicable, and Section 16)

(6) Annual Performance Report (Complete items 27-30 and proceed to Section 3)

(7) Tribe

(8) TDHE

| | | |
|---|----------------------|-----------------------|
| (9) Name of Recipient: | | |
| <input type="text"/> | | |
| (10) Contact Person: | | |
| <input type="text"/> | | |
| (11) Telephone Number with Area Code: | | |
| <input type="text"/> | | |
| (12) Mailing Address: | | |
| <input type="text"/> | | |
| <input type="text"/> | | |
| (13) City: | (14) State: | (15) Zip Code: |
| <input type="text"/> | <input type="text"/> | <input type="text"/> |
| (16) Fax Number with Area Code (if available): | | |
| <input type="text"/> | | |
| (17) Email Address (if available): | | |
| <input type="text"/> | | |
| (18) If TDHE, List Tribes Below: | | |
| <input type="text"/> | | |
| (19) Tax Identification Number: | | <input type="text"/> |
| (20) DUNS Number: | | <input type="text"/> |
| (21) CCR/SAM Expiration Date: | | <input type="text"/> |

| | |
|---|--|
| (22) IHBG Fiscal Year Formula Amount: | |
| (23) Name of Authorized IHP Submitter: | |
| (24) Title of Authorized IHP Submitter: | |
| (25) Signature of Authorized IHP Submitter: | |
| (26) IHP Submission Date: | |
| (27) Name of Authorized APR Submitter: | |
| (28) Title of Authorized APR Submitter: | |
| (29) Signature of Authorized APR Submitter: | |
| (30) APR Submission Date: | |

Certification: The information contained in this document is accurate and reflects the activities actually planned or accomplished during the program year. Activities planned and accomplished are eligible under applicable statutes and regulations.

Warning: If you knowingly make a false statement on this form, you may be subject to civil or criminal penalties under Section 1001 of Title 18 of the United States Code. In addition, any person who knowingly and materially violates any required disclosure of information, including intentional disclosure, is subject to a civil money penalty not to exceed \$10,000 for each violation.

ONE YEAR PLAN & ANNUAL PERFORMANCE REPORT

SECTION 2: HOUSING NEEDS

NAHASDA § 102(b)(2)(B)

(1) Type of Need: Check the appropriate box(es) below to describe the estimated types of housing needs and the need for other assistance for low-income Indian families (column B) and all Indian families (column C) inside and outside the jurisdiction.

| (A) Type of Need | Check All That Apply | |
|--|-----------------------------------|----------------------------|
| | (B) Low-Income Indian Families | (C) All Indian Families |
| (1) Overcrowded Households | <input type="checkbox"/> | <input type="checkbox"/> |
| (2) Renters Who Wish to Become Owners | <input type="checkbox"/> | <input type="checkbox"/> |
| (3) Substandard Units Needing Rehabilitation | <input type="checkbox"/> | <input type="checkbox"/> |
| (4) Homeless Households | <input type="checkbox"/> | <input type="checkbox"/> |
| (5) Households Needing Affordable Rental Units | <input type="checkbox"/> | <input type="checkbox"/> |
| (6) College Student Housing | <input type="checkbox"/> | <input type="checkbox"/> |
| (7) Disabled Households Needing Accessibility | <input type="checkbox"/> | <input type="checkbox"/> |
| (8) Units Needing Energy Efficiency Upgrades | <input type="checkbox"/> | <input type="checkbox"/> |
| (9) Infrastructure to Support Housing | <input type="checkbox"/> | <input type="checkbox"/> |
| (10) Other (specify below) | <input type="checkbox"/> | <input type="checkbox"/> |

(2) Other Needs. (Describe the "Other" needs below. Note: this text is optional for all needs except "Other."):

| | |
|--|--|
| | |
|--|--|

(3) Planned Program Benefits. *(Describe below how your planned programs and activities will address the needs of low income families identified above. Also describe how your planned programs will address the various types of housing assistance needs. NAHASDA § 102(b)(2)(B)):*

| | |
|--|--|
| | |
|--|--|

(4) Geographic Distribution. *(Describe below how the assistance will be distributed throughout the geographic area and how this geographic distribution is consistent with the needs of low income families. NAHASDA § 102(b)(2)(B)(i)):*

| | |
|--|--|
| | |
|--|--|

SECTION 3: PROGRAM DESCRIPTIONS

[102(b)(2)(A)], [233(a)], [235(c)], [404(b)], 24 CFR §1000.512(b)(2) and (3)

Planning and Reporting Program Year Activities

In this section, the recipient must provide a description of its planned eligible activities, and intended outcomes and outputs for the One-Year IHP. The recipient can select any combination of activities eligible under NAHASDA and intended outcomes and outputs that are based on local needs and priorities. There is no maximum or minimum number of eligible activities or intended outcomes and outputs. Rather, the One-Year IHP should include a sufficient number of eligible activities and intended outcomes to fully describe any tasks that the recipient intends to fund in whole or in part with IHBG resources during the coming program year.

Subtitle B of NAHASDA authorizes recipients to establish a program for self-determined housing activities involving construction, acquisition, rehabilitation, or infrastructure relating to housing activities or housing that will benefit the low-income households served by the Indian tribe. A recipient may use up to 20 percent of its annual allocation, but not more than \$2 Million, for this program. Section 233(a) of NAHASDA requires a recipient to include its planned self-determination program activities in the IHP, and Section 235(c) requires the recipient to report the expenditures, outputs, and outcomes for its self-determination program in the APR. For more information, see PIH Notice 2010-35 (Demonstration Program - Self-Determined Housing Activities for Tribal Governments) at http://portal.hud.gov/hudportal/documents/huddoc?id=DOC_8814.pdf

The One-Year IHP is not required to include eligible activities or intended outcomes and outputs that will not receive IHBG resources. For example, the recipient may be planning to apply for Low Income Housing Tax Credits (LIHTC) from its state. If those tax credit projects will not receive IHBG resources, they are not required to be described in the IHP. However, the recipient may wish to include non-IHBG activities in the IHP to provide tribal members with a more

may wish to include non-IHMG activities in the IHP to provide tribal members with a more complete picture of housing activities.

If an activity will receive partial funding from an IHMG resource, it must be described in the IHP.

For example, if the recipient uses IHMG-funded staff persons to manage, inspect, or maintain an LIHTC-funded rental project, that project would be considered an IHMG-assisted project and the related activities must be described in the IHP.

Planning and Administrative expenses and loan repayments should not be identified as programs in the IHP. That is why there are dedicated rows in the Uses of Funding budget for these expenses. Instead, describe anticipated planning and administrative expenses in Section 6, Line 4 of the IHP, and describe actual planning and administration expenses in Section 6, Line 5 of the APR. Report the planned and actual amount of planning and administrative expenses in the dedicated row of the Uses of Funding budget (Section 5, Line 2). Please note that Reserve Accounts to support planning and administration is an eligible activity and should be identified as a program in the IHP, and any planned or actual expenditure from the Reserve Account would be reported by its program name in the Uses of Funding table.

With regard to loan repayments made with IHMG funds, describe planned loan repayments in Section 5, Line 4 of the IHP, and describe actual loan repayments in Section 5, Line 5 of the APR. Report the planned and actual amount of loan repayments in the dedicated row of the Uses of Funding budget (Section 5, Line 2), except as noted in the following instructions for Column O in the Uses of Funding table. Column O should show the IHMG funds that were expended in the previous 12-month program year. If the recipient borrowed and repaid a loan or a portion of a loan in the same year using IHMG funds, show the repayment of the principal amount in the IHMG program line in the Uses of Funding table and report loan interest payments and loan expenses in the Loan Repayment line in the Uses of Funding table. The Administrative and Planning spending cap must be based on the actual expenditures incurred during the 12-month period, and not on the amount shown in the IHP. These expenditures should be reported on the Planning and Administration row. The total amount of IHMG funds expended cannot exceed the total amount in Column H, Row 1 of Line 1 (Sources of Funding table).

For the IHP, complete the **unshaded** sections to describe the planned activities, outcomes and outputs in the coming 12-month program year. The recipient must complete Lines 1.1 through 1.4, Lines 1.6 and 1.7, and Line 1.9 for each eligible activity or program planned for the One-Year IHP. For the APR, complete the shaded sections to describe actual accomplishments, outcomes, and outputs for the previous 12-month program year. In particular, complete Lines 1.5, 1.8, 1.9, and 1.10 for each program included in the IHP.

Eligible Activity May Include (*citations below all reference sections in NAHASDA*):

| Eligible Activity | Output Measure | Output Completion |
|--|----------------|---|
| (1) Modernization of 1937 Act Housing [202(1)] | Units | All work completed and unit passed final inspection |

| | | |
|---|------------|---|
| (2) Operation of 1937 Act Housing [202(1)] | Units | Number of units in inventory at Program Year End (PYE) |
| (3) Acquisition of Rental Housing [202(2)] | Units | When recipient takes title to the unit |
| (4) Construction of Rental Housing [202(2)] | Units | All work completed and unit passed final inspection |
| (5) Rehabilitation of Rental Housing [202(2)] | Units | All work completed and unit passed final inspection |
| (6) Acquisition of Land for Rental Housing Development [202(2)] | Acres | When recipient takes title to the land |
| (7) Development of Emergency Shelters [202(2)] | Households | Number of households served at any one time, based on capacity of the shelter |
| (8) Conversion of Other Structures to Affordable Housing [202(2)] | Units | All work completed and unit passed final inspection |
| (9) Other Rental Housing Development [202(2)] | Units | All work completed and unit passed final inspection |
| (10) Acquisition of Land for Homebuyer Unit Development [202(2)] | Acres | When recipient takes title to the land |
| (11) New Construction of Homebuyer Units [202(2)] | Units | All work completed and unit passed final inspection |
| (12) Acquisition of Homebuyer Units [202(2)] | Units | When recipient takes title to the unit |
| (13) Down Payment/Closing Cost Assistance [202(2)] | Units | When binding commitment signed |
| (14) Lending Subsidies for Homebuyers (Loan) [202(2)] | Units | When binding commitment signed |
| (15) Other Homebuyer Assistance Activities [202(2)] | Units | When binding commitment signed |
| (16) Rehabilitation Assistance to Existing Homeowners [202(2)] | Units | All work completed and unit passed final inspection |
| (17) Tenant Based Rental Assistance [202(3)] | Households | Count each household once per year |
| (18) Other Housing Service [202(3)] | Households | Count each household once per year |
| (19) Housing Management Services [202(4)] | Households | Count each household once per year |
| (20) Operation and Maintenance of NAHASDA-Assisted Units [202(4)] | Units | Number of units in inventory at PYE |
| (21) Crime Prevention and Safety [202(5)] | Dollars | Dollars spent (report in Uses of Funding table only) |
| (22) Model Activities [202(6)] | Dollars | Dollars spent (report in Uses of Funding table only) |
| (23) Self-Determination Program [231-235] | | |
| Acquisition | Units | When recipient takes title to the unit |
| Construction | Units | All work completed and unit passed final inspection |
| Rehabilitation | Units | All work completed and unit passed final inspection |
| Infrastructure | Dollars | Dollars spent (report in Uses of Funding table only) |
| (24) Infrastructure to Support Housing [202(2)] | Dollars | Dollars spent (report in Uses of Funding table only) |
| (25) Reserve Accounts [202(9)] | N/A | N/A |

Outcome May Include:

| | |
|---|--|
| (1) Reduce over-crowding | (7) Create new affordable rental units |
| (2) Assist renters to become homeowners | (8) Assist affordable housing for college students |
| (3) Improve quality of substandard units | (9) Provide accessibility for disabled/elderly persons |
| (4) Improve quality of existing infrastructure | (10) Improve energy efficiency |
| (5) Address homelessness | (11) Reduction in crime reports |
| (6) Assist affordable housing for low income households | (12) Other – must provide description in boxes 1.4 (IHP) and 1.5 (APR) below |

IHP: PLANNED PROGRAM YEAR ACTIVITIES (NAHASDA § 102(b)(2)(A))

For each planned activity, complete all the non-shaded sections below. It is recommended that for each program name you assign a unique identifier to help distinguish individual programs. This unique number can be any number of your choosing, but it should be simple and clear so that you and HUD can track tasks and results under the program and collect appropriate file documentation tied to this program.

- One way to number your programs is chronologically. For example, you could number your programs 2011-1, 2011-2, 2011-3 etc.
- Or, you may wish to number the programs based on type. For example rental 1, rental 2, homebuyer1, homebuyer 2 etc. This type of numbering system might be appropriate if you have many programs that last over several years.
- Finally, you may wish to use an outline style of numbering. For example, all programs under your first eligible activity would start with the number 1 and then be consecutively numbered as 1.1, 1.2, 1.3 etc.

APR: REPORTING ON PROGRAM YEAR PROGRESS (NAHASDA § 404(b))

Complete the shaded section of text below to describe your completed program tasks and actual results. Only report on activities completed during the 12-month program year. Financial data should be presented using the same basis of accounting as the Schedule of Expenditures of Federal Awards (SEFA) in the annual OMB Circular A-133 audit. For unit accomplishments, only count units when the unit was completed and occupied during the year. For households, only count the household if it received the assistance during the previous 12-month program year.

| | |
|--|--|
| 1.1. Program Name and Unique Identifier: | |
| 1.2. Program Description <i>(This should be the description of the planned program.):</i> | |
| | |
| 1.3. Eligible Activity Number <i>(Select one activity from the Eligible Activity list. Do not combine homeownership and rental housing in one activity, so that when housing units are reported in the APR they are correctly identified as homeownership or rental.):</i> | |
| 1.4. Intended Outcome Number <i>(Select one outcome from the Outcome list. Each program can have only one outcome. If more than one outcome applies, create a separate program for each outcome.):</i> | |
| Describe Other Intended Outcome (Only if you selected "Other" above): | |
| 1.5. Actual Outcome Number <i>(In the APR identify the actual outcome from the Outcome list.):</i> | |
| Describe Other Actual Outcome (Only if you selected "Other" in above): | |
| 1.6. Who Will Be Assisted <i>(Describe the types of households that will be assisted under the program. Please note: assistance made available to families whose incomes fall within 80 to 100 percent of the median should be included as a <u>separate</u> program within this section.):</i> | |
| | |
| 1.7. Types and Level of Assistance <i>(Describe the types and the level of assistance that will be provided to each household, as applicable.):</i> | |
| | |
| 1.8. APR: <i>Describe the accomplishments for the APR in the 12-month program year. In accordance with 24 CFR § 1000.512(b)(3), provide an analysis and explanation of cost overruns or high unit costs.</i> | |
| | |

1.9: Planned and Actual Outputs for 12-Month Program Year

| | | |
|---|---|---|
| Planned Number of Units to be Completed in Year Under this Program | Planned Number of Households To Be Served in Year Under this Program | Planned Number of Acres To Be Purchased in Year Under this Program |
| | | |
| APR: Actual Number of Units Completed in Program Year | APR: Actual Number of Households Served in Program Year | APR: Actual Number of Acres Purchased in Program Year |
| | | |

1.10: APR: *If the program is behind schedule, explain why. (24 CFR § 1000.512(b)(2))*

SECTION 4: MAINTAINING 1937 ACT UNITS, DEMOLITION, AND DISPOSITION

NAHASDA §§ 102(b)(2)(A)(v), 102(b)(2)(A)(iv)(I-III)

(1) Maintaining 1937 Act Units (NAHASDA § 102(b)(2)(A)(v)) *(Describe specifically how you will maintain and operate your 1937 Act housing units in order to ensure that these units will remain viable.):*

a

(2) Demolition and Disposition (NAHASDA § 102(b)(2)(A)(iv)(I-III), 24 CFR 1000.134) Describe any planned demolition or sale of 1937 Act or NAHASDA-assisted housing units. If the recipient is planning on demolition or disposition of 1937 Act or NAHASDA-assisted housing units, be certain to include the timetable for any planned demolition or disposition and any other information that is required by HUD with respect to the demolition or disposition.

SECTION 5: BUDGETS

NAHASDA §§ 102(b)(2)(C), 404(b)

(1) Sources of Funding (NAHASDA § 102(b)(2)(C)(i), (404(b))) (Complete the non-shaded portions of the chart below to describe your estimated or anticipated sources of funding for the 12-month program year. **APR Actual Sources of Funding -- Please complete the shaded portions of the chart below to describe your actual funds received. Only report on funds actually received and under a grant agreement or other binding commitment during the 12-month program year.**)

| SOURCE | IHP | | | | | APR | | | | | |
|--------------------------------|--|---|---|--|--|---|--|--|---|--|---|
| | (A) Estimated amount on hand at beginning of program year | (B) Estimated amount to be received during 12-month program year | (C) Estimated total sources of funds (A+B) | (D) Estimated funds to be expended during 12-month program year | (E) Estimated unexpended funds remaining at end of program year (C-D) | (F) Actual amount on hand at beginning of program year | (G) Actual amount received during 12-month program year | (H) Actual total sources of funding (F+G) | (I) Actual funds expended during 12-month program year | (J) Actual unexpended funds remaining at end of 12-month program year (H - I) | (K) Actual unexpended funds obligated but not expended at end of 12-month program year |
| 1. IHBG Funds | | | \$0 | | \$0 | | | \$0 | | \$0 | |
| 2. IHBG Program Income | | | \$0 | | \$0 | | | \$0 | | \$0 | |
| 3. Title VI | | | \$0 | | \$0 | | | \$0 | | \$0 | |
| 4. Title VI Program Income | | | \$0 | | \$0 | | | \$0 | | \$0 | |
| 5. 1937 Act Operating Reserves | | | \$0 | | \$0 | | | \$0 | | \$0 | |
| 6. Carry Over 1937 Act Funds | | | \$0 | | \$0 | | | \$0 | | \$0 | |
| LEVERAGED FUNDS | | | | | | | | | | | |
| 7. ICDBG Funds | | | \$0 | | \$0 | | | \$0 | | \$0 | |
| 8. Other Federal Funds | | | \$0 | | \$0 | | | \$0 | | \$0 | |

| | | | | | | | | | |
|-----------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 9. LIHTC | | | \$0 | | \$0 | | \$0 | | \$0 |
| 10. Non-Federal Funds | | | \$0 | | \$0 | | \$0 | | \$0 |
| TOTAL | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| TOTAL Columns C & H, 2 through 10 | | | \$0 | | | | \$0 | | |

Notes:

- a. For the IHP, fill in columns A, B, C, D, and E (non-shaded columns). For the APR, fill in columns F, G, H, I, J, and K (shaded columns).
- b. Total of Column D should match the total of Column N from the Uses of Funding table below.
- c. Total of Column I should match the Total of Column Q from the Uses of Funding table below.
- d. For the IHP, describe any estimated leverage in Line 3 below (Estimated Sources or Uses of Funding). For the APR, describe actual leverage in Line 4 below.

(2) Uses of Funding (NAHASDA § 102(b)(2)(C)(ii)) (Note that the budget should not exceed the total funds on hand (Column C) and insert as many rows as needed to include all the programs identified in Section 3. Actual expenditures in the APR section are for the 12-month program year.)

| PROGRAM NAME | IHP | | | APR | | | |
|--|---|--|--|--|--|--|--|
| | (L) Prior and current year IHBG (only) funds to be expended in 12-month program year | (M) Total all other funds to be expended in 12-month program year | (N) Total funds to be expended in 12-month program year (L+M) | (O) Total IHBG (only) funds expended in 12-month program year | (P) Total all other funds expended in 12-month program year | (Q) Total funds expended in 12-month program year (O+P) | |
| | | | \$0 | | | \$0 | |
| Planning and Administration | | | \$0 | | | \$0 | |
| Loan repayment - describe in 3 & 4 below | | | \$0 | | | \$0 | |

| | | | | | | |
|--------------|-----|-----|-----|-----|-----|-----|
| TOTAL | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
|--------------|-----|-----|-----|-----|-----|-----|

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.**
- d. **Total of Column P cannot exceed total of Column H, Rows 2-10 of the Sources of Funding table in Line 1 above.**
- e. **Total of Column Q should equal total of Column I of the Sources of Funding table in Line 1 above.**

(3) Estimated Sources or Uses of Funding (NAHASDA § 102(b)(2)(C)). *(Provide any additional information about the estimated sources or uses of funding, including leverage (if any). You must provide the relevant information for any planned loan repayment listed in the Uses of Funding table on the previous page. This planned loan repayment can be associated with Title VI or with private or tribal funding that is used for an eligible activity described in an IHP that has been determined to be in compliance by HUD. The text must describe which specific loan is planned to be repaid and the NAHASDA-eligible activity and program associated with this loan):*

| | |
|--|--|
| | |
|--|--|

Add Bullet

(4) APR (NAHASDA § 404(b)) *(Enter any additional information about the actual sources or uses of funding, including leverage (if any). You must provide the relevant information for any actual loan repayment listed in the Uses of Funding table on the previous page. The text must describe which loan was repaid and the NAHASDA-eligible activity and program associated with this loan.):*

| | |
|--|--|
| | |
|--|--|

Add Bullet

SECTION 6: OTHER SUBMISSION ITEMS

[102(b)(2)(C)(ii)], [201(b)(5)], [202(6)], [205(a)(2)], [209], 24 CFR §§ 1000.108, 1000.120, 1000.142, 1000.:

(1) Useful Life/Affordability Period(s) (NAHASDA § 205, 24 CFR § 1000.142) *(Describe your plan or system for determining the useful life/affordability period of the housing it assists with IHBG and/or Title VI funds must be provided in the IHP. A record of the current, specific useful life/affordability period for housing units assisted with IHBG and/or Title VI funds (excluding Mutual Help) must be maintained in the recipient's files and available for review for the useful life/affordability period.):*

(2) Model Housing and Over-Income Activities (NAHASDA § 202(6), 24 CFR § 1000.108) *(If you wish to undertake a model housing activity or wish to serve non-low-income households during the 12-month program year, those activities may be described here, in the program description section of the 1-year plan, or as a separate submission.):*

(3) Tribal and Other Indian Preference (NAHASDA § 201(b)(5), 24 CFR § 1000.120)

If preference will be given to tribal members or other Indian families, the preference policy must be described. This information may be provided here or in the program description section of the 1-year plan.

Does the Tribe have a preference policy? Yes No

If yes, describe the policy.

(4) Anticipated Planning and Administration Expenses (NAHASDA § 102(b)(2)(C)(ii), 24 CFR § 1000.238)

Do you intend to exceed your allowable spending cap for Planning and Administration? Yes No

If yes, describe why the additional funds are needed for Planning and Administration. For a recipient administering funds from multiple grant beneficiaries with a mix of grant or expenditure amounts, for each beneficiary state the grant amount or expenditure amount, the cap percentage applied, and the actual dollar amount of the cap.

(5) Actual Planning and Administration Expenses (NAHASDA § 102(b)(2)(C)(ii), 24 CFR § 1000.238)

Did you exceed your spending cap for Planning and Administration?

Yes No

If yes, did you receive HUD approval to exceed the cap on Planning and Administration costs?

Yes No

If you did not receive approval for exceeding your spending cap on planning and administration costs, describe the reason(s) for exceeding the cap. (See Section 6, Line 5 of the Guidance for information on carry-over of unspent planning and administration expenses.)

(6) Expanded Formula Area - Verification of Substantial Housing Services (24 CFR § 1000.302(3)) *If your tribe has an expanded formula area (i.e., an area that was justified based on housing services provided rather than the list of areas defined in 24 CFR § 1000.302 Formula Area (1)), the tribe must demonstrate that it is continuing to provide substantial housing services to that expanded formula area. Does the tribe have an expanded formula area?*

Yes No **If no, proceed to Section 7.**

If yes, list each separate geographic area that has been added to the Tribe's formula area and the documented number of Tribal members residing there.

For each separate formula area expansion, list the budgeted amount of IHBG and other funds to be provided to all American Indian and Alaska Native (AIAN) households and to only those AIAN households with incomes 80% of median income or lower during the recipient's 12-month program year:

| Total Expenditures on Affordable Housing Activities for: | | |
|--|---------------------|---|
| | All AIAN Households | AIAN Households with Incomes 80% or Less of Median Income |
| IHBG Funds: | | |
| Funds from Other Sources: | | |

(7) APR: If answered "Yes" in Line 6, for each separate formula area, list the actual amount of IHBG and other funds expended for all AIAN households and for only AIAN households with incomes 80% of median income or lower during the recipient's 12-month program year.

| Total Expenditures on Affordable Housing Activities for: | | |
|--|---------------------|---|
| | All AIAN Households | AIAN Households with Incomes 80% or Less of Median Income |
| IHBG Funds: | | |
| Funds from Other Sources: | | |

SECTION 7: INDIAN HOUSING PLAN CERTIFICATION OF COMPLIANCE

NAHASDA § 102(b)(2)(D)

By signing the IHP, the recipient certifies its compliance with Title II of the Civil Rights Act of 1968 (25 USC Part 1301 et seq.), and ensures that the recipient has all appropriate policies and procedures in place to operate its planned programs. The recipient should not assert that it has the appropriate policies and procedures in place if these documents do not exist in its files, as this will be one of the items verified during any HUD monitoring review.

(1) In accordance with applicable statutes, the recipient certifies that:

It will comply with Title II of the Civil Rights Act of 1968 in carrying out this Act, to the extent that such title is applicable, and other applicable federal statutes.

Yes No

(2) In accordance with 24 CFR 1000.328, the recipient receiving less than \$200,000 under FCAS certifies that:

There are households within its jurisdiction at or below 80 percent of median income.

Yes No Not Applicable

(3) The following certifications will only apply where applicable based on program activities.

a. It will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under NAHASDA, in compliance with such requirements as may be established by HUD;

Yes No Not Applicable

b. Policies are in effect and are available for review by HUD and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under NAHASDA;

Yes No Not Applicable

c. Policies are in effect and are available for review by HUD and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under NAHASDA; and

Yes No Not Applicable

d. Policies are in effect and are available for review by HUD and the public governing the management and maintenance of housing assisted with grant amounts provided under NAHASDA.

Yes No Not Applicable

SECTION 8: IHP TRIBAL CERTIFICATION

NAHASDA § 102(c)

This certification is used when a Tribally Designated Housing Entity (TDHE) prepares the IHP or IHP amendment on This certification must be executed by the recognized tribal government covered under the IHP.

(1) The recognized tribal government of the grant beneficiary certifies that:

(2) It had an opportunity to review the IHP or IHP amendment and has authorized the submission of the IHP by the TDHE; or

(3) It has delegated to such TDHE the authority to submit an IHP or IHP amendment on behalf of the Tribe without prior review by the Tribe.

| | |
|--|--|
| (4) Tribe: | |
| (5) Authorized Official's Name and Title: | |
| (6) Authorized Official's Signature: | |
| (7) Date (MM/DD/YYYY): | |

SECTION 9: TRIBAL WAGE RATE CERTIFICATION

NAHASDA §§ 102(b)(2)(D)(vi), 104(b)

By signing the IHP, you certify whether you will use tribally determined wages, Davis-Bacon wages, or HUD determined wages. Check only the applicable box below.

- (1) You will use tribally determined wage rates when required for IHBG-assisted construction or maintenance activities. The Tribe has appropriate laws and regulations in place in order for it to determine and distribute prevailing wages.
- (2) You will use Davis-Bacon or HUD determined wage rates when required for IHBG-assisted construction or maintenance activities.
- (3) You will use Davis-Bacon and/or HUD determined wage rates when required for IHBG-assisted construction except for the activities described below.

(4) List the activities using tribally determined wage rates:

| | |
|--|--|
| | |
|--|--|

SECTION 10: SELF-MONITORING

NAHASDA § 403(b), 24 CFR §§ 1000.26, 85.37, 85.40

(1) Do you have a procedure and/or policy for self-monitoring?

Yes No

(2) Pursuant to 24 CFR § 1000.502(b) where the recipient is a TDHE, did the TDHE provide periodic progress reports including the self-monitoring report, Annual Performance Report, and audit reports to the Tribe?

Yes No Not Applicable

(3) Did you conduct self-monitoring, including monitoring sub-recipients?

Yes No

(4) Self-Monitoring Results. *(Describe the results of the monitoring activities, including inspections for this program year.):*



SECTION 11: INSPECTIONS

NAHASDA § 403(b)

(1) Inspection of Units (Use the table below to record the results of recurring inspections of assisted housing.)

| Activity | | Results of Inspections | | | | Total number of units inspected |
|--------------------------|--------------------------------|-----------------------------------|-----------------------------|------------------------------|------------------------------|---------------------------------|
| | | Total Number of Units (Inventory) | Units in standard condition | Units needing rehabilitation | Units needing to be replaced | |
| (a) | | (b) | (c) | (d) | (e) | (f) |
| 1 | 1937 Housing Act Units: | | | | | |
| | a. Rental | | | | | 0 |
| | b. Homeownership | | | | | 0 |
| | c. Other | | | | | 0 |
| 1937 Act Subtotal | | 0 | 0 | 0 | 0 | 0 |
| 2 | NAHASDA assisted units: | | | | | |
| | a. Rental | | | | | 0 |
| | b. Homeownership | | | | | 0 |
| | c. Rental Assistance | | | | | 0 |
| NAHASDA Subtotal | | 0 | 0 | 0 | 0 | 0 |
| Total | | 0 | 0 | 0 | 0 | 0 |

(2) Did you comply with your inspection policy:

Yes No

(3) If no, why not:

SECTION 12: AUDITS

24 CFR § 1000.544

This section is used to indicate whether an Office of Management and Budget Circular A-133 audit is required, based on a review of your financial records.

Did you expend \$500,000 or more in total Federal awards during the APR reporting period?

Yes No

If Yes, an audit is required to be submitted to the Federal Audit Clearinghouse and your Area Office of Native American Programs.

If No, an audit is not required.

SECTION 13: PUBLIC AVAILABILITY

NAHASDA § 408, 24 CFR § 1000.518

(1). Did you make this APR available to the citizens in your jurisdiction before it was submitted to HUD (24 CFR § 1000.518)?

Yes No

(2) If you are a TDHE, did you submit this APR to the Tribe(s) (24 CFR § 1000.512)?

Yes No Not Applicable

(3) If you answered "No" to question #1 and/or #2, provide an explanation as to why not and indicate when you will do so.

(4) Summarize any comments received from the Tribe(s) and/or the citizens (NAHASDA § 404(d)).

SECTION 14: JOBS SUPPORTED BY NAHASDA

NAHASDA § 404(b)

Use the table below to record the number of jobs supported with IHBG funds each year.

| Indian Housing Block Grant Assistance (IHBG) | |
|--|--|
| (1) Number of Permanent Jobs Supported | |
| (2) Number of Temporary Jobs Supported | |
| (3) Narrative (optional): | |
| | |

SECTION 15: IHP WAIVER REQUESTS

NAHASDA § 101(b)(2)

THIS SECTION IS ONLY REQUIRED IF THE RECIPIENT IS REQUESTING A WAIVER OF AN IHP SECTION OR A WAIVER OF THE IHP SUBMISSION DUE DATE.

A waiver is valid for a period not to exceed 90 days. Fill out the form below if you are requesting a waiver of one or more sections of the IHP. **NOTE:** This is NOT a waiver of the IHBG program requirements but rather a request to waive some of the IHP submission items.

(1) List below the sections of the IHP where you are requesting a waiver and/or a waiver of the IHP due date.

(List the requested waiver sections by name and section number):



(2) Describe the reasons that you are requesting this waiver *(Describe completely why you are unable to complete a particular section of the IHP or could not submit the IHP by the required due date.):*



(3) Describe the actions you will take in order to ensure that you are able to submit a complete IHP in the future and/or submit the IHP by the required due date. *(This section should completely describe the procedural, staffing or technical corrections that you will make in order to submit a complete IHP in the future and/or submit the IHP by the required due date.):*



(4) Recipient:

(5) Authorized Official's Name and Title:

(6) Authorized Official's Signature:

(7) Date (MM/DD/YYYY):

SECTION 16: IHP AMENDMENTS

24 CFR §1000.512

Use this section for IHP amendments only.

This section is only filled out if the recipient is making an official amendment to an IHP that was previously determined to be in compliance by HUD, and the recipient is required to send the amended IHP to HUD for review. The recipient may amend its IHP at any time during the Program Year.

There are only two instances when an IHP amendment must be submitted to HUD for review and determination of compliance:

- (1) When the recipient is adding a new activity that was not described in the current One-Year Plan that was determined to be in compliance by HUD; or
- (2) When the recipient is reducing the amount of funds budgeted to protect and maintain the viability of housing assisted under the 1937 Act.

The recipient is not required to submit an amended IHP to HUD:

If the revision simply alters the IHBG budget, including moving funds among planned tasks, or if it deletes a planned activity, *unless* the re-programmed funds from the budget amendment or task deletion will be used for a new task not currently in an IHP determined by HUD to be in compliance, *or unless* the change is to reduce the budget supporting 1937 Act units.

NOTES:

If Line 2 in Section 8 (IHP Tribal Certification) is checked in the current IHP, a new certification must be signed and dated by the authorized tribal official and submitted with the IHP Amendment.

Section 1 (Cover Page) is recommended but not required with an IHP Amendment submission.

| Eligible Activity | Output Measure | Output Completion |
|--|----------------|--|
| (1) Modernization of 1937 Act Housing [202(1)] | Units | All work completed and unit passed final inspection |
| (2) Operation of 1937 Act Housing [202(1)] | Units | Number of units in inventory at Program Year End (PYE) |
| (3) Acquisition of Rental Housing [202(2)] | Units | When recipient takes title to the unit |
| (4) Construction of Rental Housing [202(2)] | Units | All work completed and unit passed final inspection |
| (5) Rehabilitation of Rental Housing [202(2)] | Units | All work completed and unit passed final inspection |

| | | |
|---|------------|---|
| (6) Acquisition of Land for Rental Housing Development [202(2)] | Acres | When recipient takes title to the land |
| (7) Development of Emergency Shelters [202(2)] | Households | Number of households served at any one time, based on capacity of the shelter |
| (8) Conversion of Other Structures to Affordable Housing [202(2)] | Units | All work completed and unit passed final inspection |
| (9) Other Rental Housing Development [202(2)] | Units | All work completed and unit passed final inspection |
| (10) Acquisition of Land for Homebuyer Unit Development [202(2)] | Acres | When recipient takes title to the land |
| (11) New Construction of Homebuyer Units [202(2)] | Units | All work completed and unit passed final inspection |
| (12) Acquisition of Homebuyer Units [202(2)] | Units | When recipient takes title to the unit |
| (13) Down Payment/Closing Cost Assistance [202(2)] | Units | When binding commitment signed |
| (14) Lending Subsidies for Homebuyers (Loan) [202(2)] | Units | When binding commitment signed |
| (15) Other Homebuyer Assistance Activities [202(2)] | Units | When binding commitment signed |
| (16) Rehabilitation Assistance to Existing Homeowners [202(2)] | Units | All work completed and unit passed final inspection |
| (17) Tenant Based Rental Assistance [202(3)] | Households | Count each household once per year |
| (18) Other Housing Service [202(3)] | Households | Count each household once per year |
| (19) Housing Management Services [202(4)] | Households | Count each household once per year |
| (20) Operation and Maintenance of NAHASDA-Assisted Units [202(4)] | Units | Number of units in inventory at PYE |
| (21) Crime Prevention and Safety [202(5)] | Dollars | Dollars spent (report in Uses of Funding Table only) |
| (22) Model Activities [202(6)] | Dollars | Dollars spent (report in Uses of Funding Table only) |
| (23) Self-Determination Program [231-235] | | |
| Acquisition | Units | When recipient takes title to the unit |
| Construction | Units | All work completed and unit passed final inspection |
| Rehabilitation | Units | All work completed and unit passed final inspection |
| Infrastructure | Dollars | Dollars spent (report in Uses of Funding Table only) |
| (24) Infrastructure to Support Housing [202(2)] | Dollars | Dollars spent (report in Uses of Funding Table only) |
| (25) Reserve Accounts [202(9)] | N/A | N/A |

APR: REPORTING ON PROGRAM YEAR PROGRESS (NAHASDA § 404(b))

Complete the shaded section of text below to describe your completed program tasks and actual results. Only report on activities completed during the 12-month program year. Financial data should be presented using the same basis of accounting as the Schedule of Expenditures of Federal Awards (SEFA) in the annual OMB Circular A-133 audit. For unit accomplishments, only count units when the unit was completed and occupied during the year. For households, only count the household if it received the assistance during the previous 12-month program year.

| | | |
|--|--|--|
| 1. Program Name and Unique Identifier: | | |
| 2. Program Description <i>(This should be the description of the planned program.):</i> | | |
| | | |
| 3. Eligible Activity Number <i>(Select one activity from the Eligible Activity list. Do not combine homeownership and rental housing in one activity, so that when housing units are reported in the APR they are correctly identified as homeownership or rental.):</i> | | |
| 4. Intended Outcome Number <i>(Select one outcome from the Outcome list.):</i> | | |
| Describe Other Intended Outcome (Only if you selected "Other" above): | | |
| | | |
| 5. Actual Outcome Number <i>(In the APR identify the actual outcome from the Outcome list.):</i> | | |
| | | |
| Describe Other Actual Outcome (Only if you selected "Other" in above): | | |
| | | |
| 6. Who Will Be Assisted <i>(Describe the types of households that will be assisted under the program. Please note: assistance made available to families whose incomes fall within 80 to 100 percent of the median should be included as a <u>separate</u> program within this section.):</i> | | |
| | | |
| 7. Types and Level of Assistance <i>(Describe the types and the level of assistance that will be provided to each household, as applicable.):</i> | | |
| | | |
| 8. APR: <i>Describe the accomplishments for the APR in the 12-month program year.</i> | | |
| | | |
| 9. Planned and Actual Outputs for 12-Month Program Year | | |

| | | |
|---|---|---|
| Planned Number of Units to be Completed in Year Under this Program | Planned Number of Households To Be Served in Year Under this Program | Planned Number of Acres To Be Purchased in Year Under this Program |
| | | |
| APR: Actual Number of Units Completed in Program Year | APR: Actual Number of Households Served in Program Year | APR: Actual Number of Acres Purchased in Program Year |
| | | |
| 10. APR: If the program is behind schedule, explain why. (24 CFR § 1000.512(b)(2)) | | |
| | | |

(11) Amended Sources of Funding (NAHASDA § 102(b)(2)(C)(i) and 404(b)) (Complete the non-shaded portions of the chart below to describe your estimated or anticipated sources of funding for the 12-month program year. APR Actual Sources of Funding -- Please complete the shaded portions of the chart below to describe your actual funds received. Only report on funds actually received and under a grant agreement or other binding commitment during the 12-month program year.)

| SOURCE | IHP | | | | | APR | | | | | | |
|--------------------------------|--|---|---|--|--|---|--|--|---|--|---|--|
| | (A) Estimated amount on hand at beginning of program year | (B) Estimated amount to be received during 12-month program year | (C) Estimated total sources of funds (A+B) | (D) Estimated funds to be expended during 12-month program year | (E) Estimated unexpended funds remaining at end of program year (C-D) | (F) Actual amount on hand at beginning of program year | (G) Actual amount received during 12-month program year | (H) Actual total sources of funding (F+G) | (I) Actual funds expended during 12-month program year | (J) Actual unexpended funds remaining at end of 12-month program year (H - I) | (K) Actual unexpended funds obligated but not expended at end of 12-month program year | |
| 1. IHBG Funds | | | \$0 | | \$0 | | | \$0 | | | \$0 | |
| 2. IHBG Program Income | | | \$0 | | \$0 | | | \$0 | | | \$0 | |
| 3. Title VI | | | \$0 | | \$0 | | | \$0 | | | \$0 | |
| 4. Title VI Program Income | | | \$0 | | \$0 | | | \$0 | | | \$0 | |
| 5. 1937 Act Operating Reserves | | | \$0 | | \$0 | | | \$0 | | | \$0 | |
| 6. Carry Over 1937 Act Funds | | | \$0 | | \$0 | | | \$0 | | | \$0 | |
| LEVERAGED FUNDS | | | | | | | | | | | | |
| 7. ICDBG Funds | | | \$0 | | \$0 | | | \$0 | | | \$0 | |
| 8. Other Federal Funds | | | \$0 | | \$0 | | | \$0 | | | \$0 | |
| 9. LIHTC | | | \$0 | | \$0 | | | \$0 | | | \$0 | |
| 10. Non-Federal Funds | | | \$0 | | \$0 | | | \$0 | | | \$0 | |
| TOTAL | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | |

TOTAL Columns C & H, 2 through 10

\$0

\$0

Notes:

- a. For the IHP, fill in columns A, B, C, D, and E (non-shaded columns). For the APR, fill in columns F, G, H, I, J, and K (shaded columns).
- b. Total of Column D should match the total of Column N from the Uses of Funding table below.
- c. Total of Column I should match the Total of Column Q from the Uses of Funding table below.

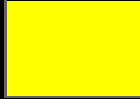
(12) Amended Uses of Funding (NAHASDA § 102(b)(2)(C)(ii)) (Note that the budget should not exceed the total funds on hand and insert as many rows as needed to include all the programs identified in Section 3. **Actual expenditures in the APR section are for the 12-month program year.**)

| PROGRAM NAME | IHP | | | APR | | |
|-----------------------------|---|--|--|--|--|--|
| | (L) Prior and current year IHBG (only) funds to be expended in 12-month program year | (M) Total all other funds to be expended in 12-month program year | (N) Total funds to be expended in 12-month program year (L+M) | (O) Total IHBG (only) funds expended in 12-month program year | (P) Total all other funds expended in 12-month program year | (Q) Total funds expended in 12-month program year (O+P) |
| | | | \$0 | | | \$0 |
| Planning and Administration | | | \$0 | | | \$0 |
| Loan repayment | | | \$0 | | | \$0 |
| TOTAL | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |

Notes:

- a. Total of Column L cannot exceed the IHBG funds from Column C, Row 1 from the Estimated Sources of Funding table in Line 2 above.
- b. Total of Column M cannot exceed the total from Column C, Rows 2-10 from the Estimated Sources of Funding table in Line 2 above.
- c. Total of Column O cannot exceed total IHBG funds received in Column H, Row 1 from the Estimated Sources of Funding table in Line 2 above.
- d. Total of Column P cannot exceed total of Column H, Rows 2-10 of the Estimated Sources of Funding table in Line 2 above.
- e. Total of Column Q should equal total of Column I of the Estimated Sources of Funding table in Line 2 above.

(13) Estimated Sources or Uses of Funding (NAHASDA § 102(b)(2)(C)). *(Provide any additional information about the estimated sources or uses of funding, including leverage (if any). You must provide the relevant information for any planned loan repayment listed in the Uses of Funding table on the previous page. This planned loan repayment can be associated with Title VI or with private or tribal funding that is used for an eligible activity described in an IHP that has been determined to be in compliance by HUD. The text must describe which specific loan is planned to be repaid and the NAHASDA-eligible activity and program associated with this loan):*



(14) APR (NAHASDA § 404(b)) *(Enter any additional information about the actual sources or uses of funding, including leverage (if any). You must provide the relevant information for any actual loan repayment listed in the Uses of Funding table on the previous page. The text must describe which loan was repaid and the NAHASDA-eligible activity and program associated with this loan.):*

| | |
|--|--|
| (15) Recipient: | |
| (16) Authorized Official's Name | |
| (17) Authorized Official's Signature: | I certify that all other sections of the IHP approved on |
| | are accurate and reflect the activities planned. |
| (18) Date (MM/DD/YYYY): | |

CHAPTER 10: GRANT ADMINISTRATION

This chapter covers:

- ***Executing the grant agreement;***
- ***Getting set up in LOCCS and eLOCCS;***
- ***Drawing down funds;***
- ***Reporting Requirements; and***
- ***eLOCCS References.***

This chapter addresses the following regulatory citation:

- ***2 CFR Part 200 and 24 CFR § 1000.26***

THE IMPORTANCE OF GRANT ADMINISTRATION

This chapter covers the legal and financial procedures and tools used by HUD and the recipient to effectively administer an Indian Housing Block Grant (IHBG).

For the recipient, grant administration will:

- Formalize the amount of funds the recipient will receive from HUD;
- Facilitate the recipient's ability to receive its grant funds from HUD; and
- Ensure accurate financial management of the grant.

Grant Administration Process

1. After the IHP is found in compliance, HUD sends the recipient the grant package.
2. The recipient signs the appropriate documents and returns them to HUD.
3. The recipient establishes Electronic Line of Control Credit System (eLOCCS) access.
4. Affordable housing programs are implemented and funds are drawn down as needed.
5. Reporting requirements are met.

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THE GRANT AGREEMENT PACKAGE

The grant agreement that is signed by HUD and the recipient serves as the foundation for the relationship between HUD and the recipient. By signing, the recipient agrees to follow NAHASDA, HUD regulations, the funding approval documents, and any other special conditions when implementing the IHBG.

A grant agreement is also the legal document that specifies the grant award for the recipient and the grant project number for the IHBG program which consists of the following.

- The first two digits will be 55 to reflect the IHBG program
- The following two digits will indicate the entity who administers the project. Use “IH” if it is administered by a TDHE and “IT” if the tribe administers it.
- The next two digits will reflect the FIPS State Code. For example, for Alaska the FIPS State Code is 02.
- The next four digits is the HUD Locality Code. With the exception of eight tribes, each tribe has been assigned a locality code
- The last digit will be a “0” for an IHBG and will change in the event the entity receives another grant for that particular fiscal year

Both parties sign the grant agreement after HUD determines that the recipient’s Indian Housing Plan (IHP) is found to be in compliance.

Sample Project Number:

55-IH-02-0123-0:

- **55 for Combined account Year**
- **IH for TDHE Administered**
- **02 FIPS for Alaska**
- **0123 for Tribe’s locality code**

The Area ONAP will prepare a grant agreement package for the recipient. The grant agreement package will consist of:

- Two complete copies of form HUD-52734-B, Funding Approval/Agreement, signed by the Administrator (see Attachment 10-1);
- Form HUD-27054 (current instructions (see Attachment 10-2), Program Guidance 2014-08(R) “*The Voice Response System (VRS) of the Line of Credit Control System (LOCCS) is being replaced by the Electronic Line of Credit System (eLOCCS)*”)

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throughout Housing and Urban Development (HUD)” (Attachment 10-3), form HUD-50080-IHBG (current version dated 4/2000) IHBG Payment Voucher (Attachment 10-4). (You will not use paper version of HUD-50080-IHBG or the payment voucher when you convert to eLOCCS);

- Form SF 1199A, Direct Deposit Sign-up, and instructions. Needed only for new recipients. (see Attachment 10-5);
- Certification Regarding Lobbying;
- Guide form Assurance of Compliance with § 50.3(h); and
- Guide form Indian Preference Certification.

Before a recipient can access IHBG funds in the Electronic Line of Credit Control System (eLOCCS), a Grant Agreement must be executed between HUD and the recipient.

EXECUTING THE GRANT AGREEMENT

Within two weeks after the date of the letter from ONAP, which transmits the grant agreement and other materials, the recipient should:

Complete Grant Agreement - Form HUD-52734-B, Funding Approval/Agreement

| |
|---|
| Q: Who signs the grant agreement first? |
| A: HUD must sign the grant agreement first in order to get the funds obligated to that tribe. |

- Execute all two copies of the grant agreement form, and
- Retain one copy and return the other copy to the Area ONAP.

Obtain eLOCCS Access – For additional information see Attachment 10-6, eLOCCS Registration Guide.

Once the Program Office makes funds available for disbursement to the grantee, and the grant recipient/grantee has:

- 1) Returned the signed Grant Agreement,
- 2) Returned the HUD-27054 LOCCS Authorization Form,

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- 3) Returned the SF-1199A Direct Deposit Sign-up Form, and
 - 4) Completed the Secure Systems/eLOCCS on-line registration process provided in the eLOCCS Registration Guide, The user is now prepared to draw down available funds.
- ☐ If a recipient has not previously been set up in LOCCS or eLOCCS through participation in other HUD programs, the recipient must complete and send to the Area ONAP:
- ⇒ Form SF-1199A: (Direct Deposit Sign-up form) and a canceled check to identify bank routing information.
- ☐ All recipients must complete and submit a Form HUD-27054 (version dated 8/2011) filled out by each staff person who will perform draw down or query functions.
- ⇒ If the recipient has previously been established in LOCCS for other HUD programs, the recipient must revise Form HUD-27054 to reflect the addition of the IHBG program. The LOCCS code for the Indian Housing Block Grant Program is IHBG (insert code in block 5a of HUD-27054).
 - ⇒ In the event a recipient has not previously been set up in LOCCS, this form must be sent to the Area ONAP for purposes of draw down privileges.
 - ⇒ On Form HUD-27054, identify an authorized user and an authorizing official (these must be two different people).
 - ⇒ Retain one copy and return the original and a copy of the signed form to the Area ONAP.
 - ⇒ In the event the user is new or a user has been re-instated to access the LOCCS, the form must be notarized.
- ☐ **Complete and Submit Other Grant Agreement Package Materials**
- Execute and return to the Area ONAP the Certification Regarding Lobbying, and Guide form Indian Preference Certification.
 - If the recipient declines to assume environmental review responsibilities as described in Chapter 8, execute and return to ONAP the Guide form Assurance of Compliance with § 50.3(h).

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- In addition, the recipient must assume the responsibilities and obligations required by related Federal laws to effectively carry out the new IHBG program. The recipient should become familiar with:
 - ⇒ Public Law 104-330: The Native American Housing Assistance and Self-Determination Act of 1996, as amended;
 - ⇒ Transition Notices dated April 1, 1999; October 2, 1998; April 15, 1998; January 27, 1998; February 24, 1997 and January 27, 1997;
 - ⇒ Final Rule 24 CFR Part 1000 and amendments;
 - ⇒ Procurement requirements listed under 2 CFR Part 200;
 - ⇒ Reporting requirements listed under 2 CFR Part 200, 24 CFR 1000.512 and 1000.514;
 - ⇒ Environmental requirements under 24 CFR Part 58 or Part 50;
 - ⇒ Labor requirements of 25 U.S.C, 4114 and Section 104(b) of NAHASDA; and
 - ⇒ Tenant or homebuyer selection requirements contained in the recipient's admissions policy, or that comply with Sections 203, 205, and 207(b) of NAHASDA.

WHAT IS LOCCS?

The Line of Credit Control System (LOCCS) is HUD's computerized cash management disbursement system that allows recipients to receive disbursements of grant funds by electronic wire transfer. Under the IHBG program, LOCCS allows ONAP to plan, account for and evaluate IHBG disbursements.

LOCCS receives information from HUD's Project Accounting System (PAS) regarding the amount of grant funds authorized by ONAP, as well as any changes in this amount.

eLOCCS is the Internet version of the LOCCS/VRS. Program Guidance 2014-08(R): *The Voice Response System (VRS) of the Line of Credit Control System (LOCCS) is being*

Q: Is the Cash Management Notice still in effect?

A: Yes. The cash management procedures outlined in PIH Notice 96-33, issued June 4, 1996, titled, "Required HA Cash Management and Investment Policies and Procedures" which was reinstated indefinitely by PIH Notice 02-13, issued June 4, 2002, will continue to apply to 1937 Act funds which are held in reserve.

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replaced by the Electronic Line of Credit System (eLOCCS) throughout Housing and Urban Development (HUD, Attachment 10-3,)sets forth the requirements for all IHBG recipients to **COMPLETE** conversion to eLOCCS by December 31, 2014. The Guidance further instructs grant recipients on how to register and access eLOCCS for the grant programs administered by the Office of Native American Programs (ONAP) that currently use VRS to submit drawdown requests.

eLOCCS provides drawdown and significantly more query and reporting capability.

□ The *eLOCCS Getting Started Guide* provides examples of eLOCCS screens and describes the overall layout and menu navigation with the intent of familiarizing the user with the look-and-feel of eLOCCS prior to actually accessing eLOCCS. Some of the topics include:

- Registration
- Signing on to eLOCCS
- Logging in
- Authorization
- eLOCCS screens
- Navigation
- Queries
- Grant and program portfolios
- Vouchers
- Troubleshooting
- Contacts

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GETTING SET UP IN eLOCCS

In order to use eLOCCS, you must complete the following: 1) Register in Secure Systems to access the eLOCCS “application”, and 2) Submit a HUD-27054 LOCCS Access Authorization form, which will specify the Business Partner(s) and HUD Programs you are authorized to access within eLOCCS.

- Register in Secure Systems to access the eLOCCS “application” which includes the following components:
 - Your organization must be a recognized Secure Systems Business Partner. This only needs to occur once for your organization,
 - Your organization must have an assigned Secure Systems “Coordinator”. This individual serves as your organizations Secure Systems administrator and would be responsible for assigning appropriate eLOCCS Secure Systems roles to “Users” or themselves. Up to 5 Coordinators can be assigned to each organization.
 - Each Secure Systems eLOCCS “User” must have their own Secure Systems ID. The Coordinator will assign appropriate eLOCCS roles to each user.
- Submit a HUD-27054 LOCCS Access Authorization form, which will specify the Business Partner(s) and HUD Programs you are authorized to access within eLOCCS.
 - You will be assigned both a Secure Systems ID/password from the Secure Systems Registration process and a separate LOCCS ID/password from the HUD-27054 process. The Secure Systems ID/password will be needed to sign-on to Secure Systems, and LOCCS will prompt for the LOCCS ID/password once you select LOCCS from the Secure Systems applications page.

BUDGET ITEMS IN LOCCS

As stated above, HUD enters the recipient’s grant budget into LOCCS BLI 1600

Current Assisted Stock Operating Subsidy: All funds that the recipient draws down will come under this category. Disbursements from this budget line item may be used for any eligible affordable housing activity, in addition to operating subsidy purposes. Current Assisted Stock Operating Subsidy consists primarily of the operating subsidy for:

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- Formula Current Assisted Stock, or housing units owned or operated by the recipient, including low-rent, Mutual Help and Turnkey III housing units under management as of September 30, 1997,
- 1937 Act units in the development pipeline when they become owned or operated by the recipient, and
- Section 8 units, when their current contract expires and the recipient continues to operate these units in a manner similar to the Section 8 program.

Q: Do LOCCS drawdowns for operating expenses have to be spent within 3 days?

A: Yes. Grantees are required to follow financial controls outlined by OMB at 2 CFR Part 200 and procurement requirements at 2 CFR Part 200 and Treasury regulations at 31 CFR 205 for the minimum time requirement elapsing between the transfer of funds and their disbursement by the grantee and the subgrantee. The time between draw down and disbursement of funds by the Tribe/TDHE is established to be no more than 3 working days. See PIH Notice 2002-13 and Program Guidance 98-03, for additional information.

Investments: Only if this activity is pre-approved by HUD, the recipient may draw down funds to invest in either obligations of the U.S. or accounts that are Federally insured up to the maximum amount of funds that may be invested (§ 1000.58). For a description of maximum allowable investments and HUD's requirements, refer to the current IHBG regulations.

As noted above, each of these budget categories is assigned a four-digit code through LOCCS. When drawing down funds, the recipient must indicate the project number assigned by HUD.

Although environmental review requirements apply to most IHBG activities, in most cases ONAP will not control the release of funds. It is the recipient's responsibility to ensure that prior to obligating or expending IHBG funds that all environmental review requirements have been met.

COMPLETING THE DRAW REQUEST (FORM HUD-50080-IHBG)

Once the Program Office makes funds available for disbursement to the grantee, and the grant recipient/grantee has:

- 1) Returned the signed Grant Agreement,
- 2) Returned the HUD-27054 LOCCS Authorization Form,
- 3) Returned the SF-1199A Direct Deposit Sign-up Form,

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- 4) Completed the Secure Systems/eLOCCS on-line registration process provided in the eLOCCS Registration Guide,

The user is now prepared to draw down available funds.

Although eLOCCS generates a new payment invoice, HUD-50080, some HUD Program Offices will require that their grantees complete The LOCCS Request Voucher for Grant Payment ([HUD-27053](#)) form to be submitted to their offices for approval prior to requesting grant funds. These forms will be made available to the grantee from their Program Officers. Grantees should make copies of these vouchers as needed. The grantee should contact their HUD Program Office staff for information and processing rules which are unique to their given Program Area.

NOTE: The Grant recipient/grantee must keep the original voucher.

COMMON LOCCS PROBLEMS

The most frequent problem encountered by users is difficulty accessing eLOCCS. This is due to the Secure Systems Coordinator's improper setup of access in Secure Systems. Once access has been established in eLOCCS through Secure Systems, users report very few problems with navigating and using eLOCCS. Recipients who experience difficulty should contact their Area ONAP office.

REPORTING REQUIREMENTS

- Quarterly reports:** Quarterly FFRs must be submitted to the respective Area ONAP within 30 days after the end of the reporting period. The following reporting period end dates shall be used for interim reports: 3/31, 6/30, 9/30, or 12/31. At this time, all FFRs submitted to ONAP are based on single grant reporting; therefore, only the SF-425 is used. The SF-425A, which is the FFR's attachment, is not applicable to any of ONAP's programs at this time. The SF-425A is only used when reporting on multiple grants. Since IHBG grants no longer have an end date, no Final FFRs is due. Reports may be submitted by regular mail, fax or e-mail attachment. LOCCS will automatically generate a letter reminding the recipient to submit its form SF-425 30 days before the end of the quarter.
- If for any reason LOCCS fails to send this notification, the recipient is still responsible for submitting Form SF-425.
- If the Area ONAP does not receive the report within 30 calendar days after the end of

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the quarter, the Area ONAP will automatically notify the recipient that the report is overdue.

- For 1937 Act program funds that were obligated prior to the implementation of NAHASDA, the recipient is required to follow the requirements in effect at the time the funds were awarded.
- See Chapter 14 for more detailed information on quarterly reporting.

Annual Performance Report: At the end of the recipient's program year, the recipient will complete the APR by opening the IHP file (if the IHP has been updated or amended, use the most recent (i.e., last version) and enter the APR data for that applicable 12-month program year in the appropriate grey colored sections). The APR has been designed to track the programs outlined in the One-Year IHP. The APR describes annual accomplishments and shows the progress made toward planned eligible activities, intended outcomes, and programs. At a minimum, the APR text must describe the results of IHBG, IHBG program income, and Title VI expenditures, as applicable. Recipient programs that are partially funded by IHBG, IHBG program income, or Title VI must be included in the APR. If the recipient wished to report on programs funded by other sources, it may do so.

- If an APR is not submitted within 90 calendar days after the end of the program year, the Area ONAP will notify the grant recipient that the report is overdue.
- Failure to submit an APR constitutes non-compliance under NAHASDA. If the recipient does not submit the APR within the required timeframe, HUD will consider the recipient to be in non-compliance, unless a request for an extension is submitted prior to the APR due date and the Area ONAP approves it.
- If you do not submit an APR within the required timeframe, the Area ONAP will ask you to submit documentation before you may access funds through LOCCS. The documentation that the Area ONAP requests will be used to substantiate that the IHBG funds you are requesting will be used to implement the goals and objectives of your IHP.
- See Chapter 14 for more detailed information on annual reporting.

REFERENCE

- These are general LOCCS instructions for filling out the HUD-27054 LOCCS Access Authorization Form and SF1199A Direct Deposit form.

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- http://portal.hud.gov/hudportal/HUD?src=/program_offices/cfo/loccs_guidelines
- ❑ **eLOCCS Getting Started Guide** - This guide provides eLOCCS web page examples, familiarizing the user with how navigation works in eLOCCS and how to view, manage and drawdown HUD grant funds.
 - <http://portal.hud.gov/hudportal/documents/huddoc?id=eloccsguide.pdf>
- ❑ **eLOCCS Registration Guide** - Before accessing eLOCCS, a user must have a Secure Systems ID/password and a LOCCS ID/password. This document outlines the security and registration components needed to obtain those IDs.

Note: If you are converting from VRS to eLOCCS, you already have a LOCCS ID/password.

- http://portal.hud.gov/hudportal/documents/huddoc?id=eloccs_registration_guide.pdf
- ❑ **HUD-27054 LOCCS Access Authorization form** - Use this form to request specific LOCCS Organization and HUD Program Area access. The LOCCS Access Guidelines for Grantees (above) has instructions on filling out this form.
 - <https://portal.hud.gov/hudportal/documents/huddoc?id=27054.pdf>
- ❑ **Secure Systems** (this is how you access eLOCCS) - Secure Systems is a HUD Web Portal which has access to many HUD systems, of which eLOCCS is one of them.
 - http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/react/online

PIH Notice 2013-01 “*Line of Credit Control System/Voice Response System (LOCCS/VRS) for the Indian Housing Block Grant Program*” provides specific guidance on the use of the Line of Credit Control System (LOCCS) and the Voice Response System (VRS) This Notice incorporates recent changes to the IHBG program.

Program Guidance 2014-08(R) “*The Voice Response System (VRS) of the Line of Credit Control System (LOCCS) is being replaced by the Electronic Line of Credit System (eLOCCS) throughout Housing and Urban Development (HUD)*”.

Program Guidance 2014-07 “*Federal Financial Report (FFR) - Standard Form 425 for Indian Housing Block Grant Program*” provides the latest information on SF-425 Federal Financial Report.

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**ATTACHMENT 10-1: FUNDING
APPROVAL/AGREEMENT
FORM HUD-52734-B**

Funding Approval/Agreement

Native American Housing Assistance and Self-Determination Act of 1996 (Public Law 104-330)

Title I - Indian Housing Block Grant

Title VI - Federal Guarantees For Financing Tribal Housing Activities

U.S. Department of Housing and Urban Development
Office of Native American Programs

| | | | |
|---------------------------------|--|---|---|
| 1. Name of Recipient | | 3. Recipient's 9-digit Tax Identification No. | 4. Reserved |
| 2. Recipient's Complete Address | | 5. Program/Grant Number | 6. Amount Approved IHBG Title VI Loan Guarantee |

This Grant Agreement between the Department of Housing and Urban Development (HUD) and the above named Recipient is made pursuant to the authority of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4101 et seq.). The Recipient's submissions for NAHASDA assistance, the NAHASDA statute (as now in effect and as may be amended by Congress), the HUD regulations at 24 CFR Part 1000 (as now in effect and as may be amended from time to time), and this Funding Approval, including any special conditions, constitute the Agreement. Subject to the provisions of this Grant Agreement, HUD will make the funding assistance specified here available to the Recipient upon execution of the Agreement by the parties. The Indian Tribe has agreed to assume all of the responsibilities for environmental review, decision making, and actions as specified and required in regulations issued by the Secretary consistent with and pursuant to Section 105 of NAHASDA. (If the Indian Tribe did not agree to assume these responsibilities, these responsibilities are retained by HUD). The Recipient further acknowledges its responsibility for adherence to the Agreement by entities to which it makes funding assistance hereunder available.

| U.S. Department of Housing and Urban Development | | Recipient | |
|---|---|--|---|
| Name | | Name | |
| Signature | | Signature | |
| Title | Date (mm/dd/yyyy) | Title | Date (mm/dd/yyyy) |
| 7. Special conditions (check applicable box) a. <input type="checkbox"/> Not applicable b. <input type="checkbox"/> See attachment(s) | 8a. Date HUD Received Submission (mm/dd/yyyy) 8b. Date Recipient Notified (mm/dd/yyyy) 8c. Date of Start of Program Year (mm/dd/yyyy) | 9. (check one) a. <input type="checkbox"/> Orig. funding aprvl. b. <input type="checkbox"/> Amendment c. Amendment Number | 10. Amount of Indian Housing Block Grant a. Funds Reserved for this Recipient b. Funds Now Being Approved c. Reservation to be Cancelled (a minus b) |

11. (This section is to be completed only if a Tribally Designated Housing Entity [TDHE] is the recipient of the loan guarantee but it is not the IHBG recipient)

11a. Name & Address of TDHE

Loan Guarantee Acceptance Provisions for Tribally Designated Housing Entities (TDHE)

The Tribally Designated Housing Entity hereby accepts the Grant Agreement executed by the Department of Housing and Urban Development (HUD) on the above date with respect to the above program grant number(s) as Recipient designated to receive loan guarantee assistance, and agrees to comply with the terms and conditions of the Agreement, applicable regulations, and other requirements of HUD now or hereafter in effect, pertaining to the assistance provided it.

11b. Authorized Representative Name _____
Title _____
Signature _____
Date (mm/dd/yyyy) _____

HUD Accounting Use Only (show all dates as mm/dd/yyyy)

| Batch | TAC | Program | Y | A | Reg. | Area | Document No. | Project No. | Category | Amount | Effective Date |
|------------------|--------------------|--------------|------------------|------------|-------------|------|--------------|-------------|----------|--------|----------------|
| | 153 | | | | | | | | | | |
| | 176 | | | | | | | | | | |
| Date Entered PAS | Date Entered LOCCS | Batch Number | Transaction Code | Entered by | Verified by | | | | | | |

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**ATTACHMENT 10-2: LOCCS-VRS
FORM HUD 27054**

LOCCS Voice Response System Access Authorization Form

U.S. Department of Housing
and Urban Development

See Instructions, Public Burden, and Privacy Act statements on back before completing this form

This form is to be approved by the recipient's (or grantee's) chief executive officer. For new users, reinstate users, and resend user ID, retain a copy and send a notarized original to your HUD Program Office for review.

The Program Office will forward the original form to:
**U.S. Dept. of Housing and Urban Development
Chief Financial Officer, FYM
Attention: User Support Branch
PO Box 23774
Washington, DC 20026-3774**

For overnight delivery send to:
**U.S. Dept. of Housing and Urban Development
Chief Financial Officer, FYM
Attention: User Support Branch
451 7th Street SW, Room 3114
Washington, DC 20410**

| | | | |
|---|--|---|--|
| 1. Type of Function (mark one) 1 New User 2 Reinstate User 3 Terminate User 4 Reset Password for Active Users | 5 Add New Program Area or Tax ID 6 Change Tax ID 7 Change Address 8 Resend User ID 9 Name Change | 2a. User ID (please leave blank) (CFO USE ONLY) | 2b. Social Security Number (SSN) (mandatory) |
| 3. Authorized User's Name (last, first, mi) Print or Type | | Title (mandatory) | |
| Complete Mailing Address | | E-Mail Address | |
| 4. Recipient Organization for which Authority is being Requested | | | |
| Tax ID | | Organization's Name | |
| Tax ID | | Organization's Name | |
| Tax ID | | Organization's Name | |

| | | |
|--------------------------------|------------------|--|
| 5a. LOCCS Program Area | 5b. Program Name | 5c. Q = Query Only D = Project Drawdown |
| | | |
| | | |
| | | |
| 6. Authorized User's Signature | | Date (mm/dd/yyyy) |

I authorize the person identified above to access LOCCS via the Voice Response System.

| | | |
|--|--|---|
| 7. Approving Official's Name (last, first, mi) Print or Type | Office Telephone Number (include area code) | 8. Notary (must be different from user and approving official) Seal, Signature, and Date Notarized (mm/dd/yyyy) |
| Title | Social Security Number (mandatory) | |
| Complete Mailing Address | E-Mail Address | |
| Approving Official's Signature | Date (mm/dd/yyyy) | |
| 9. HUD Program Office Point of Contact's Name (last, first, mi) Print or Type | | Office Telephone Number (include area code) |
| Title | | E-Mail Address |
| HUD Program Office Point of Contact's Signature | | Date (mm/dd/yyyy) |

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Public reporting burden for this collection of information is estimated to average 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number.

HUD implemented the Line of Credit Control System/Voice Response System (LOCCS/VRS) to process requests for payments to grantees. Grant recipients fill out a voucher form for the applicable HUD program with all the necessary information prior to making a telephone call using a touch tone telephone to initiate the drawdown process. The grantee will be prompted for entering the information and for confirming information that is spoken back by the VRS simulated voice. This information is required to obtain benefits under the U.S. Housing Act of 1937, as amended. The information requested does not lend itself to confidentiality.

Privacy Act Statement: Public Law 97-255, Financial Integrity Act, 31 U.S.C. 3512, authorizes the Department of Housing and Urban Development (HUD) to collect all the information which will be used by HUD to protect disbursement data from fraudulent actions. The Housing and Community Development Act of 1987, 42 U.S.C.3543 authorizes HUD to collect the SSN. The purpose of the data is to safeguard the Line of Credit Control System (LOCCS) from unauthorized access. The data are used to ensure that individuals who no longer require access to LOCCS have their access capability promptly deleted. Provision of the SSN is mandatory. HUD uses it as a unique identifier for safeguarding the LOCCS from unauthorized access. This information will not be otherwise disclosed or released outside of HUD, except as permitted or required by law. Failure to provide the information requested on the form may delay the processing of your approval for access to LOCCS.

Instructions for the LOCCS Voice Response Access Authorization Form

1. Type of Function:

- (1) **New User:** User does not currently have a LOCCS user ID. Form must be notarized with original signatures.
- (2) **Reinstate User:** Used to reinstate the user's access authorization in LOCCS. Form must be notarized with original signatures.
- (3) **Terminate User:** Used to immediately terminate the user's access authorization in LOCCS.
- (4) **Reset Password for Active Users:** A temporary password will be mailed back to the user to inform him/her of the reset password's value. The user will be required to change the password on the next access to LOCCS.
- (5) **Add New Program Area or Tax ID:** User has a current User ID and will be increasing access capability.
- (6) **Change Tax ID:** User has a current ID and will be changing the Tax ID. **This function is not to be used to change approving official, or substitute a user. Contact Program Office for procedures.**
- (7) **Change Address:** User is changing the current mailing address.
- (8) **Resend User ID.** User has no knowledge of existing User ID.
- (9) **Name Change.** User is requesting their name to be changed.

2. a. **User ID:** This block will be filled in by the User Support Branch.
- b. **Social Security Number. Mandatory.** Used to preclude duplicate issuance of authorization for the same person. See the Privacy Act Statement above. **[Do not use Federal Tax ID Number]**

3. **User Information: All fields are mandatory.** Failure to enter any of these fields will cause the HUD-27054 to be rejected. Enter the user's last name, first name, and middle initial. Enter the user's office phone number. Enter user's mailing address, city, state and zip code. Enter user's e-mail address.

4. **Recipient Organization** for which authority is being requested. This will identify the organization the user will be representing. Enter the organization's Tax ID and organization name.
5. **Program Authority.** Identify the HUD program areas this user will be authorized to access for the recipient organization and then enter the corresponding code(s)/name(s). See <http://portal.hud.gov/hudportal/documents/huddoc?id=prgareas.pdf>
 - a. Enter the 3 or 4-character **LOCCS Program Area**.
 - b. Enter the **Program Name**.
 - c. Enter "**Q**" for Query only access or "**D**" for Project Drawdown access. Users who select Project Drawdown access will automatically receive Query access.
6. **Signature/Date.** The signature of the user requesting access And the date (mm/dd/yyyy) this authorization was signed.
7. **Approval. All fields are mandatory.** Enter the name, office telephone number, title, social social security number, office address, signature and date of the approving official representing the grantee. Approving officials **cannot** approve themselves for access to the system, and must be the user's supervisor.
8. **Notary.** Must be different from user and approving official. The official who notarizes the form shall include his/her seal, signature, and date (mm/dd/yyyy). Notary should notarize both signatures. Notary is only required for new user and reinstate user.
9. **Program Office Validation.** The **HUD Program Office** must validate that the grantee is the correct official accessing the grant. The Program Official shall include his/her name, office telephone number, title, e-mail address, signature, and date (mm/dd/yyyy).

**ATTACHMENT 10-3:
THE VOICE RESPONSE SYSTEM (VRS) OF THE LINE
OF CREDIT CONTROL SYSTEM (LOCCS) IS BEING
REPLACED BY THE ELECTRONIC LINE OF CREDIT
SYSTEM (ELOCCS) THROUGHOUT HOUSING AND
URBAN DEVELOPMENT (HUD)**



No. 2014-08(R)
August 12, 2014

RECIPIENT GUIDANCE

PROGRAM: All Grant Programs

FOR: Tribal Government Leaders, Tribally Designated Housing Entities, and the Department of Hawaiian Home Lands

RJB

FROM: Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, PN

TOPIC: The Voice Response System (VRS) of the Line of Credit Control System (LOCCS) is being replaced by the Electronic Line of Credit System (eLOCCS) throughout Housing and Urban Development (HUD).

PURPOSE: Effective August 1, 2014, all first-time or reinstated LOCCS users must use eLOCCS. HUD is planning on retiring the Line of Credit Control Voice Response System (LOCCS-VRS). HUD's Office of Chief Financial Officer (OCFO) is currently transitioning all LOCCS VRS users to eLOCCS, which is the Internet version of LOCCS under the Real Estate Assessment Center's (REAC) Secure Systems. OCFO is implementing the transition from VRS to eLOCCS in three phases:

Phase 1: Pilot Phase - completed

Phase 2: All first-time and reinstated LOCCS users and approving officials who submit a HUD-27054 LOCCS Access form and register for Secure Systems will only be able to access eLOCCs, effective August 1, 2014.

Phase 3: Convert all remaining VRS users to eLOCCs. The target date set for completing this conversion for the Office of Native American Programs is December 31, 2014.

This Guidance provides instruction to the grant recipient on how to register and access eLOCCS for the grant programs administered by the Office of Native American Programs (ONAP) that currently use VRS to submit drawdown requests. These programs include the Indian Housing Block Grant, Indian Community Development Block Grant, Native Hawaiian Housing Block Grant, Rural Housing and Economic Development, Resident Opportunities and Self-Sufficiency, and Training and Technical Assistance programs. This guidance replaces Program Guidance 2013-02, Voluntary Registration for Line of Credit Control System/Voice Response System (LOCCS/VRS).

BACKGROUND: *e*LOCCS is the Internet version of the LOCCS/VRS. It is a grant disbursement and accounting system used by HUD. *e*LOCCS provides significantly more reporting capability and the ability to utilize queries. Authorized grant recipients, or their representatives, can access *e*LOCCS through HUD's Secure Systems. Once *e*LOCCS access has been authorized, the user is allowed to view a wide range of contract-level information regarding HUD payments to the grantee.

***e*LOCCS Hours of Operation:**

Monday – Saturday 6:00 a.m. to 8:00 p.m. EST
Sunday Not Available

Browser Requirements: Secure Systems and *e*LOCCS both support the same browser. Currently, the recommended browser is Internet Explorer 7.0. To get additional information about browser requirements, go to the HUD Online Systems webpage:

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac/reac_security

***e*LOCCS Coordinator:** All ONAP recipients, including tribes, Tribally Designated Housing Entities (TDHEs), the Department of Hawaiian Home Lands (DHHL) and Technical Assistance Providers must have a Coordinator and at least one user registered. Generally, the Coordinator is the Executive Director or other principal, and they should register as such by marking the Coordinator circle in the Secure System process described in the hyperlinks or attachments provided within this notice. This person controls access to HUD systems and performs other system administrative functions.

Secure Systems / *e*LOCCS Registration: New users and approving officials need to register in both the Secure Systems and *e*LOCCS. **When registering, based on system requirements, ONAP recipients must register as Multifamily Housing.**

Below is the OCFO announcement of the conversion from VRS to *e*LOCCS in the link below.

The instructions for registering in Secure Systems are contained in the link below.

- *e*LOCCS Registration Guide
http://portal.hud.gov/hudportal/documents/huddoc?id=eloccs_registration_guide.pdf

The Instructions for registering in *e*LOCCS are contained in the link below.

- LOCCS Access Guidelines for Grantees
http://portal.hud.gov/hudportal/HUD?src=/program_offices/cfo/loccs_guidelines

Below is a link to form HUD-27054

- form HUD-27054, LOCCS VRS Access Authorization form (Attachment V)
<http://portal.hud.gov/hudportal/documents/huddoc?id=27054.pdf>
- *e*LOCCS Getting Started Guide
<http://portal.hud.gov/hudportal/documents/huddoc?id=eloccsguide.pdf>

PROGRAM GUIDANCE 2014-08 (RECIPIENT)

The OCFO has requested that each Program Office designate a VRS-to-eLOCCs coach who is to handle simple registration questions. If there are any issues or questions the coach cannot answer, the coach will contact the LOCCS Help Desk and facilitate a response as quickly as possible.

Wayne Johnson has been appointed the coach for ONAP grant recipients, and he can be reached via email at: Wayne.J.Johnson@hud.gov or by telephone at 303-675-1609.

Chapter 10: Grant Administration

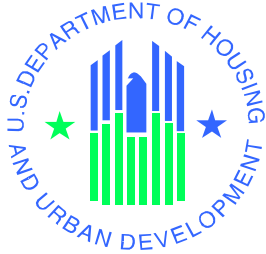
**ATTACHMENT 10-4: LOCCS/VRS IHBG PAYMENT
VOUCHER
FORM HUD 50080-IHBG**

Chapter 10: Grant Administration

**ATTACHMENT 10-5: DIRECT DEPOSIT SIGNUP
FORM SF 1199A**

ATTACHMENT 10-6: eLOCCS REGISTRATION GUIDE





eLOCCS

Registration GUIDE

Line of Credit Control System (LOCCS)

U.S. Department of Housing and Urban Development

June 2014

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1 Introduction

The Line of Credit Control System (LOCCS) is the U.S. Department of Housing and Urban Development's (HUD) primary grant and subsidy disbursement system that handles disbursement and cash management for the majority of HUD grant programs. Organizations and individuals have access to these grants through an internet version of LOCCS called eLOCCS, where Business Partners with appropriate authorization can access, manage, and drawdown against their HUD grant portfolios.

1.1 Purpose of Guide

Accessing eLOCCS requires;

- 1) Registration in **Secure Systems** which is the HUD Web Portal in which the eLOCCS application resides.
- 2) Submission of a **HUD-27054 LOCCS Access Authorization** form which will control what a user can see and do once they are in eLOCCS.

This guide focuses on Registration components and steps needed to gain access to eLOCCS through Secure Systems. A separate **eLOCCS Getting Started Guide** with screen samples will familiarize you with eLOCCS functionality and layout. A link to the **Getting Started Guide**, along with other useful links can be found in section **1.2 LOCCS URL Quick References**.

1.2 LOCCS URL Quick References

LOCCS URL Quick References

1) **LOCCS Access Guidelines for Grantees**

These are general LOCCS instructions for filling out the HUD-27054 LOCCS Access Authorization Form and SF1199A Direct Deposit form.

http://portal.hud.gov/hudportal/HUD?src=/program_offices/cfo/loccs_guidelines

Cut and paste URL or click [<here>](#)

2) **eLOCCS Getting Started Guide**

This guide provides eLOCCS web page examples, familiarizing the user with how navigation works in eLOCCS and how to view, manage and drawdown HUD grant funds.

<http://portal.hud.gov/hudportal/documents/huddoc?id=elocccsguide.pdf>

Cut and paste URL or click [<here>](#)

3) **eLOCCS Registration Guide**

Before accessing eLOCCS, a user must have a Secure Systems ID/password and a LOCCS ID/password. This document outlines the security and registration components needed to obtain those IDs.

Note: If you are converting from VRS to eLOCCS, you **already** have a LOCCS ID/password.

http://portal.hud.gov/hudportal/documents/huddoc?id=eloccs_registration_guide.pdf

Cut and paste URL or click [<here>](#)

4) **HUD-27054 LOCCS Access Authorization form**

Use this form to request specific LOCCS Organization and HUD Program Area access. The LOCCS Access Guidelines for Grantees (#1 above) has instructions on filling out this form.

<https://portal.hud.gov/hudportal/documents/huddoc?id=27054.pdf>

Cut and paste URL or click [<here>](#)

5) **Secure Systems** (this is how you access eLOCCS)

Secure Systems is a HUD Web Portal which has access to many HUD systems, of which eLOCCS is one of them.

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/react/online

Cut and paste URL or click [<here>](#)

1.3 Overview of eLOCCS Registration Components

eLOCCS is accessed through the HUD internet portal called **Secure Systems**. Secure Systems is sponsored by the Office of Public and Indian Housing (PIH) Real Estate Assessment Center (REAC) and sometimes referred to as 'REAC' or 'Online Systems'. Secure Systems supports many HUD applications, of which eLOCCS is one of them. In order to use eLOCCS, there are 4 registration components which must be completed prior to access.

- **Component 1 – Secure Systems Business Partner Registration**

In Secure Systems there are (2) types of users: "Coordinator" or "User", and each are associated with an organization or Business Partner. The Business Partner organization must be recognized by Secure Systems and this is accomplished thru the Business Partner Registration process.

****DO NOT SKIP THIS COMPONENT****

- **Component 2 – Secure Systems "Coordinator" Registration**

The Secure Systems Coordinator serves as the Business Partner's system administrator, granting application (in this case eLOCCS) roles to users. Each Business Partner must have a minimal of 1 and up to 5 assigned Coordinators.

- **Component 3 – Secure Systems "User" Registration**

Individual Users register in Secure Systems under a Business Partner, but the Coordinator grants the user specific application roles to allow Secure Systems application access. In the case of eLOCCS, the Coordinator would grant the eLOCCS roles "QRY" and "ADM".



The Coordinator can assign themselves eLOCCS "QRY" and "ADM" roles, and access eLOCCS too, as long as a HUD-27054 has been processed (Component 4).



eLOCCS can also be used by Approving Officials to certify their staff. Approving Officials must have a valid Secure Systems ID (either as a "Coordinator" or "User") to access eLOCCS just like everyone else.

- **Component 4 – HUD-27054 LOCCS Access Authorization Form**

LOCCS has its own security registration process requirement due to its sensitive financial nature. If you are already a LOCCS VRS user, then your existing VRS User ID/password will work in eLOCCS. If you are new to LOCCS, then a LOCCS Access Authorization Security Form HUD-27054 must be submitted.



The LOCCS HUD-27054 is independent of the Secure Systems components and therefore can be submitted concurrently with Secure Systems Components 1,2 and 3.

In summary, there are four (4) **registration components** which must be completed prior to eLOCCS access. Included in this document is a handy check list which will help you in determining where you are in the registration process. Following the checklist, are step by step instructions on how to complete each registration component. ****PLEASE START WITH COMPONENT 1****

1.4 Coordinators and Approving Officials

A Business Partner “**Coordinator**” is a Secure Systems administrator who manages the organizations “users” in Secures Systems. Responsibilities include assigning Secure Systems LOCCS roles to users. A Business Partner can have up to 5 Secure Systems Coordinators, who can manage any Secure Systems user in the organization.

A Business Partner “**Approving Official**” is a LOCCS administrator who manages “users” in LOCCS. Responsibilities include re-certifying the LOCCS user still requires access to LOCCS every 6 months. A LOCCS User is associated with an Approving Official on the **HUD-27054 LOCCS Access Authorization** form.

Approving Officials will also use eLOCCS to re-certify their staff every 6 months, therefore Approving Officials will also need to register for an ID in Secure Systems. They should be assigned the same **QRY** and **ADM** roles as all eLOCCS users.



A Secure Systems “Coordinator” can also be a LOCCS “Approving Official”

2 Registration Component Check list

Component 1 – Secure Systems Business Partner Registration

- My organization (Business Partner) is recognized by Secure Systems
(Either as a Public Housing Authority or Multifamily Housing organization)

Component 2 – Secure Systems “Coordinator” Registration

- My organization has an assigned “Coordinator”

If not, identify within your Organization who will be the Secure Systems Coordinator.

- Register for Secure Systems Coordinator ID *(mailed to CEO)*
- Receive your Coordinator Secure Systems ID from CEO
- Assign the eLOCCS system by adding the Coordinator Role to your ‘M’ ID. Then add the ‘Query’ and ‘ADM’ roles to your ID (see Appendix A)

Component 3 – Secure Systems “User” Registration

- If you are the Coordinator, check the box and go to Component 4

If not,

- Register for a Secure Systems User ID
- Contact your Secure System Coordinator to retrieve your user ‘M’ ID
(Wait until next business day)
- Have your Secure Systems Coordinator assign the ‘Query’ and ‘ADM’ roles to your ‘M’ ID to establish the eLOCCS link within Secure Systems.

Component 4 – HUD-27054 LOCCS Access Authorization Form

- LOCCS Registration Completed
(I already have, or have received my LOCCS ID and password)
(If you are a VRS user converting to eLOCCS, you are already registered in LOCCS. Your eLOCCS ID/password is the same as your VRS LOCCS ID/password)

Congratulations, you have completed all the necessary registration components to now successfully access eLOCCS! You can now proceed to the **Signing Into eLOCCS Section 4**.

If you have any questions regarding any registration component please call the **LOCCS Help Desk** at 571-766-2916 or email eLOCCS@HUD.GOV with questions.

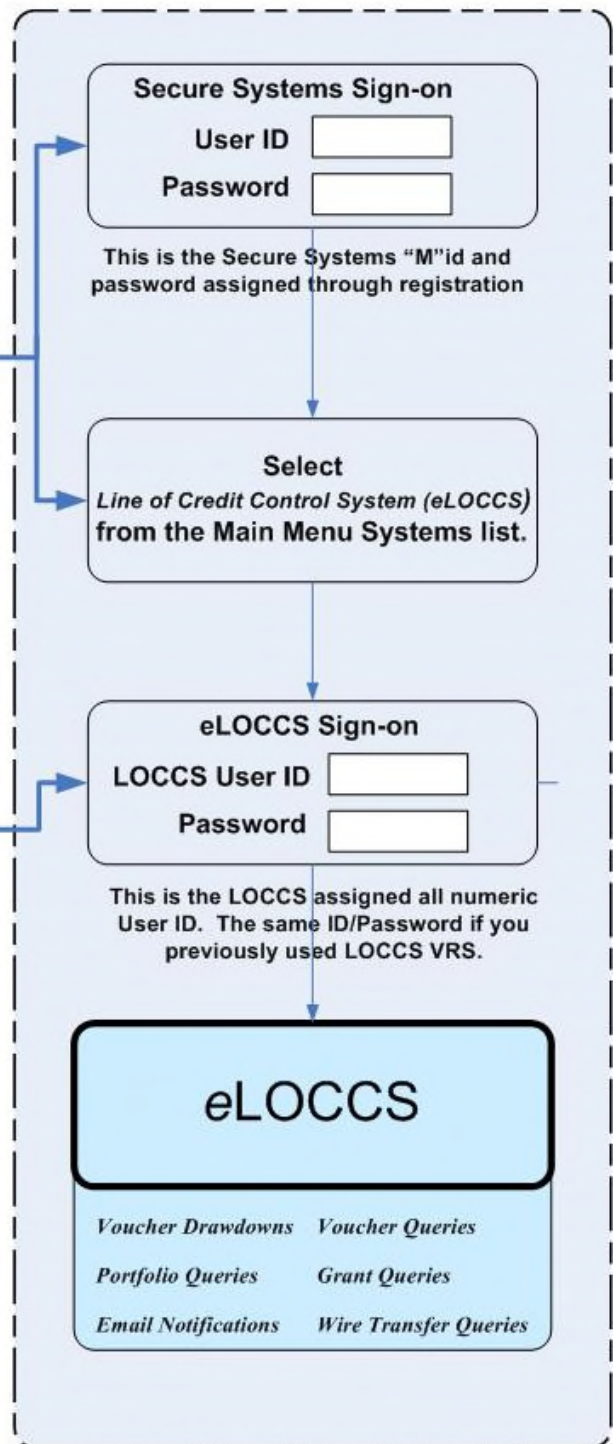
Accessing eLOCCS through Secure Systems

Registration components that must be completed **1st**

- 1) Register your organization as a Secure Systems Business Partner
 - 2) Select and register a Secure Systems "Coordinator" for you organization (you can have up to 5 coordinators)
 - 3) Have each additional person needing access to eLOCCS, register as a Secure Systems "User"
- Then have the "Coordinator" assign the eLOCCS roles "QRY" and "ADM" to each eLOCCS User
- * Coordinator can have eLOCCS roles too
 - * Coordinator can also be the LOCCS Approving Official

- 4) Submit HUD-27054 LOCCS Systems Access Authorization Form (HUD-27054 and Secure Systems registration are independent of each other and can occur concurrently. However, ALL registration components must be completed for eLOCCS access)

REAC-Secure Systems



3 Registration Components

3.1 Component 1 – Secure Systems Business Partner Registration

Component 1 – Secure Systems Business Partner Registration Instructions



This step is to confirm if your organization is recognized in Secure Systems . Unless your organization is a Public Housing Authority, **** DO NOT SKIP this step ****.

Register your Business Partner Tax ID number

Step 1a

Copy and paste URL or click [<here>](#) for the Business Partner Registration page.

https://hudapps2.hud.gov/apps/part_reg/apps040.cfm

Enter your organization’s Tax Identification Number (TIN) and Submit.

Business Partner Registration HUD Multifamily

If the participant you are about to register has done business with HUD before, you do not need to complete the Business Partner Registration HUD Multifamily below. Go to the [Secure Systems Registration page](#) to obtain a Coordinator or User ID if you have not already done so.

| | |
|--|-------------|
| TIN: 123456789 | (no dashes) |
| or | |
| SSN: <input type="text"/> | (no dashes) |
| <input type="checkbox"/> Check if SSN is used as TIN for Sole Proprietor | |

Submit

Step 1b

Did the Business Partner Registration HUD Multifamily return a 'Form to fill' OR Business Partner is 'already processed' below?

Form to fill in?



Form to fill?

If the above blank form is returned, your organization does need to register. Complete the form and **save**.

*** Wait until the next business day to continue to Component 2 - Secure Systems Registration.**

— {OR} —

TIN Processed?



TIN has been processed message?

If you received the above message, your organization Tax ID Number is already recognized in Secure Systems.

Continue to **Component 2 - Secure Systems Registration.**

3.2 Component 2 –Secure Systems “Coordinator” Registration

Component 2 –Secure Systems “Coordinator” Registration Instructions



Understanding Secure Systems ID Registration Types

In Secure Systems there are two (2) ID types available to register: “Coordinator” or “User”.

Both ID types allow access to Secure Systems. However, only a **Secure Systems Coordinator** has the authority to assign the LOCCS Query and Admin roles to display the eLOCCS link for the eLOCCS user to sign in. Determine within your organization who should be the Secure Systems Coordinator(s). *There must be at least one Secure Systems Coordinator registered.*

Coordinator ID: The Secure Systems Coordinator serves as the system administrator to retrieve Secure Systems User IDs, establish the appropriate systems link (eLOCCS) and assign LOCCS Roles.

User ID: A Secure Systems User has the ability to access Secure Systems, but requires a **Secure Systems Coordinator** to initially add the LOCCS roles in order for the eLOCCS link to display on the Secure Systems Menu page.

Does your organization already have a Secure Systems Coordinator assigned?

No

If you just registered your organization in **Business Partner Registration HUD Multifamily**, the answer is ‘No’. Determine within your organization who should be the Secure Systems Coordinator(s).

**Every Business Partner must at least have one Secure Systems coordinator registered to establish the eLOCCS link in Secure Systems for the eLOCCS user to sign in.*

Continue to **Step 2a – Applying for a Secure Systems “Coordinator” ID.**

Not Sure

Contact REAC Technical Assistance at 1-888-245-4860 to inquire.

Yes

Continue to **Component 3 – Apply for a Secure Systems “User” ID.**

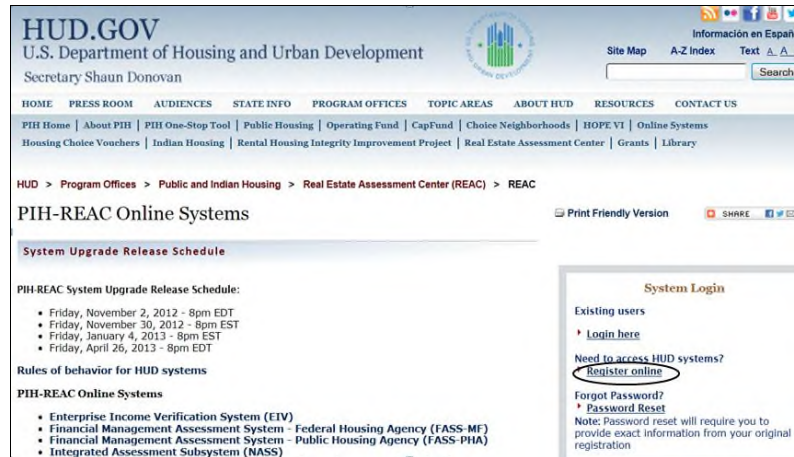
Steps 2a – 2d: Applying for Secure Systems “Coordinator” ID

Step 2a

Copy and paste URL or click [<here>](#) for Secure Systems

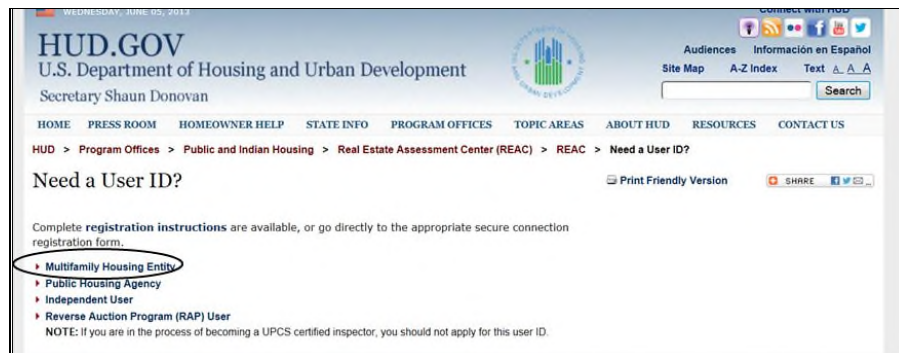
http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/react/online

Select the **<Register Online>** link.



Step 2b

Choose your organization type to register in Secure Systems:



Select **<Multifamily Housing Entity>**.

Only select Public Housing Agency if a PHA, otherwise select **Multifamily Housing Entity**.

Step 2c

Multifamily Coordinator and User Registration Selection


Select **<Coordinator>** as the 'Application Type' and complete form.



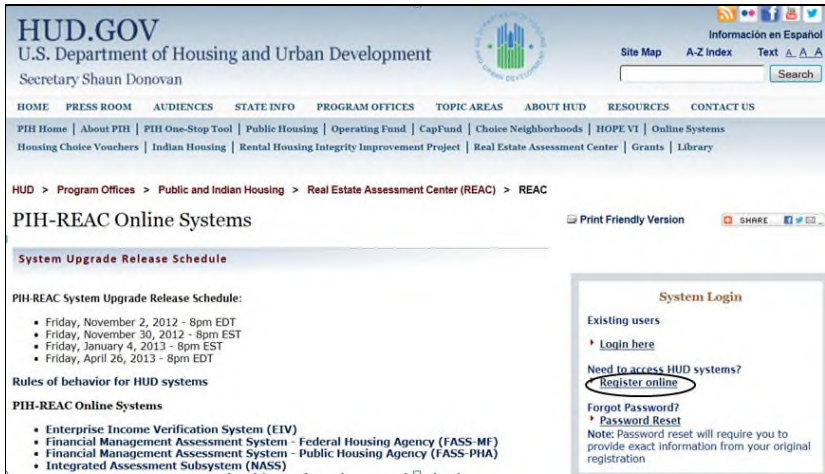
*The form is a 2 step process. 1) Fill out the form and click **<Send>**. 2) Review the information and then click **<Confirm/Submit>**.*



A letter containing the Coordinator's 'M' ID will be mailed to the organization's CEO/ED Within 7-10 business days. If you have not received your Secure Systems Coordinator 'M' ID, Contact REAC Technical Assistance to inquire on status at 1-888-245-4860.

| | |
|-----------------------|---|
| |  <p>Secure Systems Registration</p> <p>MULTIFAMILY Coordinator and User Registration</p> <p>To apply for a System Coordinator ID, check the "Coordinator" radio button, fill out the form below, and click Send Application when you are through. Upon verification of the information below, an ID will be assigned and mailed to the CEO of the HUD-registered entity specified below. The password will not be disclosed, so make sure you remember it!!!</p> <p>To apply for a regular User ID, check the "User" radio button, fill out the form below and click Send Application when you are through. Upon verification of the information below, a user ID will be assigned, and the System Coordinator of the HUD-registered entity specified below will retrieve the user ID. The password will not be disclosed, so make sure you remember it!!!</p> <p>And remember:</p> <p><i>Warning! Misuse of Federal Information at this Web site falls under the provisions of Title 18, United States Code, section 1030. This law specifies penalties for exceeding authorized access, alteration, damage or destruction of information residing on Federal Computers.</i></p> <p>Application Type: <input checked="" type="radio"/> Coordinator <input type="radio"/> User</p> <p>First Name: <input type="text"/></p> <p>Middle Initial: <input type="text"/></p> <p>Last Name: <input type="text"/></p> <p>Social Security Number: <input type="text"/></p> |
| <p>Step 2d</p> | <p>Secure System Coordinator establishment of eLOCCS and LOCCS Role Assignment.</p> <ul style="list-style-type: none"> • After the CEO has provided the Secure Systems Coordinator 'M' ID, sign-on to Secure System to establish the eLOCCS link and add LOCCS roles – See Appendix A for steps. <p>If the Coordinator is also the eLOCCS user, continue to Component 4 – HUD-27054 LOCCS Access Authorization Form.</p> <p>If the Coordinator is not the eLOCCS user, have the user apply for their own Secure Systems User ID. See Component 3 – Secure Systems "User" Registration.</p> |

3.3 Component 3 –Secure Systems “User” Registration

| Component 3 –Secure Systems “User” Registration Instructions | |
|--|--|
| Steps 3a – 3d: Applying for Secure Systems “User” ID | |
| <p>Step 3a</p> | <p>Copy and paste URL or click <here> for Secure Systems</p> <p>http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/react/online</p> <p>Select the <Register Online> link.</p>  |
| <p>Step 3b</p> | <p>Choose your organization type:</p> <p>Select <Multifamily Housing Entity>.</p> <p><u>Only</u> select Public Housing Agency if a PHA, otherwise select Multifamily Housing Entity.</p> |
| <p>Step 3c</p> | <p>Select <User> as the ‘Application Type’ and fill out the remaining form.</p> |

| | |
|-----------------------|---|
| | <div data-bbox="571 163 1209 723" data-label="Form"> <p>Secure Systems Registration</p> <p>MULTIFAMILY Coordinator and User Registration</p> <p>To apply for a System Coordinator ID, check the "Coordinator" radio button, fill out the form below, and click Send Application when you are through. Upon verification of the information below, an ID will be assigned and mailed to the CEO of the HUD-registered entity specified below. The password will not be disclosed, so make sure you remember it!!!</p> <p>To apply for a regular User ID, check the "User" radio button, fill out the form below and click Send Application when you are through. Upon verification of the information below, a user ID will be assigned, and the System Coordinator of the HUD-registered entity specified below will retrieve the user ID. The password will not be disclosed, so make sure you remember it!!!</p> <p>And remember:</p> <p><i>Warning! Misuse of Federal Information at this Web site falls under the provisions of Title 18, United States Code, section 1030. This law specifies penalties for exceeding authorized access, alteration, damage or destruction of information residing on Federal Computers.</i></p> <p>Application Type: Coordinator User</p> <p>First Name: <input type="text"/></p> <p>Middle Initial: <input type="text"/></p> <p>Last Name: <input type="text"/></p> <p>Social Security Number: <input type="text"/></p> </div> <p>After submitting the form, wait 24 business hours, then contact your organization’s Secure Systems Coordinator to inform you have requested access to Secure Systems. Request the Coordinator retrieve your User ID in Secure System <u>and</u> assign the ‘Query’ and ‘ADM’ LOCCS roles to <u>establish</u> the eLOCCS link. See Appendix A for the Secure System’s Coordinator to assign LOCCS System and roles.</p> |
| <p>Step 3d</p> | <p>Continue to Component 4 – HUD-27054 LOCCS Access Authorization Form Instructions</p> |

3.4 Component 4 – HUD-27054 LOCCS Access Authorization Form

Component 4 – HUD-27054 LOCCS Access Authorization Form Instructions

| Do you already have a LOCCS User ID and Password? | |
|--|---|
| Yes | <p>Continue to – Signing into eLOCCS Instructions</p> <p>*If you are an existing LOCCS Voice Response System (VRS) User (using phone to draw funds), then the answer is yes.</p> |
| No | <p>Complete the LOCCS HUD-27054 form, have it notarized and forwarded to the appropriate HUD staff for review. Instructions are on the form.</p> <p>HUD-27054 – LOCCS Access Authorization Form: Copy and paste URL or click here for form.</p> <p>https://portal.hud.gov/hudportal/documents/huddoc?id=27054.pdf</p> <p>After receiving your LOCCS User ID, and completing registration components 1-3, Continue to – Signing into eLOCCS</p> <p>Note: The Business Partner Registration and Secure Systems Registrations are independent of LOCCS registration and can be done concurrently. However, all security components must be completed prior to accessing eLOCCS.</p> |
| Not Sure | Contact the LOCCS Security Office to verify at 877-705-7504. |

4 Signing Into eLOCCS

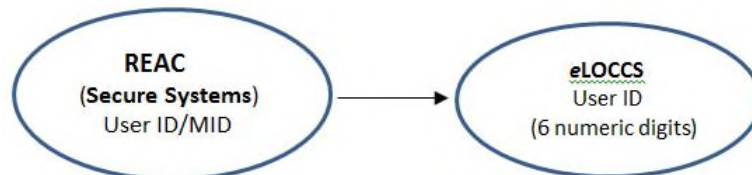
Signing Into eLOCCS Instructions

Step 1 – 4: Signing into eLOCCS



All the previous registration components must be completed prior to accessing eLOCCS. Use the Registration checklist in Section 2 to verify.

You must have a valid Secure Systems 'M' ID/password and LOCCS User ID/password. The Coordinator must have established the eLOCCS link in Secure Systems and LOCCS roles for the eLOCCS User to sign in.

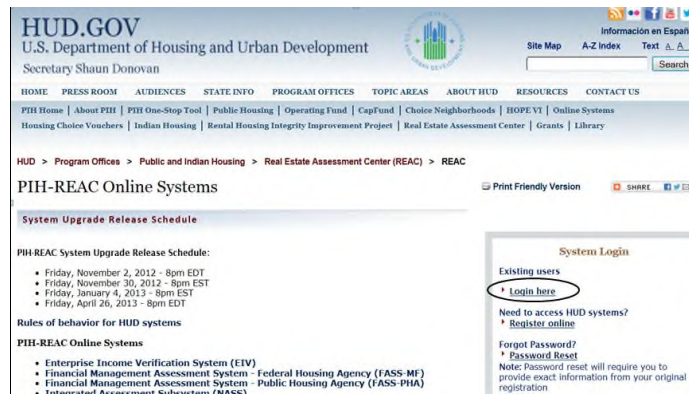


Step 1

Cut and paste URL or click [<here>](#) for Secure Systems

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac/online

Select the **<Login here>** link.



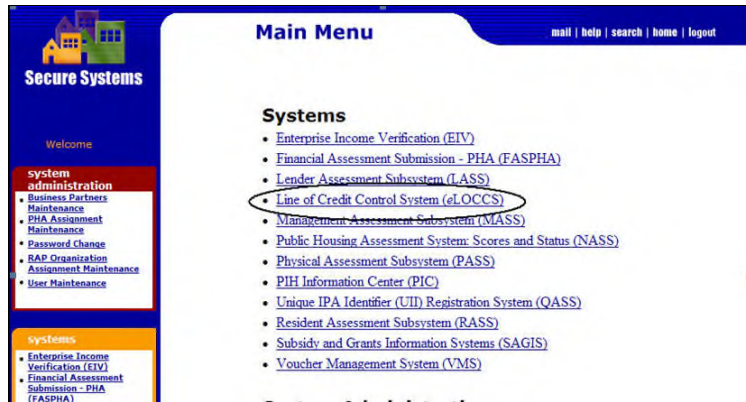
Step 2

Enter your Secure Systems User 'M' ID and Password.



Step 3

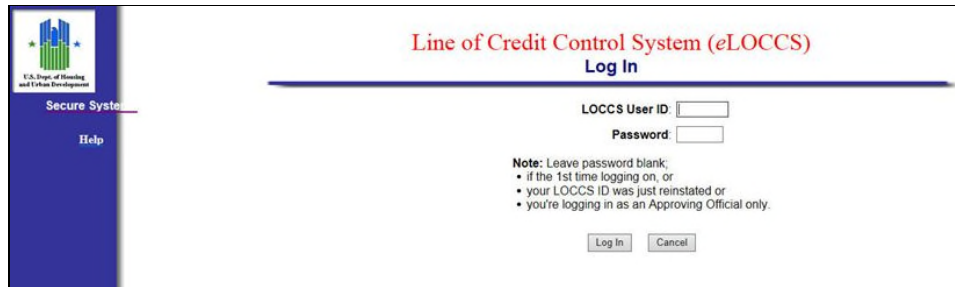
Select the **<Line of Credit Control Systems (eLOCCS) >** link.



Step 4

Enter your LOCCS User ID (numeric digits) and password. If you have been using LOCCS VRS, the User ID and password are the same to sign into eLOCCS.

Note: If you do not see the eLOCCS link on the REAC main menu page, contact your Secure Systems Coordinator to assign the eLOCCS link. **(See Step 2d)**



5 Frequently Asked Questions or Issues

- **Contact the REAC Technical Assistance Center at 1-(888) 245-4860 for the following questions or issues;**
 - 1) **I have registered for a Secure Systems Coordinator ID and have not received it.**
Ask them to confirm your registration, your organizations address and status of your Secure Systems ID.
 - 2) **I mistakenly registered for a Secure Systems User ID instead of a Coordinator ID.**
Contact the REAC Technical Assistance Center on how to resolve.
 - 3) **I may have registered for a Secure Systems ID in the past, but I'm not sure.**
The REAC Technical Assistance Center will be able to research that.
 - 4) **I don't know who the Secure Systems Coordinators are for my organization.**
The REAC Technical Assistance Center will be able to help you with that.
- **Contact your organizations Secure Systems Coordinator for the following questions or issues;**
 - 1) **I have registered for a Secure Systems User ID and have not received it.**
Ask your Coordinator to retrieve your User ID and establish the eLOCCS link/roles. If you do not know your System Coordinator, contact REAC Technical Assistance Center.
 - 2) **I am a Secure Systems User and do not see the eLOCCS link after I sign in.**
The Coordinator has not assigned the LOCCS – Query and ADM Roles. Contact your Coordinator to assign these roles. Refer them to **Appendix A** if necessary.
 - 3) **I click on a program area in eLOCCS, and the main menu is blank.**
Verify with your Coordinator that LOCCS – Query and Administration roles are assigned. Refer them to **Appendix A** if necessary.
- **I use the HUD telephone Voice Response System (VRS) to draw funds, do I need to register for an eLOCCS ID?**
No - Your log in credentials used on the HUD VRS, telephone system will be the same used to signing into eLOCCS.
- **If you are a Secure Systems Coordinator;**
And need help in either retrieving a User ID to assign LOCCS roles, or actually assigning those roles, refer to **Appendix A**.
- **Anything Else?**
Call the **LOCCS Help Desk** at 571-766-2916 or email eLOCCS@HUD.GOV with your question.

Appendix A - eLOCCS and Role Assignment Steps for Coordinator

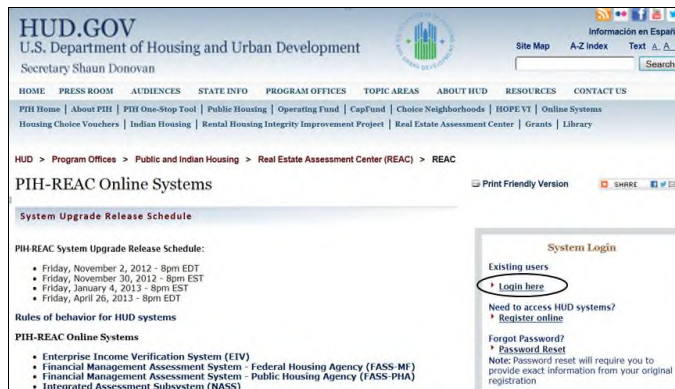
A **Secure System Coordinator** has the system administrative responsibility of first assigning the LOCCS **COR** (Coordinator) - <Action>, and then the **QRY** (Query) and **ADM** (Administrator)- <Roles> to themselves before assigning QRY and ADM roles to users.

Step I. Secure Systems Coordinator assignment of LOCCS System:

Cut and paste URL or click [<here>](#) for Secure Systems

http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/reac/online

Select the **<Login here>** link, sign in with your Secure System Coordinator 'M' ID and proceed to the Secure Systems Main Menu.



Secure System Login

- A. From the **Secure Systems Coordinator Main Menu**, Select **User Maintenance**. (Figure 1).



Figure 1 - Secure Systems Main Menu

- B. Enter your Secure Systems Coordinators 'M' ID in the **Search by User ID** section and click **<(S)earch for User>** button. Figure 2

Figure 2. User Maintenance and Search for User by ID

- C. On the Maintain User Profile Select **<Choose a Function>** , then Select **<Maintain User Profile – Actions>** and submit. (Figure 3).

Figure 3. Maintain User Profile – Actions

- D. From the **Assign/Unassign Actions** page, mark the **<LOCCS COR-Coordinator>** check boxes and click Assign/Unassign Actions. Figure 4

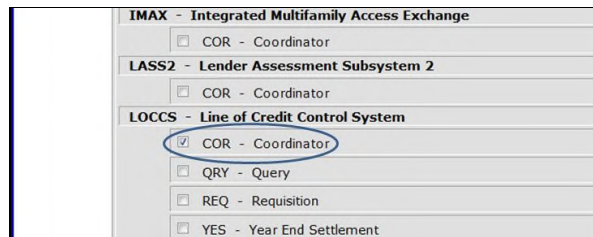



Figure 4. Mark the check box - LOCCS 'Cor'

- E. Click **<OK>** to confirm action. The eLOCCS link will appear on the left menu bar of Secure Systems and on the REAC Main Menu Page. Continue to Step 2.

Step II. Assignment of Roles to eLOCCS User:

After the Secure Systems Coordinator has assigned the **LOCCS COR-Coordinator <action>** to themselves in Step I, LOCCS 'ADM' and 'Query' <Roles> must also be assigned to each Secure Systems User that needs to access eLOCCS. This includes the Coordinator. If the Coordinator is also an eLOCCS User, they should assign the LOCCS QRY and ADM roles to themselves too.

 **To retrieve a Secure Systems User ID that have registered, enter the user's name information in the **Search Users' section**. Figure 3.*

- A. From the Main Menu, select **<User Maintenance>**. (Figure 1).

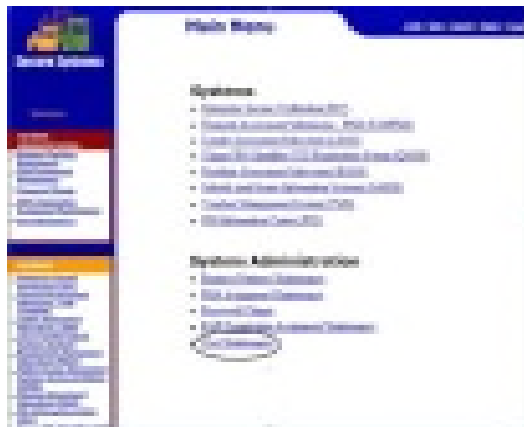


Figure 1 - Secure Systems Main Menu

- B. From the User Maintenance Screen, enter the Secure Systems User 'M' ID in the **Search by User ID** section and click **<(S)earch for User>** button. Figure 2.

If you don't know the User's 'M' ID, enter the user name information in the **Search Users' section. Figure 3.*

Then click the appropriate **<Search for User>** button to display the User profile page.

The screenshot shows the 'System Administration' header with navigation links for 'faq | help | search | home | logout'. Below this is the 'User Maintenance' section. A grey bar contains the text: 'On this form, you can either search for a User by User ID, or search for Users by entering your search criteria.' The 'Search by User ID' section includes the instruction: 'To search for a User by User ID, enter a User ID and then click the "Search for User" button.' It features an input field for 'User ID' with a 'What's This?' link, and a blue button labeled '(S)earch for User' which is circled in blue. Below this is the 'Search Users' section with the instruction: 'To search for a User, enter a search criteria (optional) and then click the "Search Users" button.' It includes fields for 'Business Partner - TIN/SSN/PHA ID/IPA ID', 'First Name', 'Last Name', and 'User Status' (set to 'All'), along with a 'What's This?' link and a checkbox for 'Check here to limit search to Independent Users'. At the bottom are 'Search (Users)' and 'Cancel' buttons.

Figure 2. Search for User by ID

This screenshot is identical to Figure 2, showing the 'System Administration' header and 'User Maintenance' section. The 'Search by User ID' section is visible but not the focus. The 'Search Users' section is the primary focus, with the instruction: 'To search for a User, enter a search criteria (optional) and then click the "Search Users" button.' The 'Business Partner - TIN/SSN/PHA ID/IPA ID' input field is circled in blue. Other fields include 'First Name', 'Last Name', and 'User Status' (set to 'All'), with 'What's This?' links. A checkbox for 'Check here to limit search to Independent Users' is present. The bottom buttons are 'Search (Users)' and 'Cancel'.

Figure 3 - Search for User by Name Information

- C. From the User Profile page, select **<Choose a Function>** and choose **'Maintain User Profile - Roles'** and submit. Figure 4.

System Administration faq | help | search |

Maintain User M

| User Information | |
|-------------------|-------------------------------|
| User ID | <input type="text"/> |
| First Name | <input type="text"/> |
| Middle Initial | <input type="text"/> |
| Last Name | <input type="text"/> |
| User Status | Active |
| Coordinator | Yes |
| User Type | Business Partner |
| Choose a Function | |
| | Maintain User Profile - Roles |

Figure 4. Select Maintain User Profile - Roles

Under the LOCCS system, mark the 'QRY' and 'ADM' check boxes and confirm role changes. Figure 5

Inform the user that you have successfully assigned the LOCCS system/roles and to sign into Secure System to access eLOCCS. **See Section 4.**

Assign/Unassign Roles for User M

| User Information | |
|------------------|----------------------|
| User ID | <input type="text"/> |
| First Name | <input type="text"/> |
| Middle Initial | <input type="text"/> |
| Last Name | <input type="text"/> |
| User Status | Active |
| Coordinator | Yes |
| User Type | Business Partner |

Please check/uncheck boxes to assign/unassign roles to the user
 Disabled roles cannot be unassigned until they are removed in the appropriate Assignment Maintenance screens

[APPS](#) | [LOCCS](#) |

APPS - Active Partners Performance System

- IRO - Industry Read Only
- AUP - APPS Update

LOCCS - Line of Credit Control System

- YES - Year End Settlement
- QRY - Query
- REQ - Requisition
- ADM - Administration

Figure 5. Add LOCCS Roles - Mark 'Qry' and 'ADM' - Roles

IF YOU NEED HELP or have questions regarding any registration component, please call the **LOCCS Help Desk** at 571-766-2916 or email eLOCCS@HUD.GOV with questions.

IF YOU NEED HELP or have questions about your **Secure Systems ID**, please contact the Contact REAC Technical Assistance at 1-888-245-4860.

CHAPTER 11: COMPLIANCE WITH ADMINISTRATIVE REQUIREMENTS

This chapter covers the major administrative requirements under NAHASDA, and includes:

- *The purpose of NAHASDA administrative requirements,*
- *A general overview of the requirement, and*
- *Specific information on each of the following categories of requirements:*
 - *Planning and administrative costs;*
 - *Operating policies;*
 - *Uniform administrative requirements;*
 - *Cooperation agreements and tax-exempt status;*
 - *Subrecipient agreements;*
 - *Total Development Cost (TDC) limits;*
 - *Useful life requirements; and*
 - *Investments*

This chapter addresses the following statute and regulatory citations:

- *Section 101, 203, 204, and 207 of NAHASDA and 24 CFR §§ 1000.26, 1000.28; 1000.30-36; 1000.42; 1000.52; 1000.58; 1000.128(a); and 1000.236-239.*

In addition to NAHASDA and the regulations, a number of other regulatory cites are relevant: 2 CFR Part 200; The Drug-Free Workplace Act of 1988; 24 CFR Part 24; 2 CFR Part 200; and 49 CFR Part 24.

PURPOSE OF NAHASDA ADMINISTRATIVE REQUIREMENTS

The regulations implementing the Native American Housing Assistance and Self-Determination Act (NAHASDA) (§ 1000) include a variety of general administrative requirements that must be followed by recipients of Indian Housing Block Grant (IHBG) funds.

The NAHASDA administrative requirements serve several important purposes. They help:

- Set an overall framework within which a tribe can use IHBG resources to address affordable housing needs;

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- Safeguard IHBG funds from potential waste and abuse, thereby helping meet the needs of a greater number of families;
- Resolve policy or procedural questions for tribes as a whole, rather than on a case-by-case basis. This gives tribes more time and resources to actually implement activities; and
- Ensure that all activities undertaken with IHBG funds will comply with the intent of the NAHASDA statute.

⇒ It is important to think of the administrative requirements described in this chapter as rules that apply to the IHBG recipient (the tribe or tribally designated housing entity (TDHE)), rather than to any single activity or project.

When a recipient accepts IHBG funds, it agrees to comply with these administrative requirements and make them a routine part of its housing activities.

OVERVIEW OF NAHASDA ADMINISTRATIVE REQUIREMENTS

There are approximately eight broad categories of administrative requirements under NAHASDA. These categories are listed below, along with some questions that each set of requirements is meant to resolve or answer.

☐ Administration and Planning Costs:

- What are planning and administrative costs?
- How much of a recipient's annual NAHASDA formula award can be spent on these kinds of activities?

☐ Required Policies:

- What policies must a recipient institute in order to maintain a healthy housing environment for members assisted with IHBG funds?
- How will the recipient successfully manage and monitor the use of its IHBG funds, regardless of the specific activity being funded?

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☐ Uniform Administrative Requirements:

- What standards and policies must a recipient meet in contracting for real property and services concerning IHBG-funded activities?

☐ Insurance Requirements

- NAHASDA requires that each recipient maintain adequate insurance coverage for housing units that are owned, operated, or assisted with grant amounts provided under the Act. Recipients are required to obtain insurance in an amount that will protect the financial stability of the recipient's IHBG program. Attachment 11-1 includes Program Guidance 2014-03 which provides IHBG recipients with direction on the following: (1) When is insurance required? (2) What insurance requirements apply, and when is insurance adequate? (3) What insurance requirements apply to contractors and subcontractors? And, (4) What are other insurance requirements under NAHASDA?

☐ Cooperation Agreements and Tax-Exempt Status:

- What types of written understandings should be in place between the recipient and local jurisdictions?
- What specific items should be included in these agreements in order to comply with NAHASDA regulations?
- What is needed to obtain a waiver of these requirements?

☐ Subrecipient Agreements:

- What written understandings must be in place between the recipient and external organizations that may administer all or part of a housing activity?
- What specific items must be included in these agreements in order to comply with NAHASDA regulations?

☐ Conflict of Interest:

- What written standards or policies are in place to govern the procurement of property, supplies and services?

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☐ Total Development Cost (TDC) Limits:

- What is the purpose of the TDC limits? How are they calculated?
- What level of cost is allowable when a recipient is constructing or rehabilitating residential units?
- What types of costs are included in the limits?

☐ Useful Life Requirements:

- How long must units remain affordable to eligible families?
- What factors can a recipient consider in defining the “useful life” of a residential unit?

☐ Drug-Free Workplace:

- How is the tribe complying with drug-free workplace requirements under NAHASDA?

The following is only a summary of general administrative requirements, and recipients should always consult the actual NAHASDA regulations and/or their area Office of Native American Programs (ONAP) for definitive guidance.

ADMINISTRATION AND PLANNING COSTS

[§ 1000.26, § 1000.28, § 1000.236, § 1000.238, § 1000.239]

☐ Definition and Eligibility:

- Most costs related to developing and implementing affordable housing activities can be easily linked to a particular project or program. On the other hand, certain costs or expenses are difficult to relate to a specific activity. These costs may be charged as planning and administration expenses. For more information reference Attachment 4-2 PIH Notice 2014-15 “*Administrative and Planning Expenses in the Indian Housing Block Grant (IHBG) Program*” which provides specific guidance on administrative and planning expense requirements for recipients of IHBG funds.

Reminder!

If the recipient is planning to use some of its IHBG funds for a model activity, the recipient is not allowed to spend any of these funds on administrative and planning costs before the model activity is approved by ONAP.

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- The following expenses are often classified as “Administration and Planning” costs:
 - ⇒ Specified costs of administering the program and/or administrative management;
 - ⇒ Salaries and benefits of staff administering the IHBG Program;
 - ⇒ Coordination, monitoring and evaluation;
 - ⇒ Preparation of the IHP, including data collection and analysis;
 - ⇒ Preparation of the Annual Performance Report (APR);
 - ⇒ Challenge to and collection of data for purposes of challenging the formula amount; and
 - ⇒ Comprehensive housing and community development planning activities.
- The recipient has discretion on how to classify the staff and overhead expenses to deliver a specific affordable housing activity. These costs may be either:
 - ⇒ Eligible costs under that category of activities; or
 - ⇒ Planning and administration costs.
- In making this choice, the recipient must remember that:
 - ⇒ There is a limit as to what portion of an annual IHBG award can be charged to planning and administration, and
 - ⇒ There are specific Federal requirements for the way in which recipients may classify costs (these can be found in 2 CFR Part 200, (formerly OMB Circular A-87 and 2 CFR 225) and the way in which they manage their expenditure of awards (found at 24 CFR Part 85.)
- Recipients have two alternatives for determining the amount of staff costs to charge to program administration:
 - ⇒ Include the entire salary, wages and related costs for each person whose **primary** responsibility involves program administration assignments, **OR**

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- ⇒ Pro-rate the salary, wages and related costs for each person whose job includes any program administration assignments.
- 2 CFR Part 200,418 mandates that tribal governments receiving Federal assistance must develop a cost allocation plan that accounts for expenses using the following sub-categories:
 - ⇒ **Direct costs:** These costs are directly attributable to a particular program or project.
Example: The price of acquiring the land for new rental units can be linked to a specific project and is a direct project cost.
 - ⇒ **Indirect costs:** These costs are shared between two or more programs or projects. As a result, it can be difficult to determine how much should be charged to each activity.
Example: A recipient may retain attorneys to provide legal services for a fixed price over a certain period of time. The cost of legal services, is therefore, shared by many separate activities.
- ⇒ The recipient may choose to classify this cost as an indirect cost. If so, 2 CFR Part 200, Attachment A says that the tribe must consistently classify similar legal services as indirect costs. It must also use an “allowable, allocable, and reasonable” method of allocating such costs among different activities or programs.
- Many tribes negotiate an “Indirect Cost Rate” (ICR) with the U.S. Department of the Interior using the general principles outlined in Appendix VII to 2 CFR Part 200. They then use this ICR, together with an approved cost allocation plan, to calculate allowable

Q: Can a recipient pay for administration of 1937 Act programs with IHBG funds?

A: Yes. If the costs are for operations (such as rent collections, waiting lists, etc.), the costs are eligible under Section 202(1) Indian Housing Assistance. If the costs are about the administration of the agency, the costs are eligible under planning and administration of the IHBG program within the following applicable caps:

- 20% if >\$500,000 grant allocation or annual expenditures, whichever is greater; or
- 30% if \$500,000 or less grant allocation or annual expenditures, whichever is greater.

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indirect costs. TDHEs cannot use a tribe's ICR but must instead establish their own Cost Allocation Plan and ICR.

- For more information on how to support charging indirect costs incurred in the implementation of your IHBG program see Program Guidance 2002-06 “*Charging Indirect Costs to Federal Grants*.”
- Self-governing tribes may be exempted from the 2 CFR Part 200 requirements, as discussed at 24 CFR 1000.28.
- Program Guidance 2014-12 “*Consolidation of OMB Circulars*”, notifies recipients of the final guidance that consolidates, supersedes, and streamlines requirements in OMB Circulars A-21, A-87, A-89, A-102, A-110, A-122, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. OMB has now consolidated these Circulars into one new guidance that is codified in 2 CFR Part 200 which can be found at: <http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf>.

Of Note...

When considering your request to spend more than the allowable cap on administration and planning costs, ONAP will consider:

- The costs of preparing your IHP;
- Your grant amount;
- Your approved cost allocation plans; and
- The justification for your request.

☐ Maximum Administrative and Planning Amount:

- A recipient who receives \$500,000 or less may spend up to a maximum of 30 percent of their annual formula grant or their 12 month expenditures, whichever is greater, for general administration and planning (A&P) costs, as discussed in 24 CFR §§ 1000.236 and 238.
- A recipient who receives more than \$500,000 may spend up to a maximum of 20 percent of their annual formula grant or their 12 month expenditures for general administration and planning, as discussed in 24 CFR §§ 1000.236 and 238.
- The percentage of funds that the recipient anticipates spending in the upcoming program year must be identified in the IHP, which is submitted to HUD.
 - ⇒ Recipients wishing to exceed the applicable cap limit must seek the approval of their Area ONAP.

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- ⇒ The recipient's application to exceed the applicable limit may come in any form; however, submission should be included in the IHP. The recipient must provide a justification for why it wants or needs to spend more than the applicable limit.

□ Administrative and Planning Reserve Account :

- The recipient may establish a reserve account only for the accumulation of A&P costs in accordance with 24 CFR§ 1000.239 as follows:
 - ⇒ Less than or equal to 1/4th the 5-year average of A&P costs expended by the recipient,
 - ⇒ Must be related to affordable housing, and
 - ⇒ Must be stated in the IHP.

Reference Program Guidance 2014-10(R) “Reserve Accounts for Administration and Planning” for additional information.

REQUIRED POLICIES

[NAHASDA Sections 203 and 207, § 1000.108, § 1000.110, § 1000.128, § 1000.132]

□ Definition and Purpose:

- NAHASDA requires recipients to adopt a set of policies to manage the general day-to-day operations of their affordable housing activities.
- If followed consistently, these policies help all parties to understand who is eligible for assistance; how tenants will be selected for units; how management and maintenance of units will take place; and what rules will be used to acquire property, procure services and prevent fraud.
- The following summaries describe each set of policies, what topics the recipient **must** include in its policies and the limitations and options within which the tribe or TDHE must work.

Policies That Are Not Required But May Be Useful

Examples of policies that are not required but may be useful to you could include the following topics:

- Pets;
- Collections/evictions;
- Resident grievances;
- Abandoned vehicles;
- Disposition;
- Personnel; and
- Subleases
- Transfers
- Background Checks
- Housing Counseling
- Down Payment Assistance
- Home Business

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❑ Payment Policies (Rental and Homebuyer):

- The recipient must describe how rents and homebuyer payments will be calculated under its housing programs.
- Policies should also address recipient's requirements for collection of payments.
- Payments cannot exceed 30 percent of adjusted family income unless the payments are from a non low-income family.
- Recipients have the option to calculate required payments based on the following methods:
 - ⇒ An income-based calculation,
 - ⇒ The same payment amount ("flat rate") from each assisted family, or
 - ⇒ A blend ("hybrid") of these two different methods.

| Payment Policy Options |
|---|
| <ul style="list-style-type: none">• Traditional income-based charges;• Flat rate charges;• Hybrid charges; and• Provision for utility allowance. |

Please note that the flat rate payment cannot exceed 30 percent of the assisted family's payment.

- Payments may or may not include utility allowances. Recipients should determine this policy.

❑ Eligibility Policies (Section 203(d), § 1000.10(1), and § 1000.128(a)):

- There is no required language for describing who is eligible to receive IHBG assistance.
- NAHASDA primarily limits assistance to low-income Indian families living on Indian reservations or other areas.
- Policy should address the three types of participants eligible to participate in the program.
- Under certain circumstances, recipients may provide assistance to certain non low-income families, including families deemed essential to the well-being of the Indian families. See Chapter 3 for more information.

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□ Admission Policy (Section 203(d)):

- There is no required language for describing how eligible Indian families will be admitted to IHBG-assisted units.
- Policy should ensure fair treatment of all who apply for housing assistance. It should also 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.** Some federal programs may prohibit discrimination based on race in accordance with the Fair Housing Act. Since NAHASDA is exempt from Fair Housing requirements, if IHBG funds are combined with a project not exempt from Fair Housing requirements a conflict may occur.
- The initial occupants of any rental units must be low-income Indian families.
- The initial occupants of any homeownership units must be low-income Indian families. The exception to this requirement is the admission of a non low-income family in accordance with 24 CFR §§1000.108 and 1000.110.
- Tribes have the option to give first preference for admission to:
 - ⇒ Tribal members,
 - ⇒ The elderly or other families with special needs, or
 - ⇒ Certain types of families (e.g. large and/or displaced families).
- Preferences must be clearly described in the recipient's adopted admission policy.

Admission Policy Options

Recipients can give first preference to:

- Tribal Members,
- Displaced families, and
- Elderly.

□ Tenant Selection and Homebuyer Policy (Section 207):

- Again, there is no required language for describing how eligible families will be admitted to IHBG-assisted units.
- At a minimum, however, selection policies and criteria must:
 - ⇒ Be consistent with the general purpose of providing low-income housing;

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- ⇒ Be reasonably related to program eligibility and the ability of the applicant to perform under the terms of the lease agreement;
- ⇒ Require the use of a written waiting list when selecting families for available units; and
- ⇒ Provide prompt written notification to applicants who are rejected, including the reason(s) for the rejection.
- Recipients may obtain information on criminal convictions of applicants for employment and housing assistance prior to selection but can only use such information for applicant screening and lease enforcement purposes. See Program Guidance 2013 -08 “*Update to Instructions for Obtaining FBI Criminal History Record Information*” for more information.

□ Occupancy Policy (Section 203(d)):

- NAHASDA does not require specific language describing occupancy policies, such as the maximum number of persons per dwelling unit, or the reasons why a tenant’s lease can be terminated.
- Tenancy cannot be terminated during the term of the lease, however, except for good cause, such as:
 - ⇒ Serious violations of lease terms,
 - ⇒ Serious criminal convictions, or
 - ⇒ Other activity or behavior that threatens the health and safety of other families.

Occupancy Policy Options

You have a number of options for dealing with lease termination. Examples you may want to consider include:

- “One Strike and You’re Out!”
- “Three Strikes and You’re Out!”
- High Risk Occupancy Agreement

□ Management Policy (Section 203):

- There is no required language the recipient must use in describing how it will manage assisted residential units.
- The IHBG regulations dictate that the recipient’s management policies enable an efficient and consistent operation.

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- Recipients should evaluate how to best ensure consistent management performance by considering the following components of the process:

- ⇒ Planning;
- ⇒ Organization;
- ⇒ Direction and supervision;
- ⇒ Decision-making; and
- ⇒ Monitoring.

Travel Policy Options

- Actual costs,
- Per diem, and
- Combination of actual cost and per diem.

☐ Maintenance Policy (Section 203):

- Recipients are free to define how they will maintain assisted residential units.
- The IHBG regulations require written maintenance policies that enable an efficient and continuing operation of housing units.
- In determining how best to ensure consistent maintenance, recipients should:
 - ⇒ Clearly define the roles and responsibilities of each party involved;
 - ⇒ Identify what will be considered routine and non-routine activities;
 - ⇒ Provide for regular inspections of units;
 - ⇒ Develop an efficient work-order system to ensure that necessary repairs are performed in a timely manner; and
 - ⇒ Develop maintenance standards. (See 24 CFR Part 5, Subpart G, Physical Condition Standards and Inspection Requirements as a reference.)

☐ Travel Policy (2 CFR Part 200):

- There is no required language for describing how long-distance travel will be authorized and what types and level of expenses will be allowed.

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- Despite this flexibility, the recipient's travel policies must ensure that covered charges will be similar to those that are not sponsored with Federal funds.
- Recipients have the option to base allowable travel expenses on one of the following concepts:
 - ⇒ Daily ("per diem") rates that are paid regardless of whether the traveler actually spends the full amount authorized,
 - ⇒ Actual expenses of the traveler, or
 - ⇒ A combination of daily and actual expenses.

☐ Procurement Policy (2 CFR Part 200.218 – 200.336):

- IHBG recipients must establish procurement policies that comply with applicable Federal law and the standards in 2 CFR Part 200.218 – 200.336.
- Key procurement requirements are described in Chapter 13, but the following elements are crucial to good procurement practices:
 - ⇒ An effective contract administration system;
 - ⇒ Written standards for personnel involved in procurement;
 - ⇒ Adequate record-keeping of all procurement activities;
 - ⇒ Avoidance of time and material contracts;
 - ⇒ Full and open competition for all contracts; and
 - ⇒ Written selection procedures for all procurements.
- A critical part of your procurement policy is your compliance with 24 CFR 1000.52, which deals with Indian preference. Chapter 12: Other Federal Requirements discusses Indian preference in detail.

Procurement Policy Options

For small purchases:

- Maintain several current business products catalogs as sources for price comparisons,
- Periodically solicit quotes from vendors for frequently purchased items.

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❑ Property Acquisition and Relocation Policies (49 CFR Part 24):

- There is no required language for identifying how a property will be acquired, or, what relocation benefits will be paid to eligible persons.
- See Chapter 12: Other Federal Requirements for a more detailed discussion of the minimum requirements that acquisition and relocation activities must meet when undertaken with IHBG funds.

❑ For guidance on the any of the following policies please refer to Program Guidance 2002-11 “Required Policies and Statements Under NAHASDA”, Attachment 11-2.

- Drug Free Workplace. Recipients are no longer required to complete a Certification for a Drug Free Workplace before they can be deemed in compliance with the regulations at 24 CFR 24.600. Program Guidance 2004-06 “Drug-Free Workplace Requirements” contains the most recent regulatory change regarding this topic and outlines that grantees should make a good faith effort to maintain a drug-free workplace by publishing a drug free workplace statement and establishing a drug free awareness program for employees.
- Cash Management. Recipients are required to establish cash management procedures. Cash management is the process of managing the cash flow to optimize the use of funds. For more information on cash management requirements see 2 CFR Part 200.305.
- Section 3. Section 3 addresses job training, employment and contracting opportunities for low-income individuals. Recipients meet the section 3 requirements when they comply with tribal laws that provide for employment and contracting preference laws in accordance with section 101(k) of NAHASDA, if such laws exist.
- Investment and Internal Controls. Recipients who seek approval to invest IHBG funds must comply with PIH Notice 2011-43 “Administrative Requirements for Investing Indian Housing Block Grant (IHBG) Funds” that establishes the basis upon which HUD will determine if a recipient has the administrative capacity to draw down IHBG funds for investment purposes. For more information regarding investments see Chapter 13.
- Housing Standards. NAHASDA requires that recipients either “adopt written standards for its affordable housing programs that reflect the requirements of Part 1000.156”, or comply with the TDC limits published periodically by HUD. PIH Notice 2016-07 “Total Development Costs (TDC) for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA)” was issued and is effective

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until revoked, superseded, or amended.

COOPERATION AND TAX-EXEMPT AGREEMENTS WITH LOCAL JURISDICTIONS

[NAHASDA Section 101(c)(d)(e)]

Definition and Purpose:

- A cooperation agreement is required **only** when IHBG funds will be spent on units that are to be **owned** by a recipient. The recipient executes a written cooperation agreement with the governing body of the jurisdiction where these units are, or will be, located. The cooperation agreement should:
 - ⇒ Specify what services are to be provided by the local jurisdiction and by the recipient, and
 - ⇒ Stipulate that the recipient compensate the local jurisdiction in the form of payments in lieu of taxes (PILOT).

Reference Program Guidance 2003-02 “*Local Cooperation Agreements*” for additional information.

When are Cooperation Agreements and Tax-Exemption Agreements Not Necessary?

- Cooperation agreements and tax-exemption agreements are not needed when the unit(s) in question is/are owned by someone other than the IHBG recipient. For example, a private landlord who is renting an apartment to a family receiving IHBG-funded rental assistance does not have to have a cooperation agreement with the local municipality.
- Raw land slated for future development of rental or lease-purchase units can be purchased with IHBG funds while cooperation agreements and tax-exempt designations are still in negotiation. However, no actual construction or development can begin until these agreements have been obtained.
- In addition, HUD will disallow (and may recapture) expenditures to purchase raw land if there is insufficient reason to believe these agreements will be forthcoming.
- Cooperation agreements may be waived if the recipient has made a good-faith effort to negotiate a cooperation agreement and tax-exempt status but has been unsuccessful

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through no fault of its own. A written waiver must be submitted to the Area ONAP. The request must: detail a good faith effort by the recipient, identify the housing units involved, and include all pertinent background information about the housing units. The recipient must further demonstrate that it has pursued and exhausted all reasonable channels available to it to reach an agreement to obtain tax-exempt status, and that failure to obtain the required agreement and tax-exempt status has been through no fault of its own. The Area ONAP will forward the request, its recommendation, comments, and any additional relevant documentation to the Deputy Assistant Secretary for Native American Programs for processing to the Assistant Secretary.

SUBRECIPIENT AGREEMENTS

- A subrecipient agreement is also a written, legal document. However, it is between a recipient and a third party entity that the recipient has chosen to help deliver all or part of a housing activity. See 2 CFR § 200.330 and Attachment 11-3 Program Guidance 2007-06 Sample Subrecipient Agreement for more information.
- This written document is very important because it becomes a binding, legal agreement between the recipient and subrecipient, and helps to define the roles and responsibilities of each party. A recipient remains ultimately responsible for compliance with program requirements.
- IHBG grantees and owners must comply with the certain requirements when IHBG funds are provided in the form of a loan or grant to a separate owner or manager of a LIHTC project.
- A sample subrecipient agreement is provided in Attachment 11-3.

UNIFORM ADMINISTRATIVE REQUIREMENTS

[§ 1000.26, § 1000.30 - § 1000.36]

IHBG funds are subject to standard or “uniform” Federal rules that govern financial management systems, procurement, reporting and record-keeping, and other grant management issues. Most of these requirements are described in in this chapter and the remaining chapters.

- Many of these standards were addressed in eight OMB circulars. OMB consolidated and streamlined requirements in OMB Circulars A-21, A-87, A-89, A-102, A-110, A-122, A-133 & A-50.

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- The Uniform Award Guidance is codified in 2 CFR Part 200 and located at: <http://www.gpo.gov/fdsys/pkg/FR-2013-12-26/pdf/2013-30465.pdf>. For more information see Attachment 11-4, Notice 2015-01, *Transition to 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance*.

The following section describes specific measures that NAHASDA recipients must take to maintain a drug-free workplace and avoid conflicts of interest.

☐ Conflict of Interest:

- NAHASDA recipients and subrecipients are subject to the requirements at 2 CFR Part 200.112 and those found at 24 CFR §§1000.30 through 1000.36, which requires that written standards be adopted to govern the procurement of property, supplies, equipment and services.
- At a minimum, recipients and subrecipients should have standards that:
 - ⇒ Prohibit an employee, officer, agent or subrecipient from participating in the selection, award or administration of a contract, if a conflict of interest would arise as a result,
 - ⇒ Prohibit the acceptance of gratuities, favors or other benefits from parties who are, or may be, subject to a contract or agreement, and
 - ⇒ Stipulate the penalties, sanctions and other actions for violations of standards.
- In all cases where 2 CFR Part 200.318 does not apply, the following provisions must be followed:
 - ⇒ No person with decision-making authority or access to inside information (including those linked through family and business ties to such a person) may obtain a personal or financial interest in, or benefit from, an IHBG funded activity, and
 - ⇒ The conflict-of-interest requirements do not apply in instances where a person or family who might otherwise be included is low-income and is selected for assistance in accordance with a recipient's written policies, provided that there is no conflict of interest under applicable state or tribal law.

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- ⇒ The type and basis for assistance must be publicly disclosed, and a recipient must provide a copy of this disclosure to their Area ONAP prior to providing assistance to this person or family.
- ⇒ Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the nonfederal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.
- Program Guidance 2002-13 “*Conflict of Interest in IHBG Housing Admissions*” addresses Conflict of Interest in IHBG Housing Admissions.

☐ Drug-Free Workplace Requirements

- In addition to any tribal requirements, NAHASDA recipients must comply with the provisions of the Drug-Free Workplace Act of 1988 and HUD’s implementing regulations at 24 CFR Part 24, Subpart F, Drug-Free Workplace Requirements.

TOTAL DEVELOPMENT COST (TDC) LIMITS

[§ 1000.156 – § 1000.62]

☐ History and Purpose:

- A rule was published in the Federal Register on October 29, 2001, which revised IHBG program regulations and established TDC limits to define moderately designed housing. Section 1000.158 provides a recipient with the option of using the HUD established TDC limits or adopting their own written standards. Section 1000.158 also provides guidelines in the establishment of local standards. This change was made in response to concerns expressed by tribes and TDHEs to HUD regarding Dwelling Construction and Equipment (DC&E) limits. The DC&E limits included only the hard costs of constructing a housing unit.

Q: Can a recipient exceed Total Development Costs (TDCs) funds other than NAHASDA for the extra amount?

A: No. The tribe/TDHE is responsible for ensuring that the amount of funds from all sources used for each unit does not exceed these limits.

☐ How are TDC limits calculated?

- HUD now calculates TDC limits for each geographic area using estimated soft and hard construction costs for a good and sound detached or semi-detached single-family structure, based on at least two national-recognized indices. The most recent TDC limits were published in PIH Notice 2016-07

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“Total Development Costs (TDC) for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA)” and is effective until revoked, superseded, or amended.

- TDC costs are a per-unit maximum on the amount of IHBG funds that can be spent on soft and hard costs for a unit(s). Note: TDC limits are applicable to all sources of funding.
- A recipient that believes that the TDC limits are too low can request a variance from its Area ONAP, which has the authority to increase the limit.

What activities, structures and funding sources are covered by the TDC limits?

- The published TDC limits apply to all residential, new construction or rehabilitation activities. They also apply to property acquisition activities if new construction or rehabilitation is a planned component of the project.
- While the TDC limits are computed using single-family structures as a model, they do not apply only to single-family units. Any kind of structure is covered by the limits: including multi-family units, student housing, transitional housing, etc.
- If a recipient is planning to construct or rehabilitate a type of housing unit not covered by the published TDC limits, the recipient should consult its Area ONAP for further guidance.

Program Guidance 2004-02 “Total Development Costs Questions and Answers” addresses questions that have arisen since the implementation of TDC limits for the IHBG Program.

USEFUL LIFE REQUIREMENTS

[NAHASDA Section 205; NAHASDA Program Guidance 2013-06 “Useful Life and Binding Commitments”]

Definition:

- The NAHASDA statute mandates that each NAHASDA-assisted rental or homeownership unit must remain affordable to low-income families for its remaining “useful life,” or for such other period such as the Secretary determines is the longest feasible period of time consistent with sound economics and the purpose of NAHASDA.
- Useful life requirements apply to both newly constructed and rehabilitated units.

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- The tribe must describe its determination of the useful life of each assisted housing unit in each of its developments, in accordance with the local conditions of the Indian area of the recipient in its IHP.
- Mutual Help homes developed under the 1937 Act that are still owned or operated by a recipient are not subject to the useful life provisions.
- See Program Guidance 2014-09(R) “*Useful Life and Binding Commitments*,” Attachment 11-5 for more information.

FAITH-BASED ORGANIZATIONS

[NAHASDA Program Guidance 2004-14]

- Faith-based organizations are eligible to participate in the IHBG program as subrecipients or contractors, as appropriate.
- No group of applicants competing for HUD funds or seeking to participate in HUD programs should be subject to greater or fewer requirements than other organizations solely because of their religious character or affiliations.
- See Program Guidance 2004-14 “*All Programs: Participation of Faith-Based Organizations*” for additional information.

Q: What determines useful life of a unit (years)?

A: There are no established number of years that determines useful life. The tribe/TDHE establishes the time period that the unit is eligible for low-income use, in accordance with Section 1000.142 and Program Guidance 2014-09(R). Different useful life periods may be determined depending on the nature and amount of assistance provided.

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**ATTACHMENT 11-1:
PROGRAM GUIDANCE 2014-03: INSURANCE
REQUIREMENTS UNDER THE IHBG PROGRAM**

RECIPIENT GUIDANCE

PROGRAM: Indian Housing Block Grant

FOR: Tribal Government Leaders and Tribally Designated Housing Entities

R.J.B.

FROM: Roger J. Boyd, Deputy Assistant Secretary for Native American Programs, PN

TOPIC: Insurance Requirements under the IHBG Program

Background: Section 203(c) of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), requires that each recipient maintain adequate insurance coverage for housing units that are owned, operated, or assisted with grant amounts provided under the Act. This section of NAHASDA is implemented by the Indian Housing Block Grant (IHBG) regulations at 24 CFR §§1000.136 through 140. Recipients are required to obtain insurance in an amount that will protect the financial stability of the recipient's IHBG program. The insurance requirements under NAHASDA as outlined are in addition to applicable flood insurance requirements under 24 CFR §1000.38. This guidance replaces Program Guidance 1998-10t.

In addition, 2 CFR Part 225 (formerly OMB Circular A-87), Appendix B, sections 18(c) and 22 provide that the use of grant funds for required or approved insurance under a grant program is an allowable cost. Recipients should maintain permissible insurance in accordance with their policies and sound business practice. Any actual losses that could have been covered by permissible insurance are generally unallowable, unless expressly provided for in the Federal award. One provision where losses not covered by insurance are allowable under 2 CFR Part 225, is for costs incurred because of losses not covered under nominal deductible insurance coverage and minor losses for spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations.

Note: OMB recently published Guidance for Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which would supersede the Circulars listed here. HUD is implementing regulations in accordance with the guidance and expects the new regulations will become effective December 26, 2014, or later. FY 2014 grantees will be required to comply with the HUD implementing regulations when they become effective, but should not use them before the effective date.

Purpose: The intent of this guidance is to provide IHBG recipients with direction on the following: (1) When is insurance required? (2) What insurance requirements apply, and when is insurance adequate? (3) What insurance requirements apply to contractors and subcontractors? And, (4) What are other insurance requirements under NAHASDA?

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

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

Housing units assisted with IHBG funds must remain affordable for their useful life as determined by the recipient (affordability period), and recipients must have a means of insuring their investment during this period. Therefore, as long as the useful life (affordability period) has not expired, IHBG-assisted housing units owned or operated by the recipient must be covered by adequate insurance.

Insurance for housing may be either a purchased insurance policy from an insurance provider or a plan of self-insurance. Recipients may not require insurance on privately owned housing assisted with IHBG funds, if there is no risk of loss or exposure to the recipient, or if the assistance is in an amount less than \$5,000, unless repayment of all or a portion of the assistance is part of the assistance agreement. If private homeowners are unable to provide proof of insurance during the useful life (affordability period) of the assisted properties, the recipient must take steps to insure the units in order to protect its IHBG investment. This protection can be provided in a number of ways including:

- Purchase insurance for housing units that are owned, operated, or assisted with IHBG funds in an amount that is adequate to provide replacement cost to protect the IHBG investment.
- Have IHBG-assisted, private homeowners provide proof of replacement insurance for the useful life (affordability period) of the assistance received.
- Purchase insurance for privately owned housing units in the amount of the outstanding balance of the IHBG assistance provided.

For example: If a fire destroyed all or part of some housing units that were subject to a useful life (affordability period), and those housing units were not insured, then there is a risk of loss or exposure to the recipient's IHBG program because the housing units did not serve the low-income Indian families for the period of time intended and for which the IHBG funds were provided. Uninsured damage would represent a loss of the IHBG funds that the recipient originally used to construct, rehabilitate, maintain, finance, or otherwise assist the housing units. Failure to ensure that assisted units remain available for occupancy by eligible families during the affordability period may result in repayment of the IHBG assistance to HUD.

To assist the recipient in determining when insurance is required, two examples are provided as follows:

Example 1: When do housing units not have to be insured? If a recipient provides \$3,500 in emergency assistance to a private homeowner and the assistance is not subject to a repayment agreement of any kind, then no insurance requirements apply.

Example 2: When must housing units be insured in accordance with a recipient's useful life (affordability period)? If a recipient provides \$25,000 in down payment assistance to a private homeowner that includes a mandatory 10-year useful life (affordability period) for the property and a 5-year repayment clause, then the insurance requirements described above will apply for 10 years from the date that assistance is provided.

Insurance Requirements: Recipients must provide adequate insurance either through direct purchase or by self-indemnification to protect against loss from fire, weather, and liability claims for all housing units owned or operated by the recipient.

There are many different methods by which an insurance company may calculate the amount it will pay a recipient for a casualty loss against loss from fire, weather, and liability claims. It is good business practice to purchase insurance in an amount that will cover the full cost to replace housing units that are owned, operated, or assisted with IHBG funds. A stated value or cash value policy might result in a reduced premium, but if a loss occurs, the payment made under the stated value or cash value policy may not be enough to rebuild or repair the housing unit.

Recipients must also ensure that privately owned housing units assisted with IHBG funds are insured. If the insurance requirement is being satisfied by private owners purchasing adequate insurance coverage themselves, it is good business practice to have the recipient named as an additional insured in order to protect the recipient's IHBG investment. In cases when the private owner is required to purchase adequate insurance, it remains the recipient's responsibility to ensure compliance with all NAHASDA requirements.

Insurance Requirements for Contractors and Subcontractors: Pursuant to 24 CFR §1000.136(c), recipients shall require contractors and subcontractors to either provide insurance covering their activities or negotiate adequate indemnification coverage to be provided by the recipient in the contract. If contractors and subcontractors provide insurance such as a builder's risk insurance policy to cover their activities, it is good business practice to have the recipient named as an additional insured to protect the recipient's IHBG investment.

If recipients are contracting through force account work, the recipient must provide insurance covering the force account activities in order to protect the financial stability of the recipient's IHBG program. **NOTE:** If contractors and subcontractors provide insurance such as a builder's risk insurance policy to cover their activities, it is good business practice to have the recipient named as an additional insured to protect the recipient's IHBG investment.

Additional Types of Insurance Required or Recommended: The following is a listing of other types of insurance coverage that is either required by regulation or advisable.

2 CFR Part 225 (formerly OMB Circular A-87), Appendix B, Sections 18 and 22 provide that the use of grant funds for required or approved insurance under a grant program is an allowable cost. Recipients should maintain permissible insurance in accordance with its policies and sound business practice. Any actual losses that could have been covered by permissible insurance are generally unallowable, unless expressly provided for in the Federal award. One provision where losses not covered by insurance are allowable under 2 CFR Part 225, is for costs incurred because of losses not covered under nominal deductible insurance coverage and minor losses for spoilage, breakage, and disappearance of small hand tools, which occur in the ordinary course of operations. The provisions of 2 CFR Part 225 apply to losses related to non-dwelling units or other property assisted under NAHASDA including model activities approved in accordance with section 202(6) of the Act, vehicles leased or purchased with NAHASDA funds and/or certain non-expendable equipment/assets.

If multiple funding sources are used by the recipient, it is important to understand the insurance requirements of each source. Not all insurance policies and plans are the same and any policy obtained by the recipient should be reviewed carefully.

Flood Insurance: In accordance with 24 CFR § 1000.38, IHBG-assisted properties located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazard areas must be insured through the National Flood Insurance Program.

Business or Commercial Property Insurance: Business or commercial property insurance policies protect the recipient's owned and leased property, as well as inventory or assets, against loss or damage caused by theft, accident, or other means. This insurance should cover housing offices, community buildings, childcare facilities, or other facilities owned and operated by the recipient and funded through the IHBG program. Most business or commercial property insurance policies protect the recipient's personal property, even if it is not at the business location when it is damaged or lost. Business or commercial property insurance generally covers the recipient's costs to replace or repair the property and, in some instances, may compensate the recipient for items that cannot be replaced.

Automobile and Other Liability Insurance: Automobile liability insurance policies cover injuries that arise out of the use of automobiles owned by the recipient. This coverage can protect the recipient against claims of bodily injury, property damage, or death. Automobile and other liability insurance policies should be evaluated by the recipient to ensure it has purchased adequate insurance coverage for its activities and assets. The recipient must maintain automobile and other liability insurance in accordance with its policies and sound business practice to protect its IHBG program and investment.

Workers' Compensation and Employers' Liability Insurance: Workers' Compensation and Employer's Liability coverage may be obtained by a recipient. Workers' Compensation coverage is a compromise between employers and employees in which injured employees relinquish the right to sue their employers for employment-related injuries in return for a statutory imposed mechanism providing specific scheduled benefits, which are funded for the most part by insurance. Workers' compensation insurance is generally the most effective method available to an employer for compensation of employees and their families for work-related injuries or diseases. *Workers' compensation coverage is not an employee benefit. It is a casualty insurance coverage.*

General Liability Insurance: General liability insurance is also sometimes referred to as business or commercial general liability insurance and it protects the recipient from common liabilities. It is good business practice to purchase general liability insurance as it covers claims of bodily injury or other physical injury or property damage. It is frequently offered in a package with property insurance to protect against incidents that may occur on the recipient's premises or at other covered locations where the recipient normally conducts business. General liability insurance enables the recipient to continue operations while it faces real or fraudulent claims of certain types of negligence or wrongdoing, including bodily injury, property damage, personal injury (including slander or libel), and advertising injuries. Additionally, a general liability insurance policy usually covers the cost to defend or settle claims, even if the claims are fraudulent.

Employee Dishonesty (Fidelity Bond) and Theft, Disappearance, and Destruction Insurance: Employee dishonesty (sometimes referred to as Fidelity Bonds) and theft, disappearance, and destruction insurance are policies that can be purchased to cover the loss of money, securities, or other property which the recipient may sustain due to fraudulent or dishonest acts committed by any of its principals or employees. This type of insurance coverage is not usually limited to loss of money and may include coverage for the loss of merchandise or property which a principal or employee might steal. It is good business practice for recipients to purchase employee dishonesty insurance (fidelity bonds) and theft, disappearance, and destruction insurance policies for its officers, directors, agents, and employees, particularly those handling cash or authorized to sign checks or certify payment vouchers. Directors and officers are not typically covered under an employee dishonesty insurance policy or Fidelity Bond. There are no standardized policies for this type of coverage, but it is recommended that recipients obtain coverage for wrongful or dishonest acts committed by the recipient's directors and officers as well as its principals and employees.

Neither the U.S. Department of Housing and Urban Development nor ONAP should be named as an additional insured for any insurance requirement or type of insurance policy or coverage listed above.

If you have any questions, please contact your Area ONAP.

**ATTACHMENT 11-2:
PIH NOTICE 2014-15: ADMINISTRATIVE AND PLANNING
EXPENSES IN THE INDIAN HOUSING BLOCK GRANT (IHBG)
PROGRAM**



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

Special Attention of:
Administrators, Offices of Native American
Programs; and Tribes, Tribally Designated
Housing TDHE Entities (TDHE)

Notice PIH 2014-15

Issued: June 19, 2014

Expires: This notice remains in effect until
amended, superseded, or rescinded

Cross Reference(s): 24 CFR Part 1000
and OMB Circular A-87

SUBJECT: Administrative and Planning Expenses in the Indian Housing Block Grant (IHBG) Program

PURPOSE: This Notice provides specific guidance on administrative and planning expense requirements for recipients of IHBG funds. The regulatory requirements on IHBG administrative and planning expenses (24 CFR §§1000.236, 1000.238) changed on January 3, 2013. The regulation now identifies what percentage of the recipient's annual grant allocation or expenditures may be used for such purposes without prior HUD approval. This Notice replaces Notice PIH 2002-29.

In addition to the above IHBG regulatory requirements, NAHASDA recipients are also required to meet the cost guidelines in applicable OMB Circulars and the regulations at 2 CFR Part 225 (2013). Recipients should note that new Federal government regulations on Administrative Requirements, Cost Principles, and Audit Requirements were promulgated on December 26, 2013, at 2 CFR Part 200. HUD intends to update its regulations by December 26, 2014, to implement these new requirements in its programs. After HUD implements the new requirements, in 2 CFR Part 200 and (after December 26, 2014), all grant funds will be subject to 2 CFR Part 200. Until that time, applicable OMB Circulars and the regulations at 2 CFR Part 225 will continue to apply to IHBG funds awarded prior to December 26, 2014.

ADMINISTRATIVE AND PLANNING EXPENSES: NAHASDA recipients are required to meet the general allowability cost guidelines at 2 CFR Part 225 (2013). Expenses must: (1) be necessary and reasonable; (2) be allocable; (3) be authorized; (4) conform to any limitations or exclusions; (5) be consistent with policies, regulations, and procedures; (6) be accorded consistent treatment; (7) be determined according to generally accepted accounting principles; (8) not be included as a cost or used as a cost to meet cost sharing requirements; (9) be the net of all applicable credits; and (10) be adequately documented, 2CFR Part 225, App.A.(C).

The IHBG regulation at 24 CFR §1000.236 (2013) lists several examples of eligible administrative and planning expenses. Such expenses include, but are not limited to:

- (1) Costs of overall program and /or administrative management;
- (2) Coordination monitoring and evaluation;
- (3) Preparation of the Indian Housing Plan (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 the expenditure of non-IHBG funds on affordable housing activities, as long as the source of the non-IHBG funds limits expenditure of its funds on such administrative expenses.

EXPENDITURE OF RESERVE ACCOUNTS FUNDS: The funds held in the reserve account(s) are to be used only for eligible administration and planning expenses in accordance with 24 CFR §1000.239 (2013). The amounts spent from the reserve account(s) are included in the recipient’s applicable 20 percent or 30 percent maximum amount of grant funds that may be used for administration and planning expenses. For additional information, see the Program Guidance for *Reserve Accounts for Administration and Planning*.

PERCENTAGE OF IHBG FUNDS TO BE USED FOR ADMINISTRATION AND PLANNING: The recipient’s annual grant amount determine the percentage of IHBG funds that can be used for administration and planning. A recipient may request HUD approval to exceed the 20 or 30 percent spending cap.

| <i>Annual IHBG Grant</i> | <i>Administrative and Planning Spending Cap</i> |
|--------------------------|---|
| \$500,000 or Less | 30% |
| More than \$500,000 | 20% |

- **\$500,000 or less:** Recipients receiving \$500,000 or less may use up to 30 percent of their annual expenditures of grant funds or up to 30 percent of their annual grant amount, whichever is greater.
- **In Excess of \$500,000:** Recipients receiving in excess of \$500,000 may use up to 20 percent of their annual expenditures of grant funds or may use up to 20 percent of their annual grant amount, whichever is greater. The 20 percent cap also would apply to a recipient that receives IHBG funds on behalf of one or more beneficiaries if each beneficiary qualifies for the 20 percent spending cap.
- **One or more Beneficiaries:** If a recipient receives IHBG funds on behalf of one or more grant beneficiaries, the recipient may use up to 30 percent of the annual expenditure of grant funds or 30 percent of the grant amount, whichever is greater, for each beneficiary whose allocation is \$500,000 or less. For beneficiaries whose allocation is in excess of \$500,000, the recipient may use up to 20 percent of the annual expenditure of grant funds or up to 20 percent of the annual grant amount, whichever is greater.
- If the same percentage cap applies to all of the recipient’s beneficiary grant allocations, the recipient should state the grant amount or expenditure amount, the cap percentage applied, and the actual dollar amount of the cap. If the recipient applies a different cap percentage for each beneficiary, the following information must be provided:
 - (1) Name of each beneficiary
 - (2) Amount of each beneficiary allocation
 - (3) Applicable percentage cap for each beneficiary allocation
 - (4) Actual dollar amount of each cap
 - (5) Combined cap dollar amount

The following is an example of a recipient’s calculation of the maximum amount that can be spent on administrative and planning expenses to be included on line 4 when multiple grant

beneficiaries are included in the grant.

| Grant Beneficiary | Annual Grant Amount (a) | Percentage Allowed (b) | Maximum A & P based on Annual Grant Amount (a x b) | Annual Expenditures (d) | Percentage Allowed (e) | Maximum A & P based on Annual Expenditures (d x e) |
|-------------------|-------------------------|------------------------|---|-------------------------|------------------------|---|
| Name of Tribe | \$600,000 | 20% | \$120,000 | \$450,000 | 20% | \$90,000 |
| Name of Tribe | \$300,000 | 30% | 90,000 | \$600,000 | 30% | \$180,000 |
| Total | | | \$210,000 | | | \$270,000 |

In this example, the maximum amount that the recipient can spend on administrative and planning expenses is \$270,000. The calculation for the budgeted administrative and planning expense must be included on Line 4 in Section 6 of the IHP. Any revision to the calculation based upon actual expenditures must be included in Line 5 in Section 6 of the annual Performance Report (APR).

HUD recommends that a recipient consistently apply either the annual grant amount or annual expenditure amount in calculating the spending cap. A recipient may request HUD approval to exceed the 20 or 30 percent spending cap (24 CFR §1000.238 (2013)).

AFFORDABLE HOUSING ACTIVITIES WITH NON-IHBG FUNDING: If necessary, a recipient may use IHBG funds for expenses related to the administration and planning of affordable housing activities funded with non-IHBG funds. The total amount of IHBG funds spent on administration and planning for both IHBG and non-IHBG funded activities may not exceed the recipient’s allowable spending cap, except with HUD approval. The use of IHBG funds for administration and planning of activities funded with non-IHBG funds must comply with the IHBG restrictions on using funds for administration and planning, in addition to any requirement on administrative and planning expenses imposed by the non-IHBG funds (not including non-IHBG spending limits).

ELIGIBLE ADMINISTRATIVE AND PLANNING EXPENSES: The following illustrate eligible administrative and planning expenses.

- **Costs of overall program and/or administrative management**
 - Salary and the associated expenses of the Tribal Designated Housing Entity (TDHE) Executive Director and immediate staff or the tribe’s Housing Division Director and immediate staff while managing the housing entity’s or divisions overall operations.
 - Expense or a portion of the expense of obtaining a periodic financial review or audit of the recipient.
 - Expense or a portion of the expense of the accounting and personnel divisions of the recipient.
 - For those tribes that have an approved indirect cost rate, the applicable indirect expenses. For the indirect expenses to be allowable, the approved indirect cost rate proposal must include the IHBG program in the direct cost base and be prepared in accordance with Appendix E of 2 C.F.R §225 (2013).
 - Expenses to develop a comprehensive housing affordability strategy and community development plan describing needs, resources, priorities and proposed activities on a reservation-wide or Indian area-wide basis.

- **Coordination monitoring and evaluation**
 - Salary and associated expenses or contractor expense for the self-monitoring effort by the recipient.
 - Salary and associated expenses of a tribe when evaluating the operations of its TDHE.

- Salary and associated expenses of a recipient when evaluating the operations of a sub recipient.
- **Preparation of the IHP including data collection and transition costs**
 - Salary and associated expenses or contractor expenses for collecting housing and population data and preparing the IHP.
 - Start-up expenses of a tribe that is taking over the housing needs responsibility from a housing authority or TDHE.
- **Preparation of the Annual Performance Report (APR)**
 - Salary and associated expenses or contractor expenses for collecting data and compiling information for the APR.
 - Expense of making the APR available to the public and obtaining public comments before submitting the APR to the Area Office of Native American Programs (ONAP).
- **Challenge to and collection of data for purposes of challenging the formula**
 - Salary and associated expenses or contractor expense for gathering and presenting data to challenge the IHBG formula.
- **Staff and overhead costs directly related to carrying out affordable housing activities**
 - Administrative expenses of an individual affordable housing activity may be charged to administration and planning at the discretion of the recipient. If a recipient chooses to charge direct administration costs of an affordable housing activity as administrative and planning, the cost of developing or operating the activity will be understated. This may cause problems when, in the normal course of property management, the recipient evaluates the true cost of the activity for cost/benefit and whether to continue or repeat that activity. A recipient should review its financial management information needs before electing to charge direct costs to administrative and planning expense.

INELIGIBLE ADMINISTRATIVE AND PLANNING EXPENSES: The following are examples of ineligible administrative and planning expenses:

- **Funds or property used for personal employee use** is considered a contribution to others and in an unnecessary and unreasonable cost, and therefore, an ineligible IHBG expense.
 - IHBG funds used to pay personal obligations of an employee.
 - Recipient use of IHBG funds to pay the maintenance and operating expenses of the personal property.
 - Recipient's property used for personal purposes.
 - Recipient-owned funds or property being used for non-recipient business.
- **Paying a disproportionate share of a computer network's purchase and installation costs.**
 - A proportional share of the network cost is an eligible charge to the IHBG program; however, the amount actually charged to the IHBG program must be supported and reasonable in relation to the degree the system is used by the IHBG program.

- **Miscalculating the indirect cost rate allocation.**
 - In general, indirect costs are eligible under the IHBG program; however, in order for the indirect costs to be allowable, they must be supported by an approved indirect cost rate proposal that has been prepared in accordance with Appendix E to 2 C.F.R. Part 225 (2013).

- **Exceeding the IHBG administrative and planning percentage ceiling without HUD approval.**
 - A recipient may not exceed the maximum percentage award for administrative and planning. Any costs in excess of the percentage ceiling would be ineligible. The recipient must request prior approval by HUD to exceed the percentage limitation.

- **Inadequate documentation to support all administration and planning expenses related to affordable housing activities.**
 - The recipient's financial management records must support the costs charged to the administrative and planning expense line item. The actual amounts paid by the recipient must be documented in the recipient's financial records(for example, a recipient may not automatically charge the maximum percentage of the grant to administrative and planning expenses without providing supporting documentation).

- **A tribe's sub recipient agreement specified that administrative and planning expenses of the sub recipient were to be charged directly to housing activities.**
 - The sub recipient's responsibilities include preparing and submitting the IHP, the APR and progress reports to the tribe. Since, sub recipients must comply with the same requirements as recipients, classification of general administrative and planning costs to an affordable housing activity is inappropriate. In a situation where a tribe and a sub recipient both incur administrative and planning expenses, all such costs must be compiled from all sources to determine compliance with the IHBG programs limitation on planning and administrative expenses.

- **Non-IHBG funds used for administrative and planning activities to the maximum extent permitted before IHBG fund may be used for a non-IHBG fund.** The intent of §1000.236(a)(6) was to encourage leveraging of funds by enabling IHBG funds to be used for the administration and planning activities of non-IHBG funds related to affordable housing.
 - A recipient may only use IHBG funds for administration and planning of a non-IHBG fund after using the non-IHBG fund for administration and planning to the maximum extent permitted by that fund. For example, if a non-IHBG fund of \$100,000 only allows the use of that fund up to 10 percent of the allocation for administration and planning, the recipient must use \$10,000 for such activities before it can utilize IHBG grant funds to administer that non-IHBG fund.

- **IHBG funds used for administrative and planning activities of a non-IHBG fund beyond the IHBG limitation for administrative and planning expenses.**
 - If the non-IHBG fund limits administrative and planning expenditures, but that limitation is more generous than that allowed under IHBG (20 percent of annual expenditure or grant for recipients receiving more than \$500,000 and 30 percent of annual expenditure or grant for recipients receiving \$500,000 or less), then

IHBG fund may not be used for administrative and planning expenditures of that non-IHBG fund, unless approved by HUD in advance.

- When IHBG grant funds are used for administrative and planning activities of a non-IHBG program, the recipient must comply with IHBG rules governing administrative and planning expenditures.
- Administrative and planning expenses related to a non-IHBG fund must comply with IHBG rules governing administrative and planning expenditures when using IHBG grant funds.

If you have any questions regarding this Notice, please contact your local Area ONAP.

/s/

Sandra B. Henriquez, Assistant Secretary
for Public and Indian Housing

**ATTACHMENT 11-3: PROGRAM GUIDANCE 2002-11-
REQUIRED POLICIES AND STATEMENTS**





No. 2002-11
June 24, 2002

PROGRAM GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: All Tribal Government Leaders and Tribally Designated Housing Entities

FROM: Ted Key, Acting Deputy Assistant Secretary, PN

TOPIC: Required Policies and Statements Under NAHASDA

PURPOSE: The purpose of this guidance is to assist tribes and tribally designated housing entities (TDHEs) by identifying the policies, standards or statements that are required under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). In addition, the audit conducted by the Office of Inspector General on the implementation of NAHASDA states that additional guidance on required policies would be helpful to grant recipients.

POLICIES REQUIRED UNDER NAHASDA

Sections 203 and 207 of NAHASDA require that grant recipients adopt written policies in the following areas:

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/TDHEs requirements for collection of payments.
2. Eligibility, admission, and occupancy policies. 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.
 - Eligibility – Address the three type of eligible participants, including low-income Indian families, non low-income Indian families, and non-Indian families.
 - Admission – 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.

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- 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. A separate Notice will be issued by ONAP that more specifically addresses this issue.
- Occupancy – Requirements for continued occupancy and grounds for termination of a housing lease or sales contract.
3. Management and maintenance policies. 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 could include policies such as Personnel, Grievance, Capitalization, Disposition, etc.
 4. Tenant and homebuyer selection policy. 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; and
 - Provide for:
 - a) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forward in the Indian Housing Plan for the tribe that is the grant beneficiary of such grant amounts; and
 - b) the prompt notification in writing to any rejected applicant of the rejection and the grounds for the rejection.

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

5. Travel. The regulations at 24 CFR 1000.26 states that recipients shall comply with the requirements and standards of OMB Circular No. A-87, “Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally recognized Indian Tribal Governments.” Section 41 of Attachment B in Circular A-87 indicates that travel is an authorized cost subject to certain requirements. The circular requires that grantees must use Federal travel standards in the absence of a local governmental unit travel policy.
6. Procurement. The regulations at §1000.26 requires compliance with Section 85.36, Procurement, of Part 85, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments. The language at §85.36 (b) (1), Procurement Standards, requires grantees and sub grantees to use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements confirm to applicable Federal laws and standards identified in this section. Section 85.36 (b) (3) also requires that grantees and sub grantees maintain a written code of standards of conduct governing the performance of employees engaged in the award and administration of contracts.
7. Indian Preference. 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-

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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.

8. Real property acquisition and relocation. 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.
9. Drug Free Workplace. One of the certifications required before a recipient's IHBG 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 recipients 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.
10. Cash Management. Part 85.20 (7) requires all grant recipients to establish cash management procedures. Cash management is the process of managing the cash flow to optimize the use of funds. NAHASDA recipients are referred to §85.20 and 85.21 for more information on cash management requirements. Information on cash management procedures for 1937 Housing Act program funds is also available at Part 85 and in Notice PIH 96-33, reinstated by Notice PIH 2001-7. NAHASDA recipients may wish to refer to the Notice for specific information.
11. Section 3. 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 your personnel and procurement policies. This requirement is found at §1000.42.

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

- Investment and Internal Control. Recipients who seek approval to invest IHBG funds must comply with Notice PIH 2001-21, Administrative Requirements for Investing Indian Housing Block Grants. This Notice requires recipients to have an Internal Control Policy and an Investment Policy. In addition, investment policies and procedures are required by PIH 96-33 (reinstated by Notice PIH 2001-7), for 1937 Housing Act investments from the following programs: Low Rent, Turnkey III, and Mutual Help.
- Housing Standards. NAHASDA regulations regarding Revisions to Cost Limits for Native American Housing at §1000.158 (published on September 28, 2001), require that

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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 (TDC) limits published periodically by HUD. More information regarding these requirements can be found in Notice PIH 2001-42, Total Development Costs (TDC) for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA).

If you have any questions regarding policies and procedures, please call your local Area Office of Native American Programs.

**ATTACHMENT 11-4:
NOTICE 2015-01, *TRANSITION TO 2 CFR PART 200, UNIFORM
ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND
AUDIT REQUIREMENTS FOR FEDERAL AWARDS, FINAL
GUIDANCE***



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
OFFICE OF THE DEPUTY SECRETARY
WASHINGTON, DC 20410-0050

Special Attention of:

NOTICE: SD-2015-01

Issued:

FEB 26 2015

HUD Regional Directors
HUD Field Office Directors
HUD Offices of Community Planning and Development (CPD),
Fair Housing and Equal Opportunity (FHEO),
Housing,
Native American Programs (ONAP),
Lead Hazard Control and Healthy Homes (OLHCHH),
Public and Indian Housing (PIH),
Policy Development and Research (PD&R)
HUD Grant Administrators, Grant Officers, Government Technical Monitors (GTMs), and
Government Technical Representatives (GTRs) and Recipients of HUD Federal Financial
Assistance

This notice remains effective until amended,
superseded or rescinded

SUBJECT: Transition to 2 CFR Part 200, *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance*

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1. BACKGROUND

On December 26, 2013, the Office of Management and Budget (OMB) published (at 78 Federal Register 78590; <https://federalregister.gov/a/2013-30465>) final guidance on the above subject, which is codified at 2 CFR part 200. OMB and the Federal awardmaking agencies published a joint interim final rule implementing the final guidance as requirements for recipients of Federal financial assistance on December 19, 2014 (at 79 Federal Register 75871; <https://www.federalregister.gov/articles/2014/12/19/2014-28697/federal-awarding-agency-regulatory-implementation-of-office-of-management-and-budgets-uniform>). OMB also made technical corrections to part 200.

The purpose of 2 CFR part 200 is to streamline the Federal government's guidance on administrative requirements, cost principles, and audit requirements to more effectively focus Federal resources on improving performance and outcomes, while ensuring the financial integrity of taxpayer dollars in partnership with non-Federal stakeholders. The uniform guidance supersedes, consolidates, and streamlines requirements from eight OMB Circulars:

- A-21, *Cost Principles for Educational Institutions*,
- A-87, *Cost Principles for State, Local and Indian Tribal Governments*,
- A-89, *Catalog of Federal Domestic Assistance*,
- A-102, *Grants and Cooperative Agreements With State and Local Governments*,
- A-110, *Uniform Administrative Requirements for Grants and Other Agreements with Institutions of Higher Education, Hospitals and Other Non-Profit Organizations*,
- A-122, *Cost Principles for Non-Profit Organizations*,
- A-133, *Audits of States, Local Governments, and Non-Profit Organizations*, and
- The guidance in OMB Circular A-50, *Audit Followup*, on Single Audit Act follow-up.

HUD adopted this guidance at a new part, 2 CFR part 2400. The uniform guidance also removed: 2 CFR parts 215, 220, 225, and 230. HUD amended 24 CFR parts 84 and 85, which had codified OMB Circulars superseded by 2 CFR part 200, by removing all substantive provisions and including a saving provision that provides that Federal awards made prior to December 26, 2014, will continue to be governed by parts 84 or 85 as codified in the 2013 edition of the Code of Federal Regulations (CFR) or as provided under the terms of the Federal award.

Major Reforms and Policy Changes

The policy reforms brought about by OMB's consideration of public comments and efforts to streamline federal grant-making processes are identified as the following:

- Eliminate duplicative/conflicting guidance;
- Focus on performance over compliance for accountability;
- Encourage efficient use of information technology (IT)/shared services;
- Provide for consistent treatment of costs;
- Limit allowable costs for the best use of Federal resources;
- Incorporate standard business processes using data definitions;
- Strengthen oversight; and
- Target audit requirements on risk of waste, fraud, and abuse.

In addition to the consolidation of the OMB Circulars, major audit changes include the following:

- The Single Audit threshold is raised from \$500,000 to \$750,000, which eliminates the need for more than 5,000 audits, with a cost savings estimated at \$250 million;
- The questioned cost limit in Single Audits is raised from \$10,000 to \$25,000;
- Assessment of government-wide audit quality is to be conducted every six years (beginning in 2018).

The uniform guidance, which provides a government-wide framework for grants management, is designed to reduce administrative burden for non-Federal entities receiving Federal awards.

2. EFFECTIVE DATE AND APPLICABILITY TO HUD

The uniform guidance was applicable for Federal agencies, including HUD, effective December 26, 2013. Federal agencies, including HUD, adopted 2 CFR part 200 as requirements for Federal financial assistance programs by the interim final rule published December 19, 2014. It was made applicable to non-Federal entities (recipients of Federal financial assistance) effective December 26, 2014, with one exception: §200.110(a) was revised to give a one-year grace period for implementation of the procurement standards. As will be detailed in the 2015 OMB Compliance Supplement, non-Federal entities choosing to delay implementation for the procurement standards will need to specify in their documented policies and procedures that they continue to comply with OMB Circulars A-87 or A-110 for one additional fiscal year which begins after December 26, 2014. For example, the first full fiscal year for a non-Federal entity with a June 30th year would be the year ending June 30, 2016. See also the General Transition Rules section of this Notice.

3. PURPOSE

The purpose of this Notice is to identify and explain significant changes made in 2 CFR part 200, and provide transition guidance and links to additional resource materials for HUD and its grant program stakeholders and other recipients of Federal financial assistance from HUD. This Notice is broken out by the six subparts in 2 CFR part 200:

- Subpart A – *Acronyms and Definitions*;
- Subpart B – *General Provisions*;
- Subpart C – *Pre-Federal Award Requirements and Contents of Federal Awards*;
- Subpart D – *Post-Federal Award Requirements*;
- Subpart E – *Cost Principles*; and
- Subpart F – *Audit Requirements*.

Appendix A of this Notice provides the table of contents for 2 CFR part 200. HUD highly recommends that recipients familiarize themselves with 2 CFR part 200 in its entirety. This Notice is intended to highlight major changes and topical areas that may apply across all HUD programs or be of general interest.

4. SUBPART A – ACRONYMS AND DEFINITIONS: HIGHLIGHTS

Subpart A of 2 CFR part 200 lists definitions and acronyms for key terms found throughout the uniform guidance. Each definition is in its own section so that the reader can look at the table of contents to see defined terms. Since the uniform guidance originated in eight different Circulars, there are numerous conforming changes made to provide consistency for the terms used. In particular, part 200 uses “non-Federal entity” and “pass-through entity.” “Non-Federal entity” means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization that carries out a Federal award as a recipient or subrecipient. “Pass-through entity” means a non-Federal entity that provides a subaward to a subrecipient to carry out part of a Federal program.

Policy decisions are reflected in some definitions, including: §200.18, *Cognizant agency for audit*, §200.23, *Contractor*, §200.33, *Equipment*, §200.73, *Oversight agency for audit*, and §200.94, *Supplies*. Section 13.b of this Notice provides a link to a crosswalk developed by OMB from the existing OMB Circulars to the final uniform guidance in 2 CFR part 200.

Definition of Indian Tribe: The definition of Indian tribe in §200.54 differs from the definition in the Native American Housing Assistance and Self-Determination Act (NAHASDA) (25 U.S.C. 4013, et seq.). The definition of Indian tribe in §200.54 has no effect on programs with statutory definitions of “Indian tribe.”

5. SUBPART B – GENERAL PROVISIONS: HIGHLIGHTS

Subpart B covers general provisions, including the basic purpose of 2 CFR part 200 and its applicability to different types of Federal awards to non-Federal entities, and states that

Federal agencies, including HUD, may apply subparts A-E to for-profit entities. Exceptions to the applicability of the rule are listed in 2 CFR 200.101(d) and (e) and 2 CFR 200.102. This subpart makes clear that part 200 does not supersede any existing or future authority under law or by executive order or the Federal Acquisition Regulation (FAR). As an example, for public housing, the disposition statute at Section 18 of the U.S. Housing Act of 1937 (42 U.S.C. 1437p) supersedes the disposition instructions in §200.311(c). Subpart B also covers Authorities, Effect on other issuances, Agency implementation, OMB responsibilities, Inquiries, Effective date, English language, Conflict of interest, and Mandatory disclosures. Highlights are discussed below.

Applicability: Section 200.101 includes a table that summarizes how the guidance applies to types of Federal awards. This table must be read along with the other provisions of section 200.101:

| The following portions of Part 200: | Are applicable to the following types of Federal Awards (except as noted in paragraphs (d) and (e) of section 200.101): | Are NOT applicable to the following types of Federal Awards: |
|--|--|--|
| Subpart A—Acronyms and Definitions. | —All. | |
| Subpart B—General Provisions, except for §§200.111 English Language, 200.112 Conflict of Interest, 200.113.Mandatory disclosures | —All. | |
| §§ 200.111 English Language, 200.112 Conflict of Interest, and 200.113. Mandatory Disclosures | —Grant agreements and cooperative agreements. | <ul style="list-style-type: none"> —Agreements for: loans, loan guarantees, interest subsidies, and insurance. —Cost-reimbursement contracts awarded under the Federal Acquisition Regulation and cost-reimbursement subcontracts under these contracts. —Fixed-price contracts and subcontracts awarded under the Federal Acquisition Regulation whenever cost analysis is performed or the contract requires the determination or negotiation of costs. |
| Subparts C–D, except for Subrecipient Monitoring and Management. | —Grant agreements and cooperative agreements | <ul style="list-style-type: none"> —Agreements for: loans, loan guarantees, interest subsidies, and insurance. —Cost-reimbursement contracts awarded under the Federal Acquisition Regulation and cost-reimbursement subcontracts under these contracts. —Fixed-price contracts and subcontracts awarded under the Federal Acquisition Regulation whenever cost analysis is performed or the contract requires the determination or negotiation of costs. |
| Subpart D—Post Federal Award Requirements, Subrecipient Monitoring and Management. | —All. | |
| Subpart E—Cost Principles. | <ul style="list-style-type: none"> —Grant agreements and cooperative agreements, except those providing food commodities. —Cost-reimbursement contracts awarded under the Federal Acquisition Regulation and cost-reimbursement subcontracts under these contracts in accordance with the FAR. —Fixed price contracts and subcontracts awarded under the Federal Acquisition Regulation whenever cost analysis is performed or the contract requires the determination or negotiation of costs. | <ul style="list-style-type: none"> —Grant agreements and cooperative agreements providing food commodities. —Fixed amount awards. —Agreements for: loans, loan guarantees, interest subsidies, insurance. —Federal awards to hospitals (see Appendix IX to Part 200—Hospital Cost Principles). |
| Subpart F—Audit Requirements. | —All. | |

Exceptions:

- Section 200.102(a) allows OMB to make exceptions to 2 CFR part 200 for certain classes of Federal awards or for certain non-Federal entities, but only in unusual circumstances and if such exceptions are not prohibited by law. Where the provisions of Federal statutes or regulations differ from the provisions of part 200, the provisions of the Federal statutes or regulations take precedence.
- Section 200.102(b) allows HUD to make certain exceptions on a case-by-case basis except where otherwise required by law or where OMB or other approval is expressly required by 2 CFR part 200. Under §200.102(c), HUD may apply more restrictive requirements to a class of Federal awards or non-Federal entities when approved by OMB or required by Federal statutes or regulations. HUD may also apply less restrictive requirements when making fixed amount awards as defined in Subpart A, §200.45.
- Exemptions from Subpart F, Audit Requirements, are not permitted under any circumstances.

English Language: Section 200.111 makes clear that all HUD financial assistance announcements, HUD award information (e.g., Notices of Funding Availability), and applications must be in the English language. Non-Federal entities may translate the Federal award and other documents into another language, however, in the event of any inconsistency, the English language meaning would control. Where a significant portion of the non-Federal entity's employees working on the award are not fluent in English, the non-Federal entity must provide the HUD award in English and the language(s) with which the employees are more familiar.

Conflict of Interest: Section 200.112 requires HUD to establish conflict of interest policies for Federal awards and requires non-Federal entities to disclose in writing any potential conflict of interest to HUD or the pass-through entity in accordance with HUD's policy. The general procurement standards in §200.318 require non-Federal entities to maintain written standards of conduct covering conflicts of interest, including organizational conflicts of interest. "Organizational conflicts of interest" means that, because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

6. SUBPART C – PRE-FEDERAL AWARD REQUIREMENTS AND CONTENTS OF FEDERAL AWARDS: HIGHLIGHTS

Subpart C prescribes the instructions and other pre-award information to be used in the funding announcement and application process.

Selecting the Instrument for Award: Section 200.201 requires the Federal awarding agency or pass-through entity to decide on the appropriate instrument for the Federal award (i.e., grant agreement, cooperative agreement, or Federal contract under the Federal Acquisition Regulation) in accordance with the Federal Grant and Cooperative Agreement Act (31 U.S.C. 6301-08). The program statute or pass-through entity may have another name for

the document (e.g., annual contributions contract), but the choice is limited to these three instruments, in accordance with the Federal Grant and Cooperative Agreement Act.

Fixed Amount Awards: Section 200.201(b) allows for “fixed amount” awards under which the amount is negotiated using the cost principles (or other pricing information) as a guide. Fixed amount awards generally may be used if the project scope is specific and if adequate cost, historical, or unit pricing data are available to establish a fixed amount award based on a reasonable estimate of actual cost. Accountability is based on performance. There is no governmental review of the actual costs incurred by the non-Federal entity in performance of the award. Payments may be based on milestones, on a unit price basis, or in a single payment upon completion of the Federal award. The non-Federal entity is required to provide a certification regarding completion. Periodic reports may be required.

Funding Announcements and Award Agreements: Sections 200.202, 200.203, 200.210, and Appendix I require funding opportunities to be available for at least 60 days and impose standard requirements on HUD’s notices of funding opportunities, on application requirements, and Federal award requirements. HUD will include with each Federal award any program-specific or other terms and conditions, and will share both the general and the program-specific or other requirements on a public website and in Notices of Funding Availability (NOFAs).

Risk-Based Awards: Sections 200.204 and 200.205 require Federal agencies to design and execute a merit review process for competitive applications using a risk-based approach that relies, in part, on HUD review of OMB-designated repositories of government-wide eligibility qualification or financial integrity information (such as the Federal Awardee Performance and Integrity Information System (FAPIS), “Do Not Pay” lists, etc.)¹. This assessment can include, for example:

- financial stability,
- the quality of management systems and ability to meet the management standards in 2 CFR part 200,
- history of performance,
- reports and findings from audits, and
- the applicant’s ability to effectively implement statutory, regulatory, or other requirements, and debarment and suspension guidelines.

HUD must also comply with the debarment and suspension guidelines in 2 CFR part 180.

¹ FAPIS is a database that has been established to track contractor misconduct and performance. The database contains Federal contractor criminal, civil, and administrative proceedings in connection with federal awards; suspensions and debarments; administrative agreements issued in lieu of suspension or debarment; non-responsibility determinations; contracts terminated for fault; defective pricing determinations; and past performance evaluations (see: <https://www.fapis.gov/fapis/index.jsp>). The “Do Not Pay” Business Center was developed for programs administered and/or funded by the Federal government to help prevent, reduce and stop improper payments while protecting citizens' privacy, and partner with agencies to identify potential fraud, waste, and abuse while protecting citizens' privacy (see: <http://donotpay.treas.gov/index.htm>).

Section 200.207 authorizes Federal agencies and pass-through entities to impose additional specific award conditions on applicants or recipients who have a history of failure to comply with terms and conditions, or failure to meet performance goals, or are not otherwise responsible. The conditions include requiring reimbursements rather than advance payments, requiring additional, more detailed reports, additional monitoring, etc. If such additional requirements are imposed, HUD or the pass-through entity must notify the applicant or non-Federal entity as to the nature of, and reasons for, the requirements, actions needed, and timeframe, if applicable. Special conditions must be promptly removed once the causal conditions have been corrected.

7. SUBPART D – POST-FEDERAL AWARD REQUIREMENTS: HIGHLIGHTS

Subpart D describes the requirements standards for managing and administering HUD awards. It includes standards for financial and program management, property and procurement standards, performance and financial monitoring and reporting, subrecipient monitoring and management, record retention and access, remedies for noncompliance, the provisions of the Federal Funding and Accountability Transparency Act (FFATA)² and closeout. NOTE: There will be exceptions to the items listed below and they will be published by regulation. See also Section 5 of this Notice.

Performance Measurement: Section 200.301 requires, as appropriate and in accordance with OMB information collection requirements, recipients to relate financial data to performance accomplishments of the Federal award and provide cost information to demonstrate cost effective practices (e.g., through unit cost data). This is in line with the shift in 2 CFR part 200 from compliance to performance. It also requires Federal agencies to use only OMB-approved forms for performance reports. Non-Federal entities must comply with FFATA. A recipient's performance should be measured in a way that will help HUD and other non-Federal entities improve program outcomes, share lessons learned, and spread the adoption of promising practices.

Internal Controls and Protected Personally Identifiable Information: Section 200.303 sets forth requirements for internal controls. This section reflects requirements that were previously in the A-133 audit requirements. It also addresses the non-Federal entity's responsibilities to take reasonable measures to safeguard protected personally identifiable information and other information designated as sensitive by the Federal awarding agency or the pass-through entity, consistent with applicable Federal, state and local laws regarding privacy and obligations of confidentiality.

Payment: Section 200.305 describes cash management requirements applicable to states and other non-Federal entities to minimize the time elapsed between agencies' advance

² FFATA, signed September 26, 2006, requires information on Federal awards (Federal financial assistance and expenditures) to be made available to the public via a single, searchable website, which is www.USASpending.gov. The intent is to empower every American with the ability to hold the government accountable for each spending decision. The end result is to reduce wasteful spending in the government. Amendments to FFATA have expanded its scope. See also <https://www.frs.gov/>.

payments of funds to the non-Federal entity and the entity's disbursement of funds for direct program or project costs.

Interest Earned on Federal Advances: Section 200.305(b)(8) requires non-Federal entities to maintain advance Federal payments in interest-bearing accounts (with some exceptions). Interest amounts up to \$500 per year may be retained by the non-Federal entity for administrative expenses. Under §200.303(b)(9), interest earned in excess of \$500 must be remitted annually to the Department of Health and Human Services' Payment Management System (either electronically through the system, or by check to the Department of Health and Human Services to the Treasury-approved lockbox: HHS Program Support Center, P.O. Box 530231, Atlanta, GA 30353-0231).

Program Income: Section 200.307 generally encourages recipients to earn income to offset program costs. This section has several provisions that include, but are not limited to, the following:

- Proceeds from the sale of property or equipment are not program income; such proceeds will be handled in accordance with the requirements of §200.311, *Real property*, and §200.313, *Equipment*, or as specifically identified in Federal statutes, regulations, or the terms and conditions of the Federal award.
- If the Federal awarding agency does not specify in its regulations or the terms and conditions of its award, or give prior approval for how program income is to be used, then, ordinarily, program income must be deducted from total allowable costs to determine the net costs. Program income must be used for current costs unless HUD authorizes otherwise. Program income that the recipient did not anticipate at time of the Federal award must be used to reduce the award rather than to increase the funds committed to the project.

Revision of Budget and Program Plans: Section 200.308 requires, among other things, recipients to obtain Federal agency approvals for budget and program or project scope revisions.

Property Standards: Sections 200.310-200.316 set forth standards for real property, equipment, supplies, and intangible property. The regulations cover title, insurance, property trust relationships, and disposition. When real property is no longer needed for the originally authorized purpose, the non-Federal entity must obtain disposition instructions from HUD that provides for: 1) retention of title after compensation to HUD, 2) sale of the property and compensation to HUD, or 3) transfer of title to HUD or a third party approved or designated by HUD.

Procurement: §§200.317- 200.326 cover procurement standards. The standards are generally consistent with the requirements in 24 CFR part 85 for all non-Federal entities. For governmental recipients, the regulations have not substantially changed.

- The regulations require non-Federal entities to maintain written standards of conduct covering conflicts of interest, including organizational conflicts of interest, and governing the performance of their employees engaged in the selection, award and administration of contracts. "Organizational conflicts of interest" means that,

because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization (§200.318(c)(2)).

- The non-Federal entity's procurement procedures must be designed to avoid acquisition of unnecessary or duplicative items and the non-Federal entity is encouraged to enter into intergovernmental or inter-entity agreements to procure or use common goods and services (§200.318(d) and (e)).
- Non-Federal entities, in conducting procurements, must conduct them in a manner providing full and open competition and are prohibited from using state or local geographical preferences in evaluating bids or proposals (except where applicable Federal statutes expressly mandate or encourage geographical preferences, such as HUD's Section 3 requirements in 24 CFR part 135) (§200.319).
- Methods of procurement now include a micro-purchase option, which is the acquisition of supplies or services that do not exceed \$3,000 (or \$2,000 for acquisitions for construction subject to the Davis-Bacon Act) (§200.320(a)).
- "Supplies" includes computing devices if the acquisition cost was less than the lesser of the capitalization level established by a non-Federal entity for financial statement purposes or \$5,000, regardless of the length of their useful life (§200.94).
- The Simplified Acquisition Threshold for small purchase procedures, which are those relatively simple and informal procurement methods for securing services, supplies or other property, is now \$150,000. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. The Simplified Acquisition Threshold is set by the Federal Acquisition Regulation (FAR) at 48 CFR Subpart 2.1 and will be periodically adjusted for inflation (§200.88 and §200.320(b)).
- The non-Federal entity's contracts must contain certain provisions which are included in Appendix II of 2 CFR part 200 (§200.326).
- Non-Federal entities have one full fiscal year after the effective date to comply with the revised procurements standards (see *Implementation Dates* in the December 19, 2014, Federal Register at <https://www.federalregister.gov/articles/2014/12/19/2014-28697/federal-awarding-agency-regulatory-implementation-of-office-of-management-and-budgets-uniform>).

Bonding Requirements: Section 200.325 permits the Federal agency to accept the recipient's bonding policy and requirements if the Federal agency has determined that the Federal interest is adequately protected, and if not, the minimum requirements (abbreviated) are as follows:

- A bid guarantee equal to five percent of the bid price.
- A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment

as required by law of all persons supplying labor and materials in the execution of the work provided for in the contract.

Performance and Financial Monitoring and Reporting: Sections 200.327-328 address the frequency, standards, and OMB approval requirements for agency collection of recipient performance and financial data and monitoring of recipient performance.

Real Property Reporting: Section 200.329 requires annual reporting on real property for which there is a Federal interest, but permits an option for various and less stringent multi-year reporting periods where the Federal interest extends beyond 15 years.

Subrecipient or Contractor: Section 200.330 provides guidance for determining whether an entity is a subrecipient or contractor, in order to apply the appropriate oversight of the Federal funds.

Requirements for Pass-Through Entities: Section 200.331 requires pass-through entities to comply with certain requirements in order to meet their own responsibility to the Federal awarding agency. Many of these requirements were in OMB Circular A-133. Pass-through entities are required to identify certain, clearly identified subaward information. This includes an indirect cost rate if the subrecipient has indirect costs. Pass-through entities must consider risks associated with subawards. The evaluation of a subrecipient's risk of noncompliance with Federal statutes and regulations is used to determine the appropriate level of subrecipient monitoring. Specific subrecipient monitoring tools are outlined, giving pass-through entities flexibility to adjust their oversight framework based on that consideration of risk.

Record Retention: Section 200.333 continues the existing record retention period of generally three years, with some exceptions and caveats. Federal agencies and non-Federal entities should, whenever practicable, collect, transmit and store Federal award-related information in machine-readable formats instead of closed formats or on paper.

Remedies for Noncompliance: Sections 200.338-200.342 cover remedies for noncompliance, including termination and notices of termination. Section 200.338 permits conditions to be imposed on the award if the non-Federal entity fails to comply with the requirements of the award. Previously, only pre-award conditions were authorized.

Closeout: Section 200.343 describes specific closeout actions that are required for all Federal awards at the end of the period of performance and should be completed no later than one year after receipt and acceptance of all required final reports. The non-Federal entity must submit all required final reports within 90 days after the end of the period of performance. The period of performance, defined at §200.77, means from the start to the end dates in the Federal award.

Post-closeout Adjustments and Continuing Responsibilities: Section 200.344 limits the period during which any post-closeout adjustments can be made. The Federal awarding agency or pass-through entity must make any cost disallowance determination and notify

the non-Federal entity within the record retention period. However, amounts due can be collected after this period.

8. SUBPART E – COST PRINCIPLES: HIGHLIGHTS

Subpart E covers the principles that must be used in determining the allowable costs of work performed by a non-Federal entity under a Federal award and in the pricing of fixed-price contracts and subcontracts where costs are used in determining the appropriate prices. It covers exemptions (§200.401(c)) and basic considerations (§§200.402-200.411). The application of the cost principles should require no significant changes in the internal accounting policies and practices of non-Federal entities. The Basic Considerations for costs are largely unchanged. Changes have been made to some select items of cost.

Profit: Section 200.400(g) states that non-Federal entities may not earn or keep any profit resulting from the Federal financial assistance (unless explicitly authorized by the terms and conditions of the Federal award). This is not new.

Prior Approval: In recognition of the difficulty in determining the reasonableness and allocability of certain items of cost, non-Federal entities may seek the prior written approval of the cognizant agency for indirect costs or the Federal awarding agency in advance of incurring unusual or special costs. Prior approval is specifically required for allowability under certain circumstances as described in §200.407.

Direct Costs: Direct costs are covered in §200.413. This section is largely unchanged from previous OMB cost principles.

- Direct costs are identified specifically with the Federal award or can be easily and accurately assigned to activities of the award. Typical direct costs include employee compensation, fringe benefits, materials and other items attributable to the award.
- If directly related to a specific award, certain costs that would otherwise be included with an indirect cost rate can be direct charged, such as extraordinary utility consumption, cost of materials supplied from stock or services from specialized facilities or other institutional service operations.

Indirect Costs: Indirect costs are addressed in §200.414. This section is largely unchanged from previous OMB cost principles.

- Negotiated indirect cost rates must be accepted by all Federal awarding agencies unless certain conditions are met. A Federal awarding agency must implement and make publicly available (e.g., via the Federal Register) the policies, procedures, and general decision-making criteria the programs would follow in seeking and justifying deviations from negotiated rates.
- Pass-through entities must accept a federally recognized indirect cost rate between a subrecipient and the Federal government or, if no such rate exists, either negotiate a rate between the entity and the subrecipient or establish a de minimis indirect cost rate (see also §200.331(a)(4)).

- If a non-Federal entity has never received a negotiated indirect cost rate, it may elect to charge a de minimis rate of 10% of modified total direct costs (MTDC) as defined in §200.68, which may be used indefinitely (§200.414(f)). (Exceptions for some non-Federal entities are listed in Appendix VII, paragraph (d)(1)(B).)
- Non-Federal entities that are able to allocate and charge 100% of their costs directly may continue to do so. Charging the Federal award for indirect costs is never mandatory; a non-Federal entity may conclude that the amount it would recover thereby would be immaterial and not worth the effort needed to obtain it.
- Non-Federal entities that have a federally negotiated indirect cost rate may apply for a one-time extension of the current rate for a period up to four years, subject to the review and approval of the cognizant agency for indirect costs. At the end of the four-year extension period, the non-Federal entity must negotiate a rate. This rate may be extended.

Certifications: Section 200.415 addresses certifications, which are required to be submitted with annual and final fiscal reports, vouchers for payment, and proposals to establish a cost allocation plan or indirect cost rate. Specific language is included acknowledging the statutory consequences of false certifications.

Special Considerations: Special considerations for states, local governments, and Indian tribes for identification and assignment of central service costs are included in §§200.416 and 200.417. Special considerations for institutions of higher education are covered in §§200.418 and 200.419.

General Provisions for Selected Items of Cost: General provisions for 56 selected items of cost are covered in §§200.420-200.475; this section uses language from three Circulars, A-21 (2 CFR part 220), A-87 (2 CFR part 225), and A-122 (2 CFR part 230). These principles apply whether a particular item is properly treated as either a direct or indirect cost. These selected items include two additions (§200.428, *Collections of Improper Payments*, and §200.440, *Exchange Rates*), some changed provisions (including the deletion of *Communications*, which OMB thought could be addressed through “Basic Considerations,” §§200.402 – 200.411), and some clarifications.

- Audit Services: Any costs when audits required by the Single Audit Act have not been conducted or costs of auditing grantees or recipients that are not required to have a single audit are not allowable (§200.425). This provision was in OMB Circular A-133.
- Collections of Improper Payments: Costs of recipients to recover improper payments may be charged as direct or indirect, and may be used in accordance with cash management standards described in §200.305 (§200.428).
- Compensation – Personal Services: §200.430 requires non-Federal entities to maintain a strong system of internal controls over their records to justify costs of salaries and wages and provides additional flexibility in the processes they use to meet these standards.
- Conferences: Allowable conference costs paid by non-Federal entities must be necessary and reasonable for successful performance under the award and may include facilities rentals, speakers’ fees, costs of meals and refreshments, local

transportation, and other incidental items, unless further restricted by the terms and conditions of the Federal award (§200.432).

- Contingency Provisions: Contingency definitions, allowances, and disallowances are set forth in §200.433.
- Fines, Penalties, Damages, and Other Settlements: Costs resulting from a recipient's violations of, alleged violations of, or failure to follow Federal, State, local, tribal, or foreign laws or regulations are unallowable (§200.441).
- Lobbying: The cost to influence activities associated with obtaining grants, contracts, cooperative agreements or loans is unallowable (§200.450).
- Organization Costs: Costs for items such as incorporation fees, attorneys, or accountants in connection with establishment or reorganization of an entity are unallowable except with prior approval of the Federal awarding agency (§200.455).
- Pre-award Costs: Are only allowable to the extent that they would have been approved if incurred after the date of the Federal award and only with prior approval of the Federal awarding agency (§200.458).

9. SUBPART F – AUDIT REQUIREMENTS: HIGHLIGHTS

Subpart F sets forth the standards for audits of non-Federal entities expending Federal awards.

Increased Audit Threshold: One of the significant changes is the raised threshold which requires a non-Federal entity to have a single or program-specific audit conducted for any year in which the non-Federal entity expends \$750,000 or more (up from \$500,000) (§200.501(a)).

Making Audits Publicly Available: Auditees must make copies of their audit available for public inspection, ensuring that protected personally identifiable information is not included. Audit reports must be submitted to the Federal Audit Clearinghouse (FAC) and all Federal agencies, pass-through entities, and others interested in an audit report must obtain it from the FAC. Indian tribes may opt out of authorizing the FAC to publish the reporting package on the Web, but are then responsible for providing the reporting package directly to any affected pass-through entities and also making it available for public inspection (§200.512(b)(2)).

Federal Agency Responsibilities: §200.513 requires Federal agencies, including HUD, to:

- Appoint a Single Audit Accountable Official (SAAO) and a Single Audit Liaison;
- Participate in a government-wide project to determine the quality of single audits;
- Use cooperative audit resolution mechanisms to improve Federal program outcomes through better audit resolution follow-up and corrective action; and
- Develop a baseline, metrics, and targets to track, over time, the effectiveness of the Federal agency's process to follow up on audit findings and the effectiveness of Single Audits in improving non-Federal agency accountability and their use in making award decisions.

Audits and GAGAS: Audits must be conducted in accordance with Generally Accepted Government Auditing Standards (GAGAS) (§200.514(a)).

Higher Threshold for Known Questioned Costs: The threshold for known questioned costs has been increased to \$25,000 from \$10,000. As before, in evaluating the effect of questioned costs on its opinion on compliance, the auditor must consider the best estimate of total costs questioned (likely questioned costs), not just the questioned costs specifically identified (known questioned costs). The higher threshold amount is also used in several related aspects of auditing (§200.516(a)).

Major Program Determinations and Low-Risk Auditees: Changes have been made to the auditor's risk-based approach for determining which Federal programs are major programs (§200.518). Auditees that meet the criteria for a low-risk auditee are eligible for reduced audit coverage (§200.520).

Transition Guidance: To ensure the uniform application of the requirements of Subpart F for all Federal programs, the requirements will be effective for audits of fiscal years starting December 26, 2014, or later. These revised audit requirements are not applicable to fiscal years beginning before that date.

10. 2 CFR PART 200 APPENDICES: A BRIEF DESCRIPTION

2 CFR part 200 contains 11 Appendices, briefly described here:

- Appendix I: This Appendix provides the full text of the notice of funding opportunities as required by §200.203, along with application and submission information, application review information, Federal award administration information, and Federal awarding agency contact(s) requirements.
- Appendix II: This Appendix contains required contract provisions for all contracts made by a non-Federal entity under a Federal award. The description of each provision should be sufficient for a non-Federal entity to determine if the provision needs to be included in a specific contract.
- Appendix III: This Appendix provides criteria for identifying and computing indirect cost rates at institutions of higher education (IHEs).
- Appendix IV: This Appendix provides guidance for identifying and assigning indirect costs and making rate determinations for nonprofit organizations.
- Appendix V: This Appendix provides guidance on a process for state and local governments to identify and assign central service costs to benefitted activities on a reasonable and consistent basis.
- Appendix VI: This Appendix extends requirements by the Department of Health and Human Services (HHS) on developing, documenting, submitting, negotiating, and approving public assistance cost allocation plans to all Federal agencies whose

programs are administered by a state public assistance agency. (Most such programs are funded by HHS; few, if any, are funded by HUD.)

- Appendix VII: This Appendix provides guidance to state and local governments and Indian tribes on developing, submitting and documenting indirect cost rate proposals.
- Appendix VIII: This Appendix lists those nonprofit organizations that are exempted from the requirements of Subpart E, *Cost Principles*.
- Appendix IX: This Appendix makes clear that existing principles at 45 CFR Part 74 Appendix E, *Principles for Determining Cost Applicable to Research and Development under Grants and Contracts with Hospitals*, remains in effect until OMB implements revised guidance for hospitals.
- Appendix X: This Appendix states that the Data Collection Form SF-SAC for Single Audits is available on the Federal Audit Clearinghouse (FAC) website. The FAC website address <http://harvester.census.gov/sac/>, given in §200.36, *Federal Audit Clearinghouse (FAC)*, for accessing the FAC, was valid as of the issuance of this Notice.
- Appendix XI: This Appendix states that the audit compliance supplement for Single Audits cited by §200.21, *Compliance supplement*, is available on OMB's website, and provides an address (<http://www.whitehouse.gov/omb/circulars>) that was valid for accessing the supplement as of the issuance of this Notice.

11. GENERAL TRANSITION RULES

HUD's regulations adopting the requirements of 2 CFR part 200 for HUD programs were published in the Federal Register on December 19, 2014

(<https://www.federalregister.gov/articles/2014/12/19/2014-28697/federal-awarding-agency-regulatory-implementation-of-office-of-management-and-budgets-uniform>).

Questions have been raised about the applicability of these requirements. The following applies:

- Federal awards made before December 26, 2014, will continue to be governed by the terms and conditions of the Federal award. The grant agreements for some HUD programs (e.g., Community Development Block Grant, HOME Investment Partnerships, Emergency Solutions Grants, Indian Housing Block Grants, Native Hawaiian Block Grants, Indian Community Development Block Grants) incorporate the regulations "as now in effect and as may be amended from time to time" and, therefore, 2 CFR part 200 will be applicable to these grants.
- New Federal awards made on or after December 26, 2014, are governed by 2 CFR part 200, including formula awards.

- For Federal agencies that consider incremental funding action on previously made awards to be opportunities to change award terms and conditions, 2 CFR part 200 applies to the first funding increment issued on or after December 26, 2014, and any subsequent funding increment. Awards made before then that have been modified on or after that date in ways that do not increase the funding amount (such as a no-cost extension, or more frequent reporting) will continue to be governed by the terms and conditions of the Federal award. As a result, 2 CFR part 200 will not apply to such awards unless there is another requirement that makes that part apply to them.
- For Federal agency incremental funding actions that are subject to 2 CFR part 200, non-Federal entities are not obligated to segregate or otherwise track old funds and new funds but may do so at their discretion. For example, a non-Federal entity may track the old funds and continue to apply the Federal award flexibilities to the funding awarded under the old rules (e.g., local ability to issue fixed price subawards, non-Federal entity determination of the need to incur administrative and clerical salaries based on major project classification).
- For Federal awards made with modified award terms and conditions at the time of incremental funding actions, Federal awarding agencies may apply 2 CFR part 200 to the entire Federal award that is uncommitted or unobligated as of the Federal award date of the first increment received on or after December 26, 2014.
- Existing negotiated indirect cost rates will remain in place until they are due to be re-negotiated. HUD and indirect cost negotiating agencies will use 2 CFR part 200, both in generating proposals and negotiating new rates (when the rate is due to be re-negotiated) for non-Federal entities' fiscal years that start on or after December 26, 2014.
- The effective date of 2 CFR part 200 for subawards is the same as the effective date of 2 CFR part 200 for the Federal award from which the subaward is made. The requirements for a subaward, no matter when made, flow from the requirements of the original Federal award from the Federal awarding agency.
- Subpart F, Audit requirements, applies to audits of non-Federal entity fiscal years beginning on or after December 26, 2014. The revised audit requirements are not applicable to fiscal years beginning before that date.

OMB provided additional guidance on the effective dates in its Frequently Asked Questions updated November 2014:

Q.110-13 (Previously Q II-2) Effective Dates and Federal Awards Made Previously

Will this apply only to awards made after the effective date, or does it apply to awards made earlier?

- Once the Uniform Guidance goes into effect for non-Federal entities, it will apply to Federal awards or funding increments after that date, in cases where the Federal agency considers funding increments to be an opportunity to modify the terms and conditions

of the Federal award. It will not retroactively change the terms and conditions for funds a non-Federal entity has already received.

•We would anticipate that for many of the changes, non-Federal entities with both old and new awards may make changes to their entity-wide policies (for example to payroll or procurement systems). Practically speaking, these changes would impact their existing/older awards. Non-Federal entities wishing to implement entity-wide system changes to comply with the Uniform Guidance after the effective date of December 26, 2014 will not be penalized for doing so.

12. CONFORMING PROGRAM REGULATIONS AND GUIDANCE

HUD will publish conforming rule changes for its programs and will provide notification of these changes when they are made. These changes will update the program regulations to revise the sections that refer to the OMB Circulars and HUD regulations in 24 CFR parts 84 and 85, as well as to reflect the provisions of 2 CFR part 200 that are not applicable because they are inconsistent with a program statute or because OMB has given an exception to specific requirements.

HUD recognizes that there may be uncertainty pending publication of the conforming program regulations. The provisions of 2 CFR part 200 apply, consistent with the exceptions given to the HUD program for requirements which are detailed in the 2013 edition of the Code of Federal Regulations in 2 CFR parts 215, 220, 225, and 230, 24 CFR parts 84 and 85, and OMB Circulars. HUD will notify recipients through program regulations, grants or cooperative agreements, or other guidance, which subparts are applicable to specific programs.³

13. ADDITIONAL RESOURCE MATERIALS

Grant recipients are strongly encouraged to review this information to obtain a better understanding of the uniform guidance and its implications for their Federal awards. The Council on Financial Assistance Reform (COFAR) has provided additional tools to assist in the transition including:

- a. Frequently Asked Questions for New Uniform Guidance at 2 CFR 200:
[The FAQ For 2 CFR 200 \(https://cfo.gov/wp-content/uploads/2014/11/2014-11-26-Frequently-Asked-Questions.pdf\)](https://cfo.gov/wp-content/uploads/2014/11/2014-11-26-Frequently-Asked-Questions.pdf).
- b. Uniform Guidance Crosswalk from Existing Guidance to Final Guidance:
<http://www.whitehouse.gov/sites/default/files/omb/fedreg/2013/uniform-guidance-crosswalk-from-predominate-source-in-existing-guidance.pdf>.

³ Separate guidance will be issued as necessary to identify and clarify whether all provisions of part 200 apply to the Section 8 project-based and tenant-based programs, particularly with respect to financial management concerns and alternative requirements. This guidance will be based, in part, on the treatment of this assistance in CMS Contract Management Services et al v. Massachusetts Housing Finance Agency v. United States for which the Solicitor General has sought certiorari from the Supreme Court (745 F.3d 1379 (Fed. Cir. 2014)).

- c. COFAR Webcast Trainings & Slides:
 - i. Uniform Guidance 1-27-14 Training Webcast
COFAR Training Intro 1-27-14
<http://youtu.be/SOET4b-7my8>
 - ii. COFAR Training Administrative Requirements 1-27-14
<http://youtu.be/BP3I3PjI1JQ>
Link to the Training Webcast Presentation Slides
[COFAR Training Administrative Requirements 1-27-14 Slides](https://cfo.gov/wp-content/uploads/2014/01/COFAR-Uniform-Guidance-Training-Administrative-Requirements-Public.pptx)
<https://cfo.gov/wp-content/uploads/2014/01/COFAR-Uniform-Guidance-Training-Administrative-Requirements-Public.pptx>
 - iii. COFAR Training Cost Principles 1-27-14
<http://youtu.be/q0rWXdy2ICM>
Link to the Training Webcast Presentation Slides
[COFAR Training Cost Principles 1-27-14 Slides](https://cfo.gov/wp-content/uploads/2014/01/COFAR-Uniform-Guidance-Training-Cost-Principles-Public.pptx)
<https://cfo.gov/wp-content/uploads/2014/01/COFAR-Uniform-Guidance-Training-Cost-Principles-Public.pptx>
 - iv. COFAR Training Audit Requirements 1-27-14
<http://youtu.be/g-U8HGbbC-Y>
Link to the Training Webcast Presentation Slides
[COFAR Training Audit Requirements 1-27-14 Slides](https://cfo.gov/wp-content/uploads/2014/01/COFAR-Uniform-Guidance-Audit-Requirements-Public.pptx)
<https://cfo.gov/wp-content/uploads/2014/01/COFAR-Uniform-Guidance-Audit-Requirements-Public.pptx>
 - v. Uniform Guidance Implementation: A Conversation Presented by the Council on Financial Assistance Reform; October 2, 2014
<https://www.youtube.com/channel/UCL7wVVxWl4pRHL6cHgJ0vVQ/videos>

14. UPCOMING TRAINING AND ADDITIONAL GUIDANCE

Additional upcoming training and/or guidance by COFAR will be publicized on its website; recipients of Federal financial assistance, and their subrecipients and contractors, are encouraged to periodically check <https://cfo.gov/cofar/>. HUD is also planning program-specific guidance and additional training, including an on-line financial management curriculum that integrates and highlights the requirements of 2 CFR part 200, and will provide notification of such when developed. In addition, we have established an internal Frequently Asked Questions (FAQ) Outlook mailbox in the Grants Management and Oversight Division of the Office of Strategic Planning and Management to which HUD employees may address implementation questions. Questions can be sent to the email address: **2 CFR 200 Administrative Requirements@hud.gov**.

15. CONTACTS FOR QUESTIONS

Questions from grant recipients, subrecipients and contractors should be directed to their HUD Headquarters or Field Office contacts, Government Technical Representatives (GTRs) or Government Technical Monitors (GTMs).

For HUD Headquarters and field office staff, operational questions should be directed to the Office of Strategic Planning and Management's Grants Management and Oversight Division at (202) 402-3964 (this is not a toll-free number), or Loyd.LaMois@hud.gov, and policy questions should be directed to the Office of the Chief Financial Officer's Financial Policy & Procedures Division at (202) 402-2277 or Scott.Moore@hud.gov. Persons with hearing or speech impairments may access the number above through TTY by calling the toll-free Federal Relay Services at (800) 877-8339.

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**ATTACHMENT 11-5:
PROGRAM GUIDANCE 2007-6-SAMPLE SUBRECIPIENT
AGREEMENTS**



No. 2007-06
August 27, 2007

PROGRAM GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: Tribal Government Leaders and Tribally Designated Housing Entities

T.D.H.E.

FROM: Rodger J. Boyd, Deputy Assistant Secretary, PN

TOPIC: Sample Subrecipient Agreement

Purpose: The purpose of this guidance is to provide tribes and tribally-designated housing entities (TDHE) with a sample Subrecipient Agreement that a recipient can follow when entering into agreements with other entities to administer all or a part of the recipient's Indian Housing Block Grant (IHBG) program.

Background: Under the IHBG regulations found at 24 CFR § 1000.26, recipients are to comply with certain sections of 24 CFR Part 85, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments", including Section 85.37, "Subgrants." As explained in 24 CFR § 1000.26, "grantee", as defined in 24 CFR Part 85, has the same meaning as "recipient." Following that explanation, "subgrantee" has the same meaning as "subrecipient".

Title 24 CFR §85.37(b) basically provides that subrecipients are to follow the same requirements in 24 CFR Part 85, the program requirements (the Native American Housing Assistance and Self-Determination Act, as amended and 24 CFR Part 1000), and all other applicable requirements, that the recipient must follow in administering the IHBG program.

In order for the subrecipient to know what its responsibilities are in administering the program and what the recipient's responsibilities are in providing funds or property to the subrecipient, as well as its oversight responsibilities, the two entities must enter into a "subrecipient agreement". To assist recipients in developing such an agreement, attached to this Program Guidance is a Sample Subrecipient Agreement and accompanying Instructions. A recipient can use this sample in developing Subrecipient Agreement(s) or develop its own. In either case, the Subrecipient Agreement must include the provisions outlined in 24 CFR § 85.27(b) and should be tailored to fit the specific needs of the recipient and its IHBG program.

It is important to note that under the Indian Community Development Block Grant (ICDBG) program, ICDBG grantees (usually, Indian tribes) have entered into similar agreements with tribal or other entities to administer their ICDBG funds. While 24 CFR § 85.37(b) also governs these “subgrants,” the sample agreement attached to this Guidance has terms specific to the IHBG Program and should not be used ‘as is’ for ICDBG purposes.

If you have questions about Subrecipient Agreements or other questions about the IHBG program, please contact your Area Office of Native American Programs.

Attachments

SAMPLE NAHASDA SUBRECIPIENT AGREEMENT

INSTRUCTIONS

(To be used in completing Sample Subrecipient Agreement form)

When a Recipient of the Native American Housing Assistance Self-Determination Act, as amended (NAHASDA), 25 USC 4101, et seq., subgrants a portion of its Indian Housing Block Grant (IHBG) to another entity, HUD requires that the Recipient follow certain provisions in 24 CFR Part 85, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments. These provisions are listed in the IHBG regulations at 24 CFR § 1000.26. Specifically, 24 CFR § 85.37(b) addresses subgrants and the provisions that are to be included in those subgrants. These provisions are applied through written agreements, referred to, under the IHBG program, as “subrecipient agreements.”

What is a subgrant?

A subgrant is an award of financial assistance, usually in the form of money, that is made from funds that a grantee or Recipient originally received from a governmental entity, such as HUD. It is not the Recipient’s purchasing of goods or services. Subgrants need to be accompanied by written subrecipient agreements that not only award the funds, but also, at a minimum, pass on all of the requirements, restrictions, and obligations imposed on the Recipient that accompanied the money originally granted to the Recipient. A Subrecipient, in many ways, will perform in place of the Recipient.

The subgrant requirements ensure that:

1. Written subrecipient agreements include a provision requiring the Subrecipient to comply with selected portions of 24 CFR Part 85,
2. Written subrecipient agreements include other clauses required by federal statutes and Executive Orders and their implementing regulations,
3. Written subrecipient agreements include any additional requirements imposed by the Recipient, and
4. Subrecipients are made aware of all of these requirements.

In order to assist NAHASDA Recipients in complying with these requirements, HUD has developed a sample Subrecipient Agreement. Recipients may use this sample or prepare their own agreement(s), provided they comply with the requirements listed above.

Definitions:

1. **Grant:** IHBG funds received by a Recipient. See also 24 CFR § 85.3.
2. **Recipient:** the Tribe or Tribally-Designated Housing Entity (TDHE) receiving and administering IHBG funds. See also 25 USC 4103(18).
3. **Subgrant:** a portion of IHBG funds given by the Recipient under written agreement to the Subrecipient. See also 24 CFR § 85.3.
4. **Subrecipient:** the entity receiving and administering the subgrant under written agreement with the Recipient. See also 24 CFR § 85.3.

Following is an explanation on the sections contained in the Sample Subrecipient Agreement:

- Section 1.** Describes the purpose of the subgrant.
- Section 2.** Indicates the amount of the subgrant and method of disbursement. Disbursements under the subgrant may be scheduled at regular intervals (weekly, monthly, quarterly, etc.) or upon the completion and acceptance of major pieces of the subgrant activities. This section also references that disbursements may be conditioned on the Subrecipient providing timely reports and information to the Recipient about management of the subgrant. Such reporting should include any information that the Recipient is required to keep and report to HUD in the course of administering IHBG funds. The specific reports to be provided by the Subrecipient should be detailed in Section 8.
- Section 3.** Allows the Recipient to attach additional special requirements in addendum form. The addendum should be attached at the time the Agreement is executed.
- Section 4.** Administrative and Planning Expenditures. Pursuant to 24 CFR § 1000.238, a Recipient may spend up to 20 percent of its IHBG funds for administration and planning expenses. Any subgrant funds spent by the Subrecipient for administration and planning will apply against the Recipient's 20 percent cap and should be reported on their quarterly Form HUD 272-I reports to HUD. Therefore, if the Subrecipient has been allowed under the Agreement to expend funds for these purposes, those expenditures must be recorded and accounted for by both the Subrecipient and the Recipient. In such cases, the Subrecipient should also be required to provide reports on any such amounts; and these reporting requirements should be detailed in Section 8.
- Section 5.** Allows the Recipient to impose additional conditions on the Subrecipient, which could include compliance with the Recipient's own policies. Along with other requirements that the Recipient wants to impose, the Recipient must list here any

requirements regarding patent rights, copyrights, and rights in data. Any additional Recipient-imposed requirements cannot conflict with the federal requirements.

- Section 6.** Contains references to both NAHASDA statutory and regulatory requirements; the references provide summaries and examples to help the Subrecipient understand what federal requirements must be complied with and are not intended to be a definitive compilation of all such requirements. Some requirements may apply only to certain types of activities.
- Section 7.** Lists HUD's administrative requirements.
- Section 8.** Requires the Recipient to specify reporting requirements. This includes, but is not limited to, any that may be required under Section 4. The Recipient should specify under what time period reports are due (weekly, monthly, quarterly, annually, etc.)
- Section 9.** Provides sample language related to indemnification and hold harmless.
- Section 10.** Provides sample language regarding kickbacks and bribes.
- Section 11.** Provides sample language regarding monitoring and records.
- Section 12.** Indicates specific laws and courts that will be used to enforce the Agreement. If the Subrecipient is a tribal entity with sovereign immunity, the Recipient should address and resolve the issue of whether or not it wants the Subrecipient to waive its sovereign immunity so the Recipient may legally enforce the Subrecipient Agreement. If so, an express waiver should be placed in the Agreement.
- Section 13.** Provides sample language regarding the prohibition of further subgranting without written approval from the Recipient.
- Section 14.** Identifies primary contacts regarding the Agreement. The primary contact should ideally be a person who is knowledgeable about the subgrant activities. If the Subrecipient's contact information changes, they should be required to notify the Recipient of the changes.
- Section 15.** Provides sample language explaining the term and duration of the Subrecipient Agreement, as well as the Subrecipient's obligation to understand all Subrecipient Agreement requirements and restrictions.
- Section 16.** Provides sample language regarding prohibition of assignments without written approval.
- Section 17.** Provides sample language regarding modification and amendment of the Agreement.
- Section 18.** Provides sample language regarding termination of the Agreement.
- Section 19.** Provides sample severability language assuring that if one portion of the agreement is ruled invalid by a court, that the other provisions of the agreement remain in full force and effect.

[Insert Recipient name]

Subrecipient Agreement

This Subrecipient Agreement (hereinafter “Agreement”) is entered into by _____ (hereinafter “Recipient”) of _____, _____ and _____ (hereinafter “Subrecipient¹”) of _____. Some or all of the funds or property provided under this Agreement come from the Indian Housing Block Grant (hereafter “IHBG”) program, as authorized by the Native American Housing Assistance and Self-Determination Act (hereinafter “NAHASDA”). The U.S. Department of Housing and Urban Development (hereinafter referred to as “HUD”) is the original grantor of the IHBG funds.

1. PURPOSE. The Recipient is subgranting funds or property to the Subrecipient to be used for the purpose(s) described as follows:

2. AMOUNT OF SUBGRANT AND METHOD OF DISBURSEMENT. The funds or the property being subgranted and the schedule and manner of the disbursements are described as follows. The Recipient may condition the disbursement of any funds or the provision of any property and services under this Agreement on the timely receipt of proper reports and other documentation from the Subrecipient. (Check one or more of the following):

The total amount of funds to be subgranted under this Agreement is \$_____. This amount shall be disbursed to the Subrecipient on the following schedule and in the following manner: _____

The property or services to be provided under this Agreement are:

_____. These items will be provided on the following schedule and in the following manner: _____

¹ The terms “subrecipient” and “subgrantee” are equivalent. The term Subrecipient is used throughout this Agreement.

3. **SPECIAL TERMS.** If this box is checked, an Addendum has been made and attached to this Agreement. This Addendum may contain an additional description or scope of activity, as well as additional terms and conditions. If any of what is contained in the Addendum conflicts with the other terms of the Agreement, the terms of the Agreement shall supersede the terms of the Addendum.

4. **ADMINISTRATIVE AND PLANNING EXPENDITURES.** NAHASDA regulations place a cap on how much a Recipient, along with all of its Subrecipients, can, without getting special approval from HUD, expend on administrative and planning expenses when using IHBG funds. Therefore, the Subrecipient, under this Subrecipient Agreement, is (check one of the following):

- prohibited from spending any of these subgranted funds on administrative and planning expenses or,
- limited to expending no more than _____% (percent) equivalent to \$ _____ of these subgranted funds on administrative and planning expenses.

If, in the election above, this Agreement authorizes the Subrecipient to expend a portion of subgranted funds on administrative and planning expenses, the Subrecipient is minimally required to report to the Recipient, in writing, on a(n) **[insert time period]** _____ basis the amount spent on such expenses, total expenses, and the percentage of administrative and planning expenses to total expenses.

5. **RECIPIENT REQUIREMENTS.** The Subrecipient must comply with the following Recipient policies and requirements, as well as any tribal and local laws, including, but not limited to, those listed below (if any): _____

6. **FEDERAL SUBRECIPIENT REQUIREMENTS.** The Subrecipient hereby agrees to comply with all requirements under NAHASDA (25 USC 4101, *et.seq.*) and its implementing regulations (24 CFR Part 1000) and other applicable federal laws and regulations.

NAHASDA and 24 CFR Part 1000 require that IHBG funds can only be used for affordable housing activities that assist low-income members of federally-recognized tribes, members of certain state-recognized tribes, and members of groups or communities of Indians and Alaska Natives that are eligible for programs and services pursuant to the Indian Self-Determination and Education Assistance Act. The Subrecipient, in carrying out this Agreement and related activities, shall conform to these federal requirements.

The following is a **partial** list of NAHASDA statutory requirements that may be pertinent to activities carried out pursuant to this Agreement. The NAHASDA statute can be accessed at <http://www.hud.gov/offices/pih/ih/codetalk/onap/nahasdaref.cfm>.

| | |
|--------------------------------------|---------------------------------|
| Definition of Indian | Eligible Affordable Activities |
| Definition of Low Income | Eligible Family |
| Definition of Indian Tribe | Tribal and Indian Preferences |
| Local Cooperation Agreement | Exemption from Civil Rights Act |
| Administrative and Planning Expenses | Insurance |
| Certificates of Compliance | Lease and Tenant Selection |
| Regulations | Record Keeping |
| Labor Standards | Remedies for Noncompliance |
| Environmental Reviews | 30% Rental Rate Rule |

The following is a **partial** list of the IHBG regulations that may be pertinent to activities carried out pursuant to this Agreement. The IHBG regulations can be accessed at <http://www.hud.gov/offices/pih/ih/codetalk/onap/nahasdaref.cfm>.

| | |
|-----------------------|-------------------------------|
| Procurement | 30% Rental Rate Rule |
| Indian Preference | Audit |
| Environmental Reviews | Flood Insurance |
| Debarment | Improper Expenditure of Funds |
| Drug Free Workplace | Lead-Based Paint |
| Labor Standards | Relocation and Acquisition |
| Program Income | Useful Life/Use Restrictions |
| Record Keeping | |

The following is a **partial** list of applicable HUD Administrative Requirements referenced in 24 CFR § 1000.26 that may be pertinent to activities carried out pursuant to this Agreement. The HUD Administrative Requirements can be accessed at <http://www.hud.gov/offices/pih/ih/codetalk/onap/nahasdaref.cfm>.

| | |
|------------------------------------|-----------------------------|
| Competitive Procurement | Section 3 Preference |
| Competitive Procurement Exceptions | Contract Provisions |
| Allowable Costs | Sub Grants |
| Non-Federal Audit | Monitoring |
| Debarment and Suspension | Financial Reporting |
| Bonding | Termination for Convenience |
| Disallowance and Adjustment | |

The following is a **partial** list of other applicable federal laws, which can be accessed at <http://www.gpoaccess.gov/uscode/index.html>

| | |
|--|--|
| HUD Reform Act of 1989 [12 USC 1701(u)] | Indian Self-Determination and Educational Assistance Act of 1975 [24 USC 450, et seq.] |
| Title II of Civil Rights Act of 1968 [25 USC 1301-1303] | Indian Financing Act [25 USC 1452] |
| Sec. 504 of Rehabilitation Act of 1973 [29 USC 794] | Davis-Bacon Act [40 USC 276a] |
| Contract Work Hours & Safety Standards Act [40 USC 327] | Drug Free Workplace Act [41 USC 701] |
| Age Discrimination Act of 1975 [42 USC 6101-6107] | Title VI of Civil Rights Act of 1964 [42 USC 2000d] |
| Title VIII of the Civil Rights Act of 1968 [42 USC 3601] | Uniform Relocation Assistance Act [42 USC 4601-4655] |
| National Environmental Policy Act [42 USC 4321] | Flood Disaster Protection Act [42 USC 4001-4128] |
| Lead Based Paint Poisoning Prevention Act [42 USC 4822] | |

7. EXPLICIT PROVISIONS THAT MUST BE INCORPORATED IN ALL SUBRECIPIENT CONTRACTS. Title 24 CFR § 85.36(i) of HUD’s Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments requires that certain provisions be contained in all contracts that relate to this Agreement and Subrecipient activities. These requirements are:

- Termination for cause for convenience (only for contracts in excess of \$10,000);
- Compliance with Executive Order 11246, entitled Equal Employment Opportunity;
- Compliance with Copeland Anti-Kickback Act (only for construction or repair contracts);
- Compliance with Davis Bacon Act, as modified by NAHASDA statute (only for construction contracts in excess of \$2,000);
- Compliance with Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (only for construction contracts in excess of \$2,000);
- Awarding agency requirements regarding reporting, patent right, copyrights, and rights;
- Access by Recipient, Subrecipient, and HUD Comptroller General to records pertaining to the contract;
- Retention of records for 3 years;
- Compliance with Section 306 of the Clean Air Act, Executive Order 11738 and Environmental Protection Agency regulations (only for contracts in excess of \$100,000); and
- Certain energy efficiency provisions issued in state Energy Conservation Plans issued pursuant to the Energy Policy and Conservation Act (where the state has jurisdiction).

8. REPORTING REQUIREMENTS. The Subrecipient shall comply with the following reporting requirements: _____

9. INDEMNIFICATION. The Subrecipient, its assignees, successors, and heirs indemnify and hold harmless the Recipient against any losses, damages, claims, expenses, and liabilities (if any) arising out of either this Agreement or any use by the Subrecipient or any other party of these subgranted funds or property.

10. KICKBACKS ARE PROHIBITED. The Subrecipient states that it has not, and furthermore agrees that it shall not, give, receive, or in any way participate in any kickback or bribe that involves these subgranted funds or property. The Subrecipient also agrees to comply with the Copeland Anti-Kickback Act and its federal regulations, as supplemented in Department of Labor regulations, which are currently at 19 CFR Part 3.

11. RECIPIENT MONITORING AND RECORDS. The Recipient and Subrecipient agrees that the Recipient has the responsibility and right, at any time, with or without notice, to inspect projects, activities, or uses assisted by this Agreement. The Subrecipient shall also fully cooperate and assist in this and any other monitoring of the Subrecipient and any Subrecipient’s funds and property contained in this Agreement when requested by the Recipient.

The Subrecipient shall furthermore provide access to the Recipient, HUD, the Comptroller General of the United States, the Government Accountability Office, and their duly authorized representatives, to any books, documents, papers, and records which are directly pertinent to the execution of this Agreement and activities for the purposes of making audit, examination,

excerpts, and transactions. Pursuant to 24 CFR § 1000.552, the Recipient is required to retain all required records for three (3) years after submission of the Annual Performance Report that covers the last expenditure of grant funds under a particular grant to HUD. The Subrecipient shall also retain records for the same three (3) year period.

12. APPLICABLE LAWS AND JURISDICTION. The laws of _____ shall govern this Agreement. Also, if the _____ Court has jurisdiction, the parties agree that this Court shall be the forum for all legal actions.

13. FURTHER SUBGRANTING PROHIBITED. The Subrecipient may not further subgrant these funds or property without first obtaining written approval from the Recipient. If further subgranting is approved, the Subrecipient must use a written subrecipient agreement that is approved by the Recipient.

14. CONTACT PERSONS. The Recipient and Subrecipient identify the following individuals as their primary contacts regarding this Agreement. Either party may, from time to time, appoint another person as their contact; and when doing so, they shall notify the other party in writing:

| | | | |
|---------------|-------|---------------|-------|
| Recipient: | _____ | Subrecipient: | _____ |
| Organization: | _____ | Organization: | _____ |
| Name: | _____ | Name: | _____ |
| Title: | _____ | Title: | _____ |
| Address: | _____ | Address: | _____ |
| Telephone: | _____ | Telephone: | _____ |
| Fax: | _____ | Fax: | _____ |
| E:mail: | _____ | E:mail: | _____ |

15. TERM OR DURATION OF OBLIGATIONS. The Subrecipient agrees to acquaint itself with and conform to (a) NAHASDA and other federal statutes and regulations identified in this Agreement, (b) applicable tribal and state statutes and regulations, and (c) additional Recipient requirements imposed under this Agreement. The term for compliance with these requirements varies; and when there is no expressly stated duration for compliance, the Subrecipient's compliance shall continue for one (1) full year after the last of the subgrant funds have been expended by the Subrecipient.

16. ASSIGNMENTS PROHIBITION. This Agreement and the rights and obligations of the Subrecipient may not be assigned by the Subrecipient without written approval from the Recipient.

17. MODIFICATION AND AMENDMENT. This Agreement is the entire agreement between these two parties. Furthermore, any subsequent changes or modifications must be mutually agreed upon and set out in writing as a formal amendment to this Agreement.

18. TERMINATION. Any breach of this Agreement by the Subrecipient shall entitle the Recipient to cease advancing funds or property, terminate the remainder of the Recipient's obligations, recover funds or property that has not yet been expended, and be compensated for

any money or property that has been improperly used or expended. A thirty (30) day notice shall be provided by the Recipient prior to taking any actions, other than ceasing advancement of funds or property, to permit the Subrecipient to cure a breach, but only if the Recipient has determined in its own discretion that the breach can be cured.

If this Agreement is in excess of \$10,000, the Recipient may also terminate this Agreement for convenience with a thirty (30) day notice. If this particular right is exercised, the Subrecipient shall be reasonably compensated as determined by the Recipient.

19. SEVERABILITY. If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of the Agreement shall remain in full force and effect.

IN WITNESS WHEREOF, the Recipient and the Subrecipient execute this Agreement on the dates shown below:

Recipient: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Subrecipient: _____

Name: _____

Title: _____

Signature: _____

Date: _____

Attachment: Addendum [*if one is called for in Section 2*]

**ATTACHMENT 11-6:
PROGRAM GUIDANCE 2014-09(R) – USEFUL LIFE AND BINDING
COMMITMENTS**



No. 2014-09(R)
August 13, 2014

RECIPIENT GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: Tribal Government Leaders and Tribally Designated Housing Entities

R.J.B.

FROM: Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, PN

TOPIC: Useful Life and Binding Commitments

Purpose: The intent of this guidance is to give IHBG recipients information about maintaining IHBG-assisted housing and non-housing projects for the useful life of the property. It will clarify (1) what will be considered “satisfactory to the Secretary”; and (2) what constitutes an acceptable binding commitment. This Program Guidance also transmits samples to document useful life for housing units assisted with IHBG funds, and replaces Program Guidance 2013-06.

Background: Section 205(a)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), requires that housing units remain affordable for either (1) the remaining useful life of the property (as determined by the Secretary) or (2) for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purpose of NAHASDA. Useful life is the time period during which an assisted property must remain affordable.

NAHASDA gives the Secretary the authority to determine the housing units’ useful life or other period of time during which the units must remain affordable. The IHBG regulation at 24 CFR § 1000.142, states that to the extent required in the Indian Housing Plan (IHP), each IHBG recipient shall describe its determination of the useful life of the assisted housing units in its developments in accordance with the local conditions of the Indian area of the recipient. By finding the IHP to be in compliance with the statute, the Department would be determining the useful life to be in accordance with NAHASDA.

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The NAHASDA statute and regulations also require that this affordability period be secured through binding commitments satisfactory to the Secretary. The purpose and intent of requiring binding commitments is to guarantee that the housing will remain affordable for its useful life (affordability period). The binding commitment requirement under NAHASDA not only applies to the parties, but it also applies to the property. The purpose and intent of requiring binding commitments is to guarantee that the housing will remain affordable for its useful life regardless of who may have entered into a contractual agreement or who may be in possession. The binding commitment required cannot be satisfied solely with a contract between the parties. Pursuant to 24 CFR § 1000.144, in order for it to be satisfactory to HUD, a written use restriction that is placed on the assisted property and must run with the land; hence, binding commitments must be recorded.

Affordability Period: The first primary objective of NAHASDA, as stated in Section 201(a)(1), is: "...to develop, maintain, and operate affordable housing...for occupancy by low-income Indian families." Every time IHBG funds are spent on a property, an investment is made in low-income families in the community. The return on that investment is the period of continued future use during which the property will be available for use by low-income families. That period of future use is the affordability period or useful life for that property.

Housing units that are constructed, developed, and/or rehabilitated using IHBG funds must establish a useful life to ensure the property will remain available to low-income families.

Determination of Affordability Period: Generally, the affordability period is the period of time during which the property will be available for use by low-income families. It should be the remaining useful life of the property, as approved by HUD, or the longest feasible period of time consistent with sound economics and the purposes of NAHASDA, as approved by HUD.

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:

| <u>IHBG Funds 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 |

* 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,

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however, to record the written use restriction for purposes of giving notice to subsequent purchasers. The dollar ranges and/or the corresponding number of years may differ from those shown above depending upon local conditions. The recipient may choose to assign a longer affordability period in order to ensure the availability of a larger continuing affordable housing supply for low-income families.

If the recipient chooses to use some other method of assigning the affordability period, the IHP should describe how the method provides for an affordability period with appropriate consideration given to any unique local conditions. In setting a useful life, a specific number of years should be given for the affordability period, not a range of years (e.g., 30 to 40 years) or a general statement. The number of years should also be without ambiguous qualification (e.g. “about,” “approximate,” “if properly maintained,” “planned,” “expected,” “estimated,” etc.). Similarly, the designated affordability period should in no way be contingent upon the continuation of IHBG funding.

Reporting Useful Life: A description of the recipient’s plan or system for determining the useful life of the housing it assists with IHBG funds must be provided in the IHP. A record of the current, specific useful life for housing units assisted with IHBG funds should be maintained in the recipient’s files and be available for review.

Types of Properties and Assistance Covered: The useful life provisions apply to all housing units and non-housing units assisted with IHBG funds except for Mutual Help homes developed under the U.S. Housing Act of 1937 (see 24 CFR § 1000.145).

1. **Housing Units:** The initial homebuyer, and any subsequent owners that purchase the property during the period of its useful life, need only qualify as low-income at the time of their purchase. In other words, if the initial owner seeks to sell the property while it still has a remaining useful life or affordability period assigned to it, the new buyer must qualify as an eligible family at the time of his or her purchase; however, the transfer of a homeownership unit to a family member or household member is not subject to a binding commitment for the remaining useful life of the property. Thus, if a homeownership unit has been transferred to a family member or household member, then the written use restriction will not terminate, even though it will not apply. However, any subsequent transfer by the family member or household member to a third party (not a family member or household member) is subject to any remaining useful life or affordability period under a recorded binding commitment. Should the home be sold during its useful life period to a new purchaser that does not qualify as a family member, household member, or an eligible family and funds are not repaid to the recipient’s IHBG program in accordance with its useful life plan, the Secretary will take appropriate action against the IHBG recipient in accordance with section 401(a) of NAHASDA.

Similarly, low-income owner/occupants of privately owned housing that receive IHBG funded assistance, whether in the form of a loan or a grant, for moderate or substantial rehabilitation, need only be low-income at the time the assistance is

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provided. However, there should be a binding commitment accompanying the assistance that guarantees an appropriate useful life or affordability period and provides for remedies for the breach of such useful life provision upon transfer of ownership during the assigned useful life. The useful life and binding commitment requirements apply to all housing units assisted with IHBG funds, including units developed through NAHASDA's Title VI Loan Guarantee program.

2. Model Activities/Non-housing: The useful life provisions apply to all model activities and non-housing projects constructed, developed, or acquired with IHBG funds to ensure the remaining useful life of the property will be maintained for affordable housing activities. Non-housing projects include community centers and model activities established to provide affordable housing activities.

Record of Use Restrictions: Records must be kept for all use restrictions. Attached is a sample Record of Use Restrictions form that can be used by recipients to record both NAHASDA and other affordability or use restrictions. Restrictions can vary both in how they are imposed and their length. Since recipients may have properties that are subject to other use restrictions, this model reporting form is designed to be the registry of all of the various use restrictions that are placed on recipient properties.

Acceptable Binding Commitments: As mentioned above, NAHASDA requires that there be binding commitments satisfactory to the Secretary in place to ensure that a housing unit will remain affordable for its useful life. When IHBG funds are used, either in the form of a grant or a loan, to purchase, construct, or rehabilitate a residence, there must be a written agreement in place between the IHBG recipient and the individual who is being assisted with the IHBG funds. These written use agreements must include provisions for the IHBG recipient's useful life or affordability period restrictions as specified in its IHP. The provisions must be imposed by recorded deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the useful life restrictions may terminate upon foreclosure by a lender (or transfer in lieu of foreclosure), as long as the action is not for the purpose of avoiding low-income affordability restrictions. The written use agreement may contain a schedule outlining a payback of a decreasing balance of assistance or percentage equity over the useful life or affordability period that would have to be reimbursed to the recipient's program if a subsequent occupant does not meet the IHBG eligibility requirements.

Types of Binding Commitments: There are a number of different ways to place both NAHASDA and other affordability or use restrictions on assisted properties. The five attached samples of Useful Life/Use Restriction Agreements (two for fee land, two for trust land, and one for model activities/non-housing projects) can be used for this purpose. Any form used must be properly recorded with the appropriate land records offices. Additional use restrictions may be imposed on such properties as long as they do not contradict the NAHASDA useful life restrictions.

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Useful Life/Use Restriction Agreements for Use on Fee Land: When a restriction is placed on fee land, a covenant running with the land is imposed on the property to enforce the restriction:

- NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION USEFUL LIFE/USE RESTRICTION (Indian Housing on Fee Land with Single Recovery Amount). This covenant requires that the full amount of NAHASDA funds invested in the property be refunded in all cases of default.
- NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION USEFUL LIFE/USE RESTRICTION (Indian Housing on Fee Land with Prorated Recovery Amount). This covenant requires that the amount of NAHASDA funds invested in the property be prorated over the life of the restriction. In the event of a default, only the current prorated amount must be refunded.

Useful Life/Use Restriction Agreements for Use on Trust Land: When restrictions are placed on trust land, a lease amendment or addendum to the lease is used to enforce the restriction:

- NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION USEFUL LIFE/USE RESTRICTION LEASE ADDENDUM/AMENDMENT (Trust Land with Single Recovery Amount). This lease document requires in all cases of default that the full amount of NAHASDA funds invested in the property be refunded.
- NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION USEFUL LIFE/USE RESTRICTION LEASE ADDENDUM/AMENDMENT (Trust Land with Prorated Recovery Amount). This lease document requires that the amount of NAHASDA funds invested in the property be prorated over the life of the restriction. In the event of a default, only the current prorated amount must be refunded.

If you have any questions, please contact your Area Office of Native American Programs.

Attachments

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

THE FOLLOWING PROPERTY (HEREIN AFTER THE **Property**) IS HEREBY
MADE SUBJECT TO A LIEN AND COVENANT RUNNING WITH THE
LAND:

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: _____

This Useful Life/Use Restriction, a covenant running with the land (hereinafter the **Land Restriction**), dated this _____ day of _____, 20__, for good and valuable consideration, is hereby declared covenanted and made by _____ (hereinafter the **Owner**), who is the owner(s) of the Property. The Land Restriction is imposed because Indian Housing Block Grant (IHBG) funds to benefit the Property have been granted or loaned by _____, an Indian Tribe or an Indian or Alaska Native tribally designated housing entity (hereinafter the **Tribe**), to assist or facilitate low-income Indian housing.

1. DEED RESTRICTED

1.1 Use Restrictions. The Property shall be used only for residential purposes and that residential occupancy shall only be by individuals or families who are members of, or are headed by a member of, a federally recognized tribe or an eligible State recognized tribe who are low-income. The terms “federally recognized tribe,” “State recognized tribe” and “low-income” are as defined in the Native American Housing Assistance and Self-Determination Act (hereinafter **NAHASDA**), 25 U.S.C. §§ 4101, et seq.

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1.2 Subsequent Owners. Family or household members who take Subsequent Ownership will not be subject to the binding agreement. However the binding commitment will not terminate upon subsequent family/household ownership, the binding commitment will not apply to the family/household. Any subsequent transfer by the family member or household member to a third party (not a family member or household member) is subject to this Land Restriction for the remaining affordability period.

1.2 Restricting Owners. All of the rights, restrictions and agreements in this Land Restriction shall be deemed to be covenants and a deed restriction placed on the Property and Owner and binding and enforceable against the Owner and other subsequent owners of the Property; however, subsequent Owners that are family members or household members are not subject to this Land Restriction.

1.3 Covenant Running With the Land. The Owner declares and covenants on behalf of itself that this Land Restriction and all accompanying enforcement rights run with the land until the Termination Date.

1.4 Term. This Land Restriction, including all of its rights, restrictions, covenants and agreements shall expire () years from the date of this Land Restriction agreement (hereinafter the **Term**), which shall be the ____ day of _____, 20____ (hereinafter the **Termination Date**). As of the Termination Date, this Land Restriction shall expire by its own terms and this Land Restriction shall have no further force or effect and shall be extinguished and released without the execution or recording of any further documents.

2.0 ENFORCEMENT

2.1 Right to Enforce. The Tribe has all the rights and remedies necessary to enforce the use restrictions contained in this Land Restriction. This includes, but is not limited to enforcing compliance with the low-income and members of federally recognized tribe use restrictions, invalidating any conveyance which violates the terms of this Land Restriction, and levying upon the Property to recover in full the money expended, advanced or loaned either on the Property or to the Owner by the Tribe under its low-income Native American housing programs.

2.2 Recovery of Amounts Contributed by the Tribe. The Tribe has contributed through loan(s) or grant(s) the sum of (\$) to the Owner or Property and shall be entitled to recover this amount in its entirety for any violation of the Land Restriction agreement during the Term of the Land Restriction.

2.3 Rights to Recover Other Costs by the Tribe. The Owner, as well as subsequent owners of the Property, shall also be liable to the Tribe for any and all reasonable attorney fees, costs and court expenses that the Tribe may incur in any enforcement actions it takes under this Land Restriction agreement.

3.0 NOTICE OF PENDING SALE, RENTAL OR CONVEYANCE.

3.1 Notice. The Owner, and any subsequent owner of the Property, is obligated to notify the Tribe in writing, delivery of which shall be evidenced with a written receipt, at the following address: _____, that they intend to change occupancy, lease, sell, or convey the Property. This Notice shall be given no less than sixty (60) days prior to the Owner binding itself to such action(s).

3.2 Confirmation of Compliance with Land Restrictions. After receipt of the Notice, the Owner of the Property must provide any and all information it has and that the Tribe requests and deems necessary to ascertain that the Property shall remain in compliance with this Land Restriction agreement.

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3.3 Assistance in Conveying to Low Income Native Americans. The Tribe may offer to assist the Owner and subsequent owners in finding individuals eligible under this Land Restriction agreement to occupy, rent, lease, purchase, or obtain title to the property.

3.4 Delivery of Notice Has No Effect on Land Restriction. The Notice is for information purposes only. Any Tribe inactions or actions taken pursuant to such a Notice do not constitute Tribe approval of any particular use and are not a waiver by the Tribe of any rights it has to enforce compliance with this Land Restriction.

4.0 USEFUL LIFE.

4.1 Term of Land Restriction Should Meet HUD Requirements. NAHASDA requires that the Secretary of the U.S. Department of Housing and Urban Development determine that the Property is minimally restricted for a period of time acceptable to its Secretary, 25 U.S.C. § 4135(a)(2). In section 1.4 of this Land Restriction agreement, a Term has been set for this Land Restriction and that Term should not be less than what is acceptable to the Secretary of HUD based on the nature and the amount of IHBG funds to this Property. The Tribe should ensure that a Land Restriction has been obtained for a Term that meets HUD's standards.

5.0 MISCELLANEOUS

5.1 Amendment. Any amendment to this Land Restriction by an Owner of the Property shall require the approval and consent of the Tribe and be recorded in the same manner as this Land Restriction agreement. However, other use restrictions may be placed on the Property so long as they do not conflict or contravene this Land Restriction agreement.

5.2 Severability. If any provision of this Land Restriction is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall survive and their validity, legality and enforceability shall not in any way be affected or impaired.

5.3 Homestead Waiver. This Land Restriction is prior and superior to any Owner right to a homestead exemption under applicable law. Owners of the Property waive their homestead rights to extent that they are in conflict with the rights and remedies set out in this Land Restriction. Executed as of the date first written above.

OWNER:

CONCURRED IN BY THE TRIBE (IF DIFFERENT FROM OWNER)

Tribe: _____

Signature: _____

Name & Title: _____

Date: _____

**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: _____

This Affordable Native American Useful Life/Use Restriction, a covenant running with the land (hereinafter the **Land Restriction**), dated this _____ day of _____, 20__, for good and valuable consideration, is hereby declared covenanted and made by _____ (hereinafter the **Owner**), who is the owner(s) of the Property. The Land Restriction is imposed because Indian Housing Block Grant (IHBG) funds to benefit the Property have been granted or loaned by _____, an Indian Tribe or an Indian or Alaska Native tribally designated housing entity (hereinafter the **Tribe**), to assist or facilitate low-income Indian housing.

1. DEED RESTRICTED

1.1 Use Restrictions. The Property shall be used only for residential purposes and that residential occupancy shall only be by individuals or families who are members of, or are headed by a member of, a federally recognized tribe or an eligible State recognized tribe who are low-income. The terms “federally recognized tribe,” “State recognized tribe” and “low-income” are as defined in the Native American Housing Assistance and Self-Determination Act (hereinafter **NAHASDA**), 25 U.S.C. §§ 4101, et seq.

1.2 Subsequent Owners. Family or household members who take Subsequent Ownership will not be subject to the binding agreement. However the binding commitment will not terminate upon subsequent family/household ownership, the binding commitment will not apply to the family/household. Any subsequent transfer by the family member or household member to a third party (not a family member or household member) is subject to this Land Restriction for the remaining affordability period.

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1.2 Restricting Owners. All of the rights, restrictions and agreements in this Land Restriction shall be deemed to be covenants and a deed restriction placed on the Property and Owner and binding and enforceable against the Owner and other subsequent owners of the Property; however, subsequent Owners that are family members or household members are not subject to this Land Restriction. Any subsequent transfer by the family member or household member to a third party (not a family member or household member) is subject to this Land Restriction.

1.3 Covenant Running With the Land. The Owner declares and covenants on behalf of itself that this Land Restriction and all accompanying enforcement rights run with the land until the Termination Date.

1.4 Term. This Land Restriction, including all of its rights, restrictions, covenants and agreements, shall expire _____ (_____) years from the date of this Land Restriction agreement (hereinafter the **Term**), which shall be the ____ day of _____, 20____ (hereinafter the **Termination Date**). As of the Termination Date, this Land Restriction shall expire by its own terms and this Land Restriction shall have no further force or effect and shall be extinguished and released without the execution or recording of any further documents.

2.0 ENFORCEMENT

2.1 Right to Enforce. The Tribe has all the rights and remedies necessary to enforce the use restrictions contained in this Land Restriction. This includes, but is not limited to enforcing compliance with the low-income and members of federally recognized tribe use restrictions, invalidating any conveyance which violates the terms of this Land Restriction, and levying upon the Property to recover in full the money expended, advanced or loaned either on the Property or to the Owner by the Tribe under its low-income Native American housing programs.

2.2 Recovery of Amounts Contributed by the Tribe. The Tribe has contributed through loan(s) or grant(s) the sum of (\$ _____) to the Owner or Property and shall be entitled to recover some or all of this amount as follows:

(a) If the Property consists of a single family unit, the Tribe shall be entitled to recover the following declining amounts for any violation of the Land Restriction agreement during the duration of this Land Restriction: 100% until expiration of seventy-five percent of the Term, then 75% until expiration of fifty percent of the Term, 50% until expiration of twenty-five percent of the Term and 25% until expiration of the Term.

(b) If the property is not a single family unit, the Tribe shall be entitled to recover the full amount contributed for any violation of the Land Restriction agreement during the duration of this Land Restriction

2.3 Rights to Recover Other Costs by the Tribe. The Owner, as well as subsequent owners of the Property, shall also be liable to the Tribe for any and all reasonable attorney fees, costs and court expenses that the Tribe may incur in any enforcement actions it takes under this Land Restriction agreement.

3.0 NOTICE OF PENDING SALE, RENTAL OR CONVEYANCE.

3.1 Notice. The Owner, and any subsequent owner of the Property, is obligated to notify the Tribe in writing, delivery of which shall be evidenced with a written receipt, at the following address: _____ that they intend to change occupancy, lease, sell, or convey the Property. This Notice shall be given no less than sixty (60) days prior to the Owner binding itself to such action(s).

RECIPIENT GUIDANCE 2014-09(R)

3.2 Confirmation of Compliance with Land Restrictions. After receipt of the Notice, the Owner of the Property must provide any and all information it has and that the Tribe requests and deems necessary to ascertain that the Property shall remain in compliance with this Land Restriction agreement.

3.3 Assistance in Conveying to Low Income Native Americans. The Tribe may offer to assist the Owner and subsequent owners in finding individuals eligible under this Land Restriction agreement to occupy, rent, lease, purchase, or obtain title to the property.

3.4 Delivery of Notice Has No Effect on Land Restriction. The Notice is for information purposes only. Any Tribe inactions or actions taken pursuant to such a Notice do not constitute Tribe approval of any particular use and are not a waiver by the Tribe of any rights it has to enforce compliance with this Land Restriction.

4.0 USEFUL LIFE

4.1 Term of Land Restriction Should Meet HUD Requirements. NAHASDA requires that the Secretary of the U.S. Department of Housing and Urban Development determine that the Property is minimally restricted for a period of time acceptable to its Secretary, 25 U.S.C. § 4135(a)(2). In section 1.4 of this Land Restriction agreement, a Term has been set for this Land Restriction and that Term should not be less than what is acceptable to the Secretary of HUD based on the nature and the amount of IHBG funds to this Property. The Tribe should ensure that a Land Restriction has been obtained for a Term that meets HUD's standards.

5.0 MISCELLANEOUS

5.1 Amendment. Any amendment to this Land Restriction by an Owner of the Property shall require the approval and consent of the Tribe and be recorded in the same manner as this Land Restriction agreement. However, other use restrictions may be placed on the Property so long as they do not conflict or contravene this Land Restriction agreement.

5.2 Severability. If any provision of this Land Restriction is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall survive and their validity, legality and enforceability shall not in any way be affected or impaired.

5.3 Homestead Waiver. This Land Restriction is prior and superior to any Owner right to a homestead exemption under applicable law. Owners of the Property waive their homestead rights to extent that they are in conflict with the rights and remedies set out in this Land Restriction.

Executed as of the date first written above.

OWNER:

CONCURRED IN BY THE TRIBE (IF DIFFERENT FROM OWNER)

Tribe: _____

Signature: _____

Name & Title: _____

Date: _____

**NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-
DETERMINATION ACT
USEFUL LIFE/USE RESTRICTION
LEASE ADDENDUM/AMENDMENT
(Trust Land with Single Recovery Amount)**

This Useful Life/Use Restriction, a covenant running with the land (hereinafter the **Land Restriction**), dated this _____ day of _____, 20___, for good and valuable consideration, is hereby declared, covenanted and made by _____ (hereinafter the **Lessee**), and _____ (hereinafter the **Lessor**), by adding to/amending a land lease between the same parties dated _____, Lease No. _____, Contract No. _____, and the portion of the leased property being restricted is described in Attachment A to this Land Restriction and is also imposed on any dwelling unit and other improvements thereon, (hereinafter the **Property**).

The Land Restriction is imposed because Indian Housing Block Grant (IHBG) funds to benefit the Property have been granted or loaned by _____, an Indian Tribe or an Indian or Alaska Native tribally designated housing entity (hereinafter the **Tribe**), to assist or facilitate low-income Indian housing.

1. LEASE RESTRICTED

1.1 Use Restrictions. Each dwelling unit in or on the Property shall be used only for residential purposes and that residential occupancy shall only be by individuals or families who are members of, or are headed by a member of, a federally recognized tribe who are low-income. The terms “federally recognized tribe” and “low-income” as used herein are as defined in the Native American Housing Assistance and Self-Determination Act (hereinafter **NAHASDA**), 25 U.S.C. §§ 4101, et seq.

1.2 Restricting Lessee and Subsequent Lessess. Family or household members who take Subsequent Lease will not be subject to the binding agreement. However the binding commitment will not terminate upon subsequent family/household lease, the binding commitment will not apply to the family/household. Any subsequent transfer by the family member or household member to a third party (not a family member or household member) is subject to this Land Restriction for the remaining affordability period.

1.3 Restricting Lessee and Subsequent Lessees. All of the rights, restrictions and agreements in this Land Restriction shall be deemed to be added to the lease and binding and enforceable against the Tribe, the Lessee, and any successor, heir, or sublessee of the Property; however, subsequent Lessees that are family members or household members are not subject to this Land Restriction. Any subsequent transfer by the family member or household member to a third party (not a family member or household member) is subject to this Land Restriction.

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1.4 Covenant Running With the Land. The Lessor declares and covenants on behalf of itself that this Land Restriction and all accompanying enforcement rights run with the land until the Termination Date.

1.5 Term. This Land Restriction, including all of its rights, restrictions, covenants and agreements, shall expire () years from the date of this Land Restriction agreement (hereinafter the **Term**), which shall be the ____ day of _____, 20____ (hereinafter the **Termination Date**). As of the Termination Date, this Land Restriction shall expire by its own terms and this Land Restriction shall have no further force or effect and shall be extinguished and released without the execution or recording of any further documents.

2.0 ENFORCEMENT

2.1 Right to Enforce or Recover Damages. The Lessor and the Tribe have all the rights and remedies necessary to enforce the use restrictions contained in this Land Restriction. This includes, but is not limited to enforcing compliance with the low-income and members of a federally recognized tribe use restrictions, invalidating any conveyance which violates the terms of this Land Restriction. The Tribe also has the option of levying upon the Property to recover in full the money expended, advanced or loaned either on the Property or to the Lessor, or to the Lessee, by the Tribe under its low-income Native American housing programs.

2.2 Recovery of Amounts Contributed by the Tribe. The Tribe has contributed through loan(s) or grant(s) the sum of (\$) to the Lessor or Lessee or Property and shall be entitled to recover this amount in its entirety for any violation of the Land restriction agreement during the Term of the Land Restriction.

2.3 Rights to Recover Other Costs by the Tribe. The Lessor and Lessee, as well as subsequent Lessors and Lessees of the Property, individually or together, shall be additionally liable to the Tribe for any and all reasonable attorney fees, costs and court expenses that the Tribe may incur in any enforcement actions it takes under this Land Restriction agreement.

3.0 NOTICE OF PENDING SALE, RENTAL OR CONVEYANCE.

3.1 Notice. The Lessor and Lessee, and any subsequent Lessor and Lessee of the Property, are each obligated to notify the Tribe in writing, delivery of which shall be evidenced with a written receipt, at the following address: _____ that they intend to change occupancy, lease, sell, or convey the Property. Such Notice(s) shall be given no less than sixty (60) days prior to the Lessor or Lessee binding itself to such action(s).

3.2 Confirmation of Compliance with Land Restrictions. After receipt of the Notice, the Lessor and Lessee of the Property must provide any and all information it has and that the Tribe requests and deems necessary to ascertain that the Property shall remain in compliance with this Land Restriction agreement.

3.3 Assistance in Conveying to Low Income Native Americans. The Tribe may offer to assist the Lessor and Lessee and subsequent Lessors and Lessees in finding individuals eligible under this Land Restriction agreement to occupy, rent, or lease the property.

3.4 Delivery of Notice Has No Effect on Land Restriction. The Notice is for information purposes only. Any Tribe inactions or actions taken pursuant to such a Notice do not constitute Tribe approval of any particular use and are not a waiver by the Tribe of any rights it has to enforce compliance with this Land Restriction.

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4.0 USEFUL LIFE.

4.1 Term of Land Restriction Should Meet HUD Requirements. NAHASDA requires that the U.S. Department of Housing and Urban Development determine that the Property is minimally restricted for a period of time acceptable to HUD, 25 U.S.C. § 4135(a)(2). In section 1.5 of this Land Restriction agreement, a Term has been set for this Land Restriction and the Tribe has determined and additionally warrants that the Term is not be less than what is acceptable to the HUD for this property and the nature of the NAHASDA assistance given.

5.0 MISCELLANEOUS

5.1 Amendment. Any amendment to this Land Restriction by a Lessor or Lessee of the Property shall require the approval and consent of the Tribe and be recorded in the same manner as this Land Restriction agreement.

5.2 Other Use Restrictions. Other use restrictions may be placed on the Property so long as they do not conflict or contravene this Land Restriction agreement and its terms.

5.3 Severability. If any provision of this Land Restriction is held by a court of competent Jurisdiction to be invalid or unenforceable, the remaining provisions shall survive and their validity, legality and enforceability shall not in any way be affected or impaired.

5.4 Notice of Foreclosure. A lender shall give the Tribe sixty (60) days' notice of its intent to foreclose upon its mortgage or to accept a conveyance of the Property in lieu of foreclosure. During the sixty (60) day period, the Tribe, its successors or assigns, shall have the right, but not the obligation, to purchase the mortgage for the amount due hereunder (including applicable expenses), and in such event the lender shall deliver to the purchaser such assignments and other evidentiary documents as the purchaser shall reasonably request.

5.5 Termination of Land Restriction. If a lender acquires the Property by foreclosure or by deed in lieu of foreclosure under its mortgage, after giving the Tribe the required sixty (60) days' notice, the right and restrictions contained in this Land Restriction shall terminate, and the Property shall become free from the rights and restrictions in this Land Restriction. Notwithstanding the foregoing, nothing shall prevent a lender from selling the Property subject to this Land Restriction to an eligible buyer in any foreclosure proceeding or after acquisition of title to the Property. The Tribe shall, upon request, provide a determination as to a purchaser's qualifications as an eligible buyer. In such case, the lease shall indicate that the Property is being conveyed subject to this Land Restriction. In addition, if the Tribe, or its successors or assigns, purchases the Property at a foreclosure sale or from a lender, the Tribe, or its successors or assigns may resubject the Property to this Land Restriction by supplemental recording.

Executed as of the date first written above.

LESSOR:

LESSEE:

CONCURRED IN BY THE TRIBE (IF DIFFERENT FROM OWNER)

Tribe: _____

Signature: _____

Name & Title: _____

Date: _____

RECIPIENT GUIDANCE 2014-09(R)

APPROVED:

SECRETARY OF THE INTERIOR

BY: _____

ATTACHMENT A

Legal Description of Portion of the Property Covered by Land Restriction
(which includes any dwelling and other improvements thereon)

**NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-
DETERMINATION ACT
USEFUL LIFE/USE RESTRICTION
LEASE ADDENDUM/AMENDMENT
(Trust Land with Pro-rated Recovery Amount)**

This Useful Life/Use Restriction, a covenant running with the land (hereinafter the **Land Restriction**), dated this _____ day of _____, 20__, for good and valuable consideration, is hereby declared, covenanted and made by _____ (hereinafter the **Lessee**), and _____ (hereinafter the **Lessor**), by adding to/amending a land lease between the same parties dated _____, Lease No. _____, Contract No. _____, and the portion of the leased property being restricted is described in Attachment A to this Land Restriction and is also imposed on any dwelling unit and other improvements thereon, (hereinafter the **Property**).

The Land Restriction is imposed because Indian Housing Block Grant (IHBG) funds to benefit the Property have been granted or loaned by _____, an Indian Tribe or an Indian or Alaska Native tribally designated housing entity (hereinafter the **Tribe**), to assist or facilitate low-income Indian housing.

1. LEASE RESTRICTED

1.1 Use Restrictions. Each dwelling unit in or on the Property shall be used only for residential purposes and that residential occupancy shall only be by individuals or families who are members of, or are headed by a member of, a federally recognized tribe or an eligible State recognized tribe who are low-income. The terms “federally recognized tribe,” “State recognized tribe” and “low-income” as used herein are as defined in the Native American Housing Assistance and Self-Determination Act (hereinafter **NAHASDA**), 25 U.S.C. §§ 4101, et seq.

1.2 Restricting Lessee and Subsequent Lessess. Family or household members who take Subsequent Lease will not be subject to the binding agreement. However the binding commitment will not terminate upon subsequent family/household lease, the binding commitment will not apply to the family/household. Any subsequent transfer by the family member or household member to a third party (not a family member or household member) is subject to this Land Restriction for the remaining affordability period.

1.3 Restricting Lessee and Subsequent Lessees. All of the rights, restrictions and agreements in this Land Restriction shall be deemed to be added to the lease and binding and enforceable against the Tribe, the Lessee, and any successor, heir, or sublessee of the Property; however, subsequent Lessees that are family members or household members are not subject to this Land Restriction. Any subsequent transfer by the family member or household member to a third party (not a family member or household member) is subject to this Land Restriction.

1.4 Covenant Running With the Land. The Lessor declares and covenants on behalf of itself that this Land Restriction and all accompanying enforcement rights run with the land until the Termination Date.

1.5 Term. This Land Restriction, including all of its rights, restrictions, covenants and agreements, shall expire () years from the date of this Land Restriction agreement (hereinafter the **Term**), which shall be the ____ day of _____, 20____ (hereinafter the **Termination Date**). As of the

Date

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Termination Date, this Land Restriction shall expire by its own terms and this Land Restriction shall have no further force or effect and shall be extinguished and released without the execution or recording of any further documents.

2.0 ENFORCEMENT

2.1 Right to Enforce. The Tribe has all the rights and remedies necessary to enforce the use restrictions contained in this Land Restriction. This includes, but is not limited to enforcing compliance with the low-income and members of federally recognized tribe use restrictions, invalidating any conveyance which violates the terms of this Land Restriction, and levying upon the Property to recover in full the money expended, advanced or loaned either on the Property or to the Owner by the Tribe under its low-income Native American housing programs.

2.2 Recovery of Amounts Contributed by the Tribe. The Tribe has contributed through loan(s) or grant(s) the sum of (\$) to the Owner or Property and shall be entitled to recover some or all of this amount as follows:

- (a) If the Property consists of a single family unit, the Tribe shall be entitled to recover the following declining amounts for any violation of the Land Restriction agreement during the duration of this Land Restriction: 100% until expiration of seventy-five percent of the Term, then 75% until expiration of fifty percent of the Term, 50% until expiration of twenty-five percent of the Term and 25% until expiration of the Term.
- (b) If the property is not a single family unit, the Tribe shall be entitled to recover the full amount contributed for any violation of the Land Restriction agreement during the duration of this Land Restriction

2.3 Rights to Recover Other Costs by the Tribe. The Owner, as well as subsequent owners of the Property, shall also be liable to the Tribe for any and all reasonable attorney fees, costs and court expenses that the Tribe may incur in any enforcement actions it takes under this Land Restriction agreement.

3.0 NOTICE OF PENDING SALE, RENTAL OR CONVEYANCE.

3.1 Notice. The Lessor and Lessee, and any subsequent Lessor and Lessee of the Property, are each obligated to notify the Tribe in writing, delivery of which shall be evidenced with a written receipt, at the following address: ,that they intend to change occupancy, lease, sell, or convey the Property. Such Notice(s) shall be given no less than sixty (60) days prior to the Lessor or Lessee binding itself to such action(s).

3.2 Confirmation of Compliance with Land Restrictions. After receipt of the Notice, the Lessor and Lessee of the Property must provide any and all information it has and that the Tribe requests and deems necessary to ascertain that the Property shall remain in compliance with this Land Restriction agreement.

3.3 Assistance in Conveying to Low Income Native Americans. The Tribe may offer to assist the Lessor and Lessee and subsequent Lessors and Lessees in finding individuals eligible under this Land Restriction agreement to occupy, rent, or lease the property.

3.4 Delivery of Notice Has No Effect on Land Restriction. The Notice is for information purposes only. Any Tribe inactions or actions taken pursuant to such a Notice do not constitute Tribe approval of any particular use and are not a waiver by the Tribe of any rights it has to enforce compliance with this Land Restriction.

4.0 USEFUL LIFE.

4.1 Term of Land Restriction Should Meet HUD Requirements. NAHASDA requires that the U.S.

Department of Housing and Urban Development determine that the Property is minimally restricted for a period of time acceptable to HUD, 25 U.S.C. § 4135(a)(2). In section 1.5 of this Land Restriction agreement, a Term has been set for this Land Restriction and the Tribe has determined and additionally warrants that the Term is not be less than what is acceptable to the HUD for this property and the nature of the NAHASDA assistance given.

5.0 MISCELLANEOUS

5.1 Termination, Transfer or Amendment. Any transfer of the subject Property, termination of or amendment to this Land Restriction by a Lessor or Lessee of the Property shall require the approval and consent of the Tribe and be recorded in the same manner as this Land Restriction agreement.

5.2 Other Use Restrictions. Other use restrictions may be placed on the Property so long as they do not conflict or contravene this Land Restriction agreement and its terms.

5.3 Severability. If any provision of this Land Restriction is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall survive and their validity, legality and enforceability shall not in any way be affected or impaired.

5.4 Notice of Foreclosure. A lender shall give the Tribe sixty (60) days' notice of its intent to foreclose upon its mortgage or to accept a conveyance of the Property in lieu of foreclosure. During the sixty (60) day period, the Tribe, its successors or assigns, shall have the right, but not the obligation, to purchase the mortgage for the amount due hereunder (including applicable expenses), and in such event the lender shall deliver to the purchaser such assignments and other evidentiary documents as the purchaser shall reasonably request.

5.5 Termination of Land Restriction. If a lender acquires the Property by foreclosure or by deed in lieu of foreclosure under its mortgage, after giving the Tribe the required sixty (60) days' notice, the right and restrictions contained in this Land Restriction shall terminate, and the Property shall become free from the rights and restrictions in this Land Restriction. Notwithstanding the foregoing, nothing shall prevent a lender from selling the Property subject to this Land Restriction to an eligible buyer in any foreclosure proceeding or after acquisition of title to the Property. The Tribe shall, upon request, provide a determination as to a purchaser's qualifications as an eligible buyer. In such case, the lease shall indicate that the Property is being conveyed subject to this Land Restriction. In addition, if the Tribe, or its successors or assigns, purchases the Property at a foreclosure sale or from a lender, the Tribe, or its successors or assigns may resubject the Property to this Land Restriction by supplemental recording.

Executed as of the date first written above.

LESSOR:

LESSEE:

CONCURRED IN BY THE TRIBE (IF DIFFERENT FROM OWNER)

Tribe: _____
Signature: _____
Name & Title: _____
Date: _____

APPROVED:

SECRETARY OF THE INTERIOR

BY: _____

ATTACHMENT A

Legal Description of Portion of the Property Covered by Land Restriction (which includes any dwelling and other improvements thereon)

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

THE FOLLOWING PROPERTY (HEREIN AFTER THE **Property**) IS
HEREBY MADE SUBJECT TO A LIEN AND COVENANT RUNNING
WITH THE LAND:

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: _____

This Useful Life/Use Restriction, a covenant running with the land (hereinafter the **Land Restriction**), dated this day of, 20__, for good and valuable consideration, is hereby declared covenanted and made by (hereinafter the **Owner**), who is the owner(s) of the Property. The Land Restriction is imposed because Indian Housing Block Grant (IHBG) funds to benefit the Property have been granted or loaned by, an Indian Tribe or an Indian or Alaska Native tribally designated housing entity (hereinafter the **Tribe**), to assist or facilitate low-income Indian housing.

1. DEED RESTRICTED

1.1 Use Restrictions. The Property shall be used only for eligible Indian Housing Block Grant affordable housing activities and that facility occupancy shall only be by those entities providing such activities/services.

1.2 Subsequent Owners. Will be subject to this Land Restriction for the remaining affordability period.

1.3 Restricting Owners. All of the rights, restrictions and agreements in this Land Restriction shall be deemed to be covenants and a deed restriction placed on the Property and Owner and binding and enforceable against the Owner and other subsequent owners of the Property

1.4 Covenant Running With the Land. The Owner declares and covenants on behalf of itself that this Land Restriction and all accompanying enforcement rights run with the land until the Termination Date.

1.5 Term. This Land Restriction, including all of its rights, restrictions, covenants and agreements shall expire () years from the date of this Land Restriction agreement (hereinafter the **Term**), which shall be the ____ day of _____, 20____ (hereinafter the **Termination Date**). As of the Termination Date, this Land Restriction shall expire by its own terms and this Land Restriction shall have no further force or effect and shall be extinguished and released without the execution or recording of any further documents.

2.0 ENFORCEMENT

2.1 Right to Enforce. The Tribe has all the rights and remedies necessary to enforce the use restrictions contained in this Land Restriction. This includes, but is not limited to enforcing compliance with the use restrictions, invalidating any conveyance which violates the terms of this Land Restriction, and levying upon the Property to recover in full the money expended, advanced or loaned either on the Property or to the Owner by the Tribe under its low-income Native American housing programs.

2.2 Recovery of Amounts Contributed by the Tribe. The Tribe has contributed through loan(s) or grant(s) the sum of (\$) to the Property and shall be entitled to recover this amount in its entirety for any violation of the Land Restriction agreement during the Term of the Land Restriction.

2.3 Rights to Recover Other Costs by the Tribe. The Owner, as well as subsequent owners of the Property, shall also be liable to the Tribe for any and all reasonable attorney fees, costs and court expenses that the Tribe may incur in any enforcement actions it takes under this Land Restriction agreement.

3.0 NOTICE OF PENDING SALE, RENTAL OR CONVEYANCE

3.1 Notice. The Owner, and any subsequent owner of the Property, is obligated to notify the Tribe in writing, delivery of which shall be evidenced with a written receipt, at the following address: _____, that they intend to change occupancy, lease, sell, or convey the Property. This Notice shall be given no less than sixty (60) days prior to the Owner binding itself to such action(s).

3.2 Confirmation of Compliance with Land Restrictions. After receipt of the Notice, the Owner of the Property must provide any and all information it has and that the Tribe requests and deems necessary to ascertain that the Property shall remain in compliance with this Land Restriction agreement.

3.3 Delivery of Notice Has No Effect on Land Restriction. The Notice is for information purposes only. Any Tribe inactions or actions taken pursuant to such a Notice do not constitute Tribe approval of any particular use and are not a waiver by the Tribe of any rights it has to enforce compliance with this Land Restriction.

4.0 USEFUL LIFE.

4.1 Term of Land Restriction Should Meet HUD Requirements. NAHASDA requires that the Secretary of the U.S. Department of Housing and Urban Development determine that the Property is minimally restricted for a period of time acceptable to its Secretary, 25 U.S.C. § 4135(a)(2). In section 1.4 of this Land Restriction agreement, a Term has been set for this Land Restriction and that Term should not be less than what is acceptable to the Secretary of HUD based on the nature and the amount of IHBG funds to this Property. The Tribe should ensure that a Land Restriction has been obtained for a Term that meets HUD's standards.

5.0 MISCELLANEOUS.

5.1 Amendment. Any amendment to this Land Restriction shall require the approval and consent of the Tribe and be recorded in the same manner as this Land Restriction agreement. However, other use restrictions may be placed on the Property so long as they do not conflict or contravene this Land Restriction agreement.

5.2 Severability. If any provision of this Land Restriction is held by a court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall survive and their validity, legality and enforceability shall not in any way be affected or impaired.

Executed as of the date first written above

OWNER(S)

CONCURRED IN BY THE TRIBE (IF DIFFERENT FROM OWNER)

Tribe: _____
Signature: _____
Name & Title: _____

CHAPTER 12: OTHER FEDERAL REQUIREMENTS

This chapter covers:

- *Environmental review requirements;*
- *Other environmental requirements including flood insurance, lead-based paint, coastal barrier resources, and runway clear zones and clear zones;*
- *Relocation and acquisition;*
- *Non-discrimination and equal access;*
- *Fair housing;*
- *Employment and contracting;*
- *Davis Bacon and tribally determined wage rates;*
- *Section 3; and*
- *Indian preference.*

PURPOSE OF OTHER FEDERAL REQUIREMENTS

Beyond the specific Native American Housing and Self-Determination Act (NAHASDA)-related rules and administrative requirements discussed so far, there are several broad Federal requirements that must be integrated into Indian Housing Block Grant (IHBG)-funded programs. These laws support an array of important national policy goals for equal opportunity, the environment and other issues.

As with the administrative requirements described in the previous chapter, these other Federal requirements apply to the recipient. However, in most cases recipients must also regularly monitor housing owners, developers, sponsors, contractors, and subrecipients to ensure their continued compliance with these regulations. This chapter provides a brief summary of some of these Federal requirements. Recipients should take additional steps to explore beyond the overview provided below.

OVERVIEW OF OTHER FEDERAL REQUIREMENTS

There are nine broad categories of other Federal requirements:

- Environmental review requirements;

NOTES

Chapter 12: Other Federal Requirements

- Other environmental requirements including flood insurance, lead-based paint, coastal barrier resources, and runway clear zones and clear zones;
- Relocation and acquisition;
- Non-discrimination and equal access;
- Fair housing;
- Employment and contracting;
- Davis Bacon and tribal wage rates;
- Section 3; and
- Indian preference.

Table 12-1: Summary of Key Requirements

| Other Federal Requirements | Apply to IHBG-funded activities? | Special Considerations/Issues |
|--|--|--|
| Environmental Review | Yes | <ul style="list-style-type: none"> • Tribe assumes responsibility for completing reviews, unless tribe requests that HUD retain this responsibility. • Required review level is based on the type of activity. |
| Flood Insurance | Yes. Although many tribes are not in a FEMA-mapped area. | <ul style="list-style-type: none"> • Must be in a FEMA-mapped area and flood insurance must be obtained. |
| Lead-Based Paint | Yes | <ul style="list-style-type: none"> • Notices to purchasers/renters of pre-1978 units. • Requirements vary by activity and cost. |
| Coastal Barrier Resources Act | Yes | <ul style="list-style-type: none"> • Very few areas of the country are considered coastal barrier resources |
| Runway Clear Zones or Clear Zones | Yes | <ul style="list-style-type: none"> • Notification requirements for buyers |
| Table 12-1: Summary of Key Requirements continued | | |

NOTES

Chapter 12: Other Federal Requirements

| Other Federal Requirements | Apply to IHBG-funded activities? | Special Considerations/Issues |
|--|--|--|
| Acquisition, Relocation | Depending upon the project. | <ul style="list-style-type: none"> Requires notifications to tenants. Requires language in offers and contracts for acquisition of property. |
| Fair Housing and Equal Opportunity | <p>Yes. Title VI of the Civil Rights Act of 1964 and Title VIII of the Civil Acts of 1968 do apply to tribes not covered by the Indian Civil Rights Act.</p> <p>No. These Acts do not apply to eligibility determinations.</p> | <ul style="list-style-type: none"> The Statute and regulation specify the relevant exemptions in order to fulfill Indian preference national objectives. |
| Labor Standards | Yes. Unless tribe adopts laws or regulations requiring the payment of prevailing wage rates. | <ul style="list-style-type: none"> Requirements apply to the whole project, not just the IHBG-assisted portion. Requirements do not apply to volunteers (see regulations for definition). |
| Handicapped Accessibility | Yes. If property meets definitions set forth in regulations. | <ul style="list-style-type: none"> New facilities must be designed and constructed in accordance with applicable standards. |
| Employment and Contracting Opportunities | Yes | <ul style="list-style-type: none"> Recipients should comply with Section 3. Are deemed to comply with Section 3 if they comply with tribal laws that provide for employment and contract preferences laws in accordance with section 101(k) of NAHASDA. |

ENVIRONMENTAL REVIEW REQUIREMENTS

[NAHASDA Section 105, § 1000.18, § 1000.20, and § 1000.22]

IHBG-funded activities must meet Federal environmental review requirements, including those required by the National Environmental Policy Act (NEPA) and related Federal laws and authorities. Environmental review regulations are described below.

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Chapter 12: Other Federal Requirements

- ❑ Environmental reviews must be completed for all covered activities in accordance with the requirements of 24 CFR 50 or 58.
- ❑ The required level of environmental review is determined based on the type of activity funded with IHBG resources and local funds, if they are also being used to fund portions of the project.
- ❑ If a tribe wishes, HUD will retain responsibility for environmental review and it will conduct the review under the provisions and requirements of 24 CFR Part 50. PIH Notice 2015-01 “*Indian Housing Block Grant (IHBG) Program: Guidance and Procedures for Environmental Reviews under Part 50*” provides instructions on conducting environmental reviews under 24 CFR Part 50 for tribes that do not assume these responsibilities under 24 CFR Part 58. In addition, it also describes the responsibilities of the HUD Area Office of Native American Programs (AONAP) and defines the information to be provided by recipients to the AONAP Administrator to facilitate HUD’s compliance with environmental review responsibilities under 24 CFR Part 50. See Attachment 12-2 for additional information. As part of its responsibilities, the recipient must provide an environmental assurance with their IHP which states that it will:
 - Supply HUD with all available, relevant information necessary for HUD to perform for each property any environmental review required by Part 50,
 - Carry out mitigating measures required by HUD or select an alternate eligible property, and
 - Not acquire, rehabilitate, convert, lease, repair or construct property, nor commit or expend HUD or local funds for these program activities with respect to any eligible property until HUD approval of the property is received.
- ❑ Tribes may choose to assume responsibility for completing reviews under 24 CFR Part 58. Only tribes can assume environmental review responsibilities. A tribally-designated housing entity (TDHE) may provide information to the tribe but a TDHE may not certify compliance with environmental review requirements. To be a responsible entity (RE), the tribe must meet the following conditions:
 - Be an Indian tribe as defined in NAHASDA;
 - Have general governmental capabilities and characteristics in order to be legally qualified to be a RE (since the RE will be legally responsible for the project’s environmental consequences);

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Chapter 12: Other Federal Requirements

- The chief executive officer (or other formally authorized member of the tribal governing body) assumes the role of Certifying Officer, who is legally responsible for compliance with NEPA and related Federal laws and authorities cited in Part 58, as well as implementation of any subsequent actions resulting from the environmental findings;
- Have staff resources sufficient and qualified to perform an environmental review or to be able to contract out to a qualified consultant, with sufficient knowledge as to whether the document meets NEPA and Part 58 requirements.
- The following exhibits describe the levels of environmental review and compliance procedures in Part 58.

Exhibit 12-2: Required Level of Environmental Review

| Exempt Activities |
|---|
| <p>Certain activities are declared exempt by HUD and are not subject to the NEPA (§ 58.34) or review under related Federal environmental laws and authorities. These activities include, but are not limited to:</p> <ul style="list-style-type: none">• Administrative and planning activities,• Environmental studies or assessments, and• Payment of reasonable engineering and design costs. <p>Prepare a written documentation documenting this fact.</p> |
| Categorically Excluded Activities Not Subject to 58.5 (§ 58.35(b)) |
| <p>Certain activities that do not result in physical changes to structures have been determined by HUD to be excluded from NEPA compliance and, furthermore, have been also determined not to trigger compliance with the related Federal environmental laws and authorities. These activities include, but are not limited to:</p> <ul style="list-style-type: none">• Supportive services, including housing services;• Operating expenses, including maintenance, security, insurance, utilities;• TBRA;• Pre-development costs without a physical impact, including legal, consulting, developer and other costs relating to obtaining site options, project financing, administrative costs and fees, and other related activities; and• Activities to assist homebuyers to purchase existing dwelling units or dwelling units under construction, including closing costs and downpayment assistance, interest buy-downs and similar activities that result in the transfer of a title. <p>Prepare a written documentation documenting this fact.</p> |

NOTES

Chapter 12: Other Federal Requirements

Exhibit 12-2: Required Level of Environmental Review (*continued*)

Categorically Excluded Activities (§ 58.35(a))

The following typical IHBG funded activities are categorically excluded from NEPA but must meet related Federal environmental laws and authorities:

- Rehabilitation of building for residential use (with one-four units) provided that:
 - The project does not increase density beyond four units,
 - The project does not involve changes in land use, and
 - The project does not increase the footprint of the building in a floodplain or wetland.
- Acquisition and/or rehabilitation of multifamily housing, provided that:
 - The project does not increase unit density by more than 20 percent,
 - The project does not involve changes in land use from residential to non-residential, or from non-residential to residential, and
 - The estimated rehabilitation cost is less than 75 percent of the total estimated replacement cost after rehabilitation.
- Single-family new construction or acquisition concerning:
 - An individual action on a one- to four-family structure, or
 - An individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet apart and there are not more than four units on any one site.

If the review determines that compliance with one or more of the “other Federal laws and authorities” listed in 58.5 is invoked, then the RE must:

- Complete those steps necessary to obtain compliance
- Publish the required public notice related to the specific compliance review when required;
- Publish a “Notice of Intent to Request for Release of Funds” (NOIRRF);
- Allow a public comment period;
- Submit a Request for the Release of Funds (RROF) and Certification form to HUD; and
- Receive HUD approval before committing or expending funds.

NOTES

Chapter 12: Other Federal Requirements

Exhibit 12-2: Required Level of Environmental Review (continued)

| |
|---|
| <p>If an activity is not categorically excluded, a full Environmental Assessment (EA) must be conducted. Examples of activities that require an EA include:</p> <ul style="list-style-type: none">• Change of land use; increased density by more than 20 percent; or exceeding 75 percent of total replacement cost after rehabilitation, or more than 4 single family units will be constructed on a site. |
| <p style="text-align: center;">Categorically Excluded Activities Converted to Exempt Activities (§ 58.34(a)(12))</p> |
| <p>Activities which are initially determined to be categorically excluded may convert to exempt activities if:</p> <ul style="list-style-type: none">• A Federal laws and authorities review (Statutory Worksheet) has been completed, and• It is determined that, as a result of the review findings, no circumstances exist where compliance with any of the “other Federal laws and authorities” is invoked. <p>The recipient documents this determination in the Environmental Review Record, (i.e. Statutory Worksheet). No public notices need to be published and no Request for Release of Funds need be submitted to HUD.</p> |
| <p style="text-align: center;">Activities That Require an Environmental Assessment</p> |
| <p>Activities not exempt or categorically excluded, the responsible entity prepares an EA of the project's impact on the human environment. The EA documents compliance with NEPA and the related Federal laws and authorities. If, upon completing the EA, a finding can be made by the RE that no significant environmental impact will occur, then the RE:</p> <ul style="list-style-type: none">• Publishes the required public notice related to the specific compliance review when required;• Publishes a public Finding of No Significant Impact (FONSI) and a Notice of Intent to Submit a Request for Release of Funds (RROF), or a combined notice;• Allows a public comment period;• Submits a RROF to HUD; and• Receives HUD approval before IHBG or local funds are committed or spent on project activities. <p>If a significant impact is anticipated or a finding of significant impact is made as a result of completing the EA, the RE must publish a Notice of Intent to complete an Environmental Impact Statement (EIS) and proceed to complete the EIS in accordance with 40 CFR Part 1502.10.</p> |

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- ❑ Private citizens and organizations and public agencies may object to HUD to its release of funds on the bases the RE failed to comply with the procedural requirements of Part 58 (e.g., compliance with NEPA and related Federal laws and authorities, public comment periods, etc.) (see §§ 58.70 - 58.77)).
 - To avoid challenges, RE should be diligent about meeting procedural requirements and ensure its project partners do not initiate actions prohibited by Part 58 prior to the its receiving approval from HUD.
 - Establish and maintain a written Environmental Review Record (ERR) for each project and project group that:
 - Describes the specific activities in that project or project group;
 - Identifies the certifying officer and includes determinations signed by the certifying officer;
 - Contains supporting evidence and all relevant documents, notices, determinations and other information pertaining to the review; and
 - Is available for public review.
 - Classify activities and determine the level of review required.
 - Follow the appropriate review formats for each project or group of activities.
 - Contact the appropriate state and local agencies for determinations on specific aspects of the review. Certify all determinations and include all determinations and supporting evidence in ERR.
 - Safeguard all relevant documents, notices, determinations and other information pertaining to the environmental review and determination. It is recommended that the RE maintain all ERR documents in a central filing system.
- ❑ The following steps will help a IHBG recipient to attain and maintain compliance with Federal environmental requirements:
 - As soon as it is anticipated that IHBG funds will be used for a project, do not undertake any prohibited activities—e.g., acquisition, rehabilitation, conversion, lease, demolition, construction, excavation, dredging, filling, etc.—until the environmental review process has been completed.

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- Initiate the environmental review process as soon as proposed activities have been determined. Contact the RE (or Area ONAP if Part 50 applies). Anticipate the environmental issues and which ones are likely to require the most time (and possibly money) to resolve.
 - Aggregate activities that are related either geographically or functionally. The type of activities determines the level of environmental review required. This is also important to planning and timing the completion of a project review.
- The RE may perform a single environmental review for several multifamily housing units located in different neighborhoods that it plans to rehabilitate. The environmental impacts are similar in nature and scope.
- The IHBG recipient proposes acquiring a parcel of land, then constructing streets, utilities and 15 single family units. A single environmental review must be completed for all these related activities, regardless of whether IHBG funds will be used for the entire project or only for a portion of it (local funds being used for the remainder).
- Ensure that any conditions for approval that result from the environmental review are incorporated into the project plans and also are implemented on the ground.
- Program Guidance 2003-13 “*Amendments and Clarifications to Environmental Review Procedures*”, provides tribes and TDHEs with a summary of the changes to HUD’s environmental review requirements that may affect the preparation and completion of environmental reviews for HUD programs.
- CPD Notice 2004-08 also provides information on environmental review requirements that affect IHBG programs.

OTHER ENVIRONMENTAL REQUIREMENTS

[§ 1000.18 and § 1000.40]

IHBG-funded activities must meet other Federal environmental requirements, including flood insurance, lead-based paint, coastal barrier resource protection, and notification of buyers of residential properties in areas near airports and airfields. These requirements are not direct aspects or parts of the environmental review process but information discovered or developed during that process will be useful in determining if or how they apply to your funded activities.

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Flood Insurance

- ❑ Section 202 of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4106 and § 1000.38)
 - Flood Insurance requirements mean that IHBG funds cannot be provided to an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless the following conditions apply:
 - The community is participating in the National Flood Insurance Program or it has been less than a year since the community was designated as having special flood hazards, and
 - Flood insurance is obtained.
 - When IHBG funds are loaned to an eligible applicant, the amount of flood insurance does not need to exceed the principal amount of the loan. IHBG funds are provided as a grant; the flood insurance must remain in effect for the useful life of the property.
 - To be eligible for the National Flood Insurance Program, a reservation must be mapped for flood hazards by FEMA. If a reservation is not eligible for the National Flood Insurance Program but a flood hazard is identified as part of an environmental assessment, the recipient should:
 - Develop a mitigation plan as part of the project,
 - Redesign the project to avoid the flood hazard, and
 - Consider obtaining private flood insurance.

Lead-Based Paint

All residential units in a project assisted with IHBG, 184 Loan Guarantee or Title VI funds must comply with the Lead Safe Housing Rule, the regulation implementing Title X of the 1992 Housing and Community Development Act. The Lead Safe Housing Rule is found at 24 CFR Part 35 – Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in federally-owned Residential Property and Housing Receiving Federal Assistance, Final Rule. On April 22, 2010, Guidance 2010-01 was issued which provided information on EPA's rule requiring the use of lead-safe work practices aimed at preventing lead poisoning in children. This notice provides information on EPA's Renovation, Repair, and Painting Rule (RRP) as it relates to Indian housing. Program Guidance 2010-06 "*Environmental Protection Agency (EPA) - Renovation, Repair, and Painting (RRP) Rule - Correction/Update*", corrects two items in Program Guidance 2010-01 "*EPA - Renovation, Repair, and Painting (RRP) Rule.*"

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- ❑ This regulation was issued by HUD in September 1999, with an effective date of September 15, 2000. Program Guidance 2001-05 “*Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazards in Federally Owned Residential Property and Housing Receiving Federal Assistance; Final Rule*” provides additional information on complying with lead regulations.
- ❑ The Lead Safe Housing Rule at 24 CFR Part 35 consolidates all lead-based paint requirements for HUD-assisted housing and establishes lead-based paint requirements by activity (e.g. rehabilitation, acquisition, TBRA) as opposed to by funding source. Thus, all HUD-funded rehabilitation projects, regardless of the source of funds, are subject to the same lead-based paint rules.
- ❑ The purpose of the regulation is to identify and address lead-based paint hazards before children are exposed to lead and potentially poisoned. This regulation implements a framework for evaluating units up-front and addressing identified lead-based paint hazards (rather than all lead-based paint).
- ❑ To understand the requirements, it helps to understand that there are four approaches to addressing lead-based paint in IHBG-funded projects. The four approaches described below are called out in Exhibit 12-3, and the requirements for each are listed in the exhibit.
 - Approach 1: Do no harm.
 - This approach applies to small rehabilitation jobs (\leq \$5,000). It involves the use of safe work practices during work and clearance afterwards to ensure the work done does not create any lead hazards.
 - Approach 2: Identify and stabilize deteriorated paint.
 - This approach applies to Tenant-Based Rental Assistance (TBRA) and homebuyer programs. It involves a visual assessment to identify and stabilize deteriorated paint using trained or supervised workers exercising safe work practices. Clearance is done to ensure that the unit is free of lead hazards after the work is completed.
 - Approach 3: Identify and control lead-based paint hazards.
 - This approach applies to rehabilitation jobs of \$5,000 to \$25,000. It involves a risk assessment to identify all lead hazards in the unit and interim controls to control the hazards. Trained or supervised workers must do the work using safe work practices.

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Clearance is required to ensure that the unit is free of hazards after the work is completed.

- Approach 4: Identify and abate lead-based paint hazards.
 - This approach applies to rehabilitation jobs of more than \$25,000. It involves a risk assessment to identify all lead hazards in the unit and abatement to control the hazards permanently. Certified workers must do the abatement. Clearance is required to ensure that the unit is free of hazards after the work is completed.
- ☐ A number of requirements apply for each activity, as summarized in the Exhibit.
- ☐ Lead-based paint activities fall into five categories:
 - Notification. There are four notification requirements for all IHBG-funded activities:
 - Lead Hazard Information Pamphlet: Occupants, owners and purchasers of IHBG-assisted properties must receive the EPA/HUD/Consumer Product Safety Commission (CPSC) lead hazard information pamphlet, or an EPA-approved equivalent.
 - Disclosure: Property owners of IHBG-assisted properties must provide purchasers and lessees with available information or knowledge regarding the presence of lead-based paint and lead-based paint hazards prior to selling or leasing a residence. (This requirement applies to all owners regardless of public assistance.)
 - Notice of Lead Hazard Evaluation or Presumption: Occupants, owners and purchasers must be notified of the results of any lead hazard evaluation work, or the presumption of lead-based paint or lead hazards.
 - Notice of Lead Hazard Reduction Activity: Occupants, owners and purchasers must be notified of the results of any lead hazard reduction work.
 - Evaluation/Assessment.
 - The specific evaluation/assessment activity required depends on the activity. Evaluation/assessment methods include visual assessments, paint testing and risk assessments. See Exhibit 12-4 for definitions of these activities.
 - Reduction.

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- The reduction activity required depends on the activity. Reduction methods described in this course include paint stabilization, interim controls, standard treatments and abatement. See Exhibit 12-4 for definitions.
- On-going Maintenance.
- On-going maintenance includes periodic visual assessments to determine if lead-based paint hazards have reappeared and actions taken to address the hazards. It is required only in rental properties.
 - TBRA;
 - Acquisition, leasing, support services and operations (as defined in Subpart K of the Lead Safe Housing Rule); and
 - Project-based rental assistance.
- Response to poisoned children.
 - If a poisoned child is found in a unit, certain requirements apply. This requirement applies only to TBRA. See 24 CFR 35.1225 for a full description of the requirements.
- Options.
 - These approaches also allow some flexibility in how they are implemented. The regulation allows several options. For example, instead of performing paint testing or a risk assessment, the recipient may simply presume that lead-based paint or lead-based paint hazards are present and take appropriate action. For more detail on these options, refer to 24 CFR Part 35 as well as HUD's "Interpretive Guidance: The HUD Regulation on Controlling Lead-Based Paint Hazards in Housing Receiving Federal Assistance and Federally-Owned Housing Being Sold."
- Recipients must comply with other regulations – Federal, state, tribal and local – that apply to lead-based paint hazard evaluation and reduction. When multiple regulations cover a program activity, recipients must comply with the most stringent requirements.
- All lead-based paint activities must be performed in accordance with other applicable Federal laws and authorities. For example, the NEPA of 1969 (42 U.S.C. 4321 et seq.), OSHA worker safety regulations (29 CFR 1910.1200 and 29 CFR 1926.62), and other

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environmental laws and authorities cover activities related to lead-based paint evaluation and hazard reduction.

- HUD may modify or waive its lead-based paint requirements if it determines that the requirement duplicates a Federal, state or local requirement that provides a comparable level of protection from lead-based paint hazards.
- There are records that recipients must keep to verify that they have conducted the required lead hazard response activities.
 - Lead Hazard Information Pamphlet.
 - A record of the distribution of the lead hazard information pamphlet is recommended but not required.
 - Notification, Evaluation and Reduction Reports.
 - The recipient must keep a copy of each notification, lead hazard evaluation report, lead hazard reduction documentation (such as job specifications), and clearance or abatement report for at least three years, or for such other period as specified in the program regulations.
 - Reporting to HUD.
 - The recipient will provide a copy of any of the above records to HUD upon request.
- Failure to comply with the lead-based paint requirements under the new regulation will be subject to sanctions authorized under the Federal funding programs providing assistance to the property, and violations may be subject to other penalties available under state or local law.
- Notifying owners, purchasers or occupants of possible lead-based paint hazards does not relieve recipients of the responsibilities under the new regulation.

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Exhibit 12-3: Summary of Lead-Based Paint Requirements by Activity

| | Homeowner and Rental Rehabilitation (Subpart J) | | | TBRA (Subpart M) | Acquisition Only and Homebuyer (Subpart K) | Project-based Assistance* (Subpart H) | |
|---|---|--|--|--|--|--|--|
| | <\$5,000 | \$5,000 - \$25,000 | >\$25,000 | | | Single family units, & multi- family units receiving-<\$5,000 | Multi-family units receiving->\$5,000 |
| Approach to Hazard Evaluation and Reduction | Do no harm | Identify and control lead hazards | Identify and abate lead hazards | Identify and stabilize deteriorated paint | Identify and stabilize deteriorated paint | Identify and control lead hazards | |
| Notification | Yes | Yes | Yes | Yes | Yes | Yes | Yes |
| Lead Hazard Evaluation | Paint Testing | Paint Testing and Risk Assessment | Paint Testing and Risk Assessment | Visual Assessment | Visual Assessment | Risk Assessment | Risk Assessment |
| Lead Hazard Reduction | Repair surfaces disturbed during rehabilitation | Interim Controls | Abatement (Interim Controls on exterior surfaces not disturbed by rehabilitation) | Paint Stabilization | Paint Stabilization | Interim Controls | Interim Controls |
| | Safe work practices; Clearance | Safe work practices; Clearance | Safe work practices; Clearance | Safe work practices; Clearance | Safe work practices; Clearance | Safe work practices; Clearance | Safe work practices; Clearance |
| On-going Maint. | No | No | No | Yes | Yes (if ongoing relationship) | Yes | Yes |
| Response to poisoned children Options | No | No | No | Yes | No | Yes | Yes |
| | Presume lead- based paint. Use safe work practices on all surfaces. | Presume lead- based paint and/or hazards. Use standard treatments. | Presume lead- based paint and/or hazards. Abate all applicable surfaces. | Test deteriorated paint. Use safe work practices only on lead-based paint surfaces. | Test deteriorated paint. Use safe work practices only on lead-based paint surfaces. | Test deteriorated paint. Use safe work practices only on lead-based paint surfaces. | Presume lead- based paint and/or hazards. Use standard treatments. |

* Project based assistance is not a common activity under IHGB but may be carried out. In such cases, the lead-based paint rules summarized above must be followed.

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Exhibit 12-4: Common Lead-Based Paint Terms

Abatement: Measures to permanently (at least 20 years) control lead-based paint or lead-based paint hazards.

Clearance Examination: Clearance is performed after hazard reduction, rehabilitation or maintenance activities to determine if a unit is safe for occupancy. It involves a visual assessment, analysis of dust and soil samples and the preparation of a report. A certified risk assessor, paint inspector or lead sampling technician (called a clearance technician in the HUD regulation) performing clearance must be independent from the entity/individual conducting paint stabilization or hazard reduction.

Interim Controls: Set of measures to temporarily control lead-based paint hazards. Interim control methods must be completed by qualified workers using safe work practices. Follow-up monitoring is needed.

Lead-Based Paint: Paint or other surface coatings that contain lead equal to or exceeding 1.0 milligram per square centimeter (mg/cm²) or 0.5 percent by weight or 5,000 parts per million (ppm) by weight.

Lead-Based Paint Hazards: Any condition that causes exposure to lead from dust-lead hazards, soil-lead hazards, or lead-based paint that is deteriorated or present in chewable surfaces, friction surfaces, or impact surfaces, and that would result in adverse human health effects.

Lead-Based Paint Inspection: A surface-by-surface investigation to determine the presence of lead-based paint and the provision of a report explaining the results of the investigation. It is performed by a certified paint inspector or risk assessor.

Lead Hazard Screen: A limited risk assessment activity that can be performed instead of a risk assessment in units that meet certain criteria (e.g. good condition). The screen must be performed by a certified risk assessor. If the unit fails the lead hazard screen, a full risk assessment must be performed.

Paint Stabilization: An interim control method that stabilizes painted surfaces and addressed the underlying cause of deterioration. Steps include repairing defective surfaces, removing loose paint and applying new paint.

Paint Testing: Testing of specific surfaces, by XRF (x-ray fluorescence) or lab analysis, to determine the lead content of these surfaces, performed by a certified lead-based paint inspector or certified risk assessor.

Risk Assessment: A comprehensive evaluation for lead-based paint hazards that includes paint testing, dust and soil sampling, and a visual evaluation. The risk assessment report identifies lead hazards and appropriate lead hazard reduction methods. A certified risk assessor must conduct the assessment.

Standard Treatments: A complete set of interim control methods that, when used together, temporarily control all potential lead hazards in a unit. Because they address all conditions, a risk assessment or other evaluation is not needed. Standard treatments must be completed by qualified workers using safe work practices. As with interim controls, follow-up monitoring is needed.

Visual Assessment: A visual assessment involves looking for, as applicable: (1) deteriorated paint; (2) visible surface dust, debris, and residue as part of a risk assessment or clearance examination; or (3) the completion or failure of a hazard reduction measure.

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COASTAL BARRIER RESOURCES

[24 CFR 58.6(c)]

Under the requirements of the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990, HUD assistance may not be used for activities in the identified Coastal Barrier Resources System. While it is highly unlikely that you will be contemplating any such activities, you should be aware of the restriction.

RUNWAY CLEAR ZONES AND CLEAR ZONES

[24 CFR 58.6(d)]

In all cases involving IHBG assistance of any type for the purchase or sale of an existing property in a Runway Clear Zone (commercial airports) or Clear Zone (military airfields), as these are defined in 24 CFR Part 51, the RE must advise the buyer that the property is in such a zone, what the implications of that location are, and that there is a possibility that the property may, at a later date, be acquired by the operator of the facility.

RELOCATION AND REAL PROPERTY ACQUISITION REQUIREMENTS

[§ 1000.14]

The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (URA), as amended, 42 U.S.C. 4601 *et seq.*, implementing regulations at 49 CFR part 24, and the program-specific regulation at 24 CFR 1000.14, govern the relocation of persons and acquisition of real property for an IHBG-assisted project.

Relocation

- Whether conducting temporary or permanent relocation, IHBG recipients must establish a relocation policy that provides consistency in administering activities and resolving complaints.
- Relocation activities must comply with the URA, implementing regulations at 49 CFR part 24, and program-specific regulations at 24 CFR 1000.14.
- In addition, recipients should consult HUD Handbook 1378 (Tenant Assistance, Relocation, and Real Property Acquisition) for additional guidance. This handbook as well as other URA resources and guidance are available on HUD's Real Estate Acquisition and Relocation website at <http://www.hud.gov/relocation>, including links to applicable laws and regulations, policy and guidance, training resources, and contact

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information for HUD's Regional Relocation Specialists if you have questions or need assistance.

- URA requirements cover displacement of persons as a result of acquisition, rehabilitation or demolition for a project with Federal financial assistance. The URA may apply even though Federal funds do not pay for the acquisition, rehabilitation or demolition that causes displacement.
- All persons to be displaced are entitled to receive relocation assistance advisory services that include information and counseling. Person is defined at 49 CFR 24.2(a)(21) to mean an individual, family, partnership, corporation or association.
- Information and counseling services for residential displacements include, but are not limited to:
 - Information on the availability, purchase prices, and rental costs of comparable replacement dwellings;
 - Information provided to the person to be displaced in writing of the specific comparable replacement dwelling used for establishing the upper limit of the replacement housing payment and the basis for that determination;
 - Inspection of the comparable replacement dwelling;
 - Whenever possible, providing minority persons with reasonable opportunities to relocate to decent, safe and sanitary dwellings, not located in an area of minority concentration, that are within their financial means;
 - Transportation for persons to be displaced to inspect housing to which they are referred;
 - Information about Federal and State housing programs and how to apply for them; and
 - Minimizing hardships to persons in adjusting to relocation by providing counseling and advice as to other sources of assistance that may be available, and such other help as may be appropriate (e.g. health services, public assistance, child care).
- All affected persons should receive a notice of some kind. Failure to provide correct and timely notices can be one of the most expensive mistakes that a recipient can make.

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- ❑ Occupants to be displaced must be informed of their eligibility for relocation assistance and the nature of the assistance.
- ❑ Occupants not being displaced must be informed of the terms and conditions under which they may occupy the property upon completion of the project.
- ❑ Different notices serve different purposes and must be tailored to both the specific project circumstances and the individual circumstances of the residents. IHBG recipients are encouraged to read 49 CFR part 24, subpart C, and HUD Handbook 1378, Chapter 2, for more information on notices. Please note that some notices have content that is required by regulation and cannot be omitted. Sample notices are available in appendices to HUD Handbook 1378.
 - General Information Notice (GIN):
 - Informs all occupants of a possible project and of their rights under URA. It stresses that the household should not move at this time. This notice is always needed and should be delivered as soon as feasible after the project application is received.
 - Move-In Notices:
 - Inform households moving into potential projects after the application that they may be displaced, and that they will not be entitled to assistance. Recipients can elect not to give this notice. If they do, move-ins may then be eligible for assistance if displaced.
 - Notice of Non-Displacement:
 - Informs households who will not be permanently displaced for the project of their rights, and of the terms and conditions under which they can occupy the property upon project completion. This notice is delivered in conjunction with the initiation of negotiations, which is the execution of the agreement.
 - Temporary Relocation Notice:
 - Informs households who will be temporarily relocated of their rights and of the conditions of their temporary move. Only required when a temporary move is planned. This notice may be combined with the Notice of Non-Displacement. The content requirements of this notice are provided at 24 CFR 1000.14(c)(2)(i)-(iv).

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- Notice of Eligibility:
 - Informs households to be displaced of their rights and levels of assistance provided by the URA. This notice is delivered in conjunction with the initiation of negotiations and is always required for displaced households.
 - 90-Day:
 - Informs displaced households of the date by which they must vacate the property. Displaced households may not normally be given less than 90 days to vacate their residence. If a specific date is not given with the 90-day notice, a further 30-day notice must be sent to indicate the specific date.
- ☒ Notices must be delivered in a timely manner.
- ☐ Notices may be issued by either the recipient or the owner. However, the recipient is ultimately responsible and must assure that timely and correct notices are given. HUD recommends that recipients, rather than owners, issue the notices. Notices must be personally served or sent by certified or registered first-class mail, return receipt requested.
- ☐ Residential Relocation: Replacement Housing Assistance under the URA
- When acquisition, rehabilitation or demolition causes a residential displacement, the recipient is responsible for making available to the person three comparable replacement dwellings and providing a replacement housing payment based on the comparable replacement dwelling most nearly representative of, and equal to, or better than, the property that the person is being displaced from.
 - The comparable replacement dwelling must be an actual unit which is available to the displaced person and meets HUD's definition of decent, safe and sanitary housing.
 - "Decent, safe and sanitary" is defined at 49 CFR 24.2(a)(8) as a dwelling that meets local housing and occupancy codes. Units that meet Section 8 Existing Housing Standards are considered to be up to Housing Quality Standards (HQS).
 - "Comparable replacement dwelling" is defined at 49 CFR 24.2(a)(6) and considers, among other things, size, condition, type of neighborhood and access to employment, public and commercial facilities.
 - Under the URA, eligibility for a replacement housing payment depends on the displaced person's time in occupancy (180 days for homeowner-occupant; 90 days for tenant).

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However, the occupancy requirements may be excepted under the conditions set out in 49 CFR 24.403(d). Also, a recipient must provide assistance to a displaced person who fails to meet the length of occupancy requirement when comparable replacement rental housing is not available at rental rates within the displaced person's financial means.

- Replacement housing payments for homeowner-occupants and tenants are covered at 49 CFR 24.401 and 24.402, respectively. Additional rules governing replacement housing payments are set out at 49 CFR 24.403. Where justified, replacement housing of last resort described in 49 CFR 24.404 may be used.
- Recipients may use IHBG grant funds to provide URA relocation assistance to persons displaced by acquisition, rehabilitation or demolition, for a project assisted with IHBG funds.
- Real Property Acquisition
 - The acquisition of real property for an IHBG-assisted activity is subject to the provisions of 49 CFR Part 24, subpart B.
 - The requirements of 49 CFR Part 24, subpart B, do not apply to so-called “voluntary acquisitions,” which include those acquisitions that meet the criteria described at 49 CFR 24.101(b).

NON-DISCRIMINATION AND EQUAL ACCESS

[NAHASDA Section 201 and § 1000.12; PIH Notice 2010-27; PIH Notice 2010-32]

Section 201 of NAHASDA provides that preference for tribal members and other Indian members is authorized under the statute. However, recipients should note that certain non-discrimination and equal access requirements do apply to IHBG recipients.

- Fair Housing and Equal Opportunity (FHEO)
 - Recipients must comply with the Federal laws, executive orders and regulations pertaining to fair housing and equal opportunity summarized below:
 - Title II of Civil Rights Act of 1968 (Indian Civil Rights Act)
 - The Indian Civil Rights Act applies to all Federally-recognized Indian tribes that exercise powers of self-governance.
 - Title VI of the Civil Rights Act of 1964, and Title VIII of the Civil Rights Act of 1968

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- These Acts apply to tribes not covered by the Indian Civil Rights Act. However, recipients may still limit housing assistance to Indian families or tribal members.
- Age Discrimination Act of 1975, as amended
 - Prohibits age discrimination in programs receiving Federal financial assistance. Age discrimination regulations are found at 24 CFR Part 146.
- Americans with Disabilities Act (ADA) (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225)
 - Provides comprehensive civil rights to individuals with disabilities in employment, accommodations, state/local government services and telecommunications.
 - Under the ADA, discrimination includes the failure to design and construct facilities (built for first occupancy after January 26, 1993) that are accessible to, and usable by, persons with disabilities.
 - The ADA also requires the removal of architectural and communication barriers that are structural in nature in existing facilities. Removal must be readily achievable, easy to accomplish and able to be carried out without much difficulty or expense.
- PIH Notice 2011-40 “*Limiting Housing to Indian Families or Tribal Members When Using Indian Housing Block Grant (IHBG) Funds*” provides information on how recipients do not violate the Fair Housing Act when limiting assistance to Indian families or providing preference to tribal members.
- PIH Notice 2014-08 “*Reinstatement and Revision of Accessibility Requirements for Native American Programs*” reminds tribes and TDHEs of the laws and regulations related to nondiscrimination and accessibility they need to abide by.

Q: Do the Americans with Disabilities Act of 1990 (ADA), Section 504 or the Architectural Barriers Act of 1968 apply to NAHASDA?

A: Title II of the ADA applies to “public entities” and tribes are not listed in the statute as a public entity. Thus, tribes are not covered by Title II of the ADA. However, a TDHE that is an agency or instrumentality of the state (such as a state-created IHA) would be covered by the ADA.

Section 504 is mentioned in the NAHASDA regulation and does apply. The NAHASDA regulation does not mention the Architectural Barriers Act and thus, this does not apply.

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SECTION 504

Section 504: Section 504 of the Rehabilitation Act of 1973 prohibits discrimination in federally assisted programs on the basis of handicap. Section 504 imposes requirements to ensure that "qualified individuals with handicaps" have access to programs and activities that receive Federal funds. Section 504 recipients and subrecipients include any entity that receives Federal funding (for example, a subrecipient or Community Housing Development Organization (CHDO)). The specific requirements under Section 504 are summarized in Exhibit 12-5.

- For any recipient or subrecipient principally involved in housing or social services, all of the activities of the agency -- not just those directly receiving Federal assistance -- are covered under Section 504.
- Contractors and vendors are subject to Section 504 requirements only in the work they do on behalf of a recipient or subrecipient.
- The ultimate beneficiary of the Federal assistance is not subject to Section 504 requirements.
- Under Section 504, recipients and subrecipients are not required to take actions that create undue financial and administrative burdens or alter the fundamental nature of the program.
- As stated earlier, PIH Notice 2014-08 "*Reinstatement and Revision of Accessibility Requirements for Native American Programs*" targets the discussion to recipients who are tribes or TDHEs. It outlines to tribes and TDHEs their obligation to comply with laws and regulations that provide for non-discrimination and accessibility in Federally-funded housing and non-housing programs for people with disabilities and provides examples and resources to enhance recipient's compliance efforts.

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Exhibit 12-5: Section 504 Requirements

| Removal of Physical Barriers |
|---|
| <ul style="list-style-type: none">• For new construction of multi-family projects, 5 percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2 percent of the units (but not less than one unit) must be accessible to individuals with sensory impairments.• The Section 504 definition of substantial rehabilitation multi-family projects includes construction in a project with 15 or more units for which the rehabilitation costs will be 75 percent or more of the replacement cost. In such developments, 5 percent of the units in the project (but not less than one unit) must be accessible to individuals with mobility impairments, and an additional 2 percent (but not less than one unit) must be accessible to individuals with sensory impairments.• When rehabilitation less extensive than substantial rehabilitation is undertaken, alterations must, to the maximum extent feasible, make the unit accessible to and usable by individuals with handicaps, until 5 percent of the units are accessible to people with mobility impairments. Alterations to common spaces must, to the maximum extent feasible, make the project accessible.• Accessible units must be, to the maximum extent feasible, distributed throughout projects and sites and must be available in a sufficient range of sizes and amenities so as to not limit choice.• Owners and managers of projects with accessible units must adopt suitable means to assure that information regarding the availability of accessible units reaches eligible individuals with handicaps. They also must take reasonable non-discriminatory steps to maximize use of such units by eligible individuals.• When an accessible unit becomes vacant, before offering the unit to a non-handicapped individual, the owner/manager should offer the unit: first, to a current occupant of the project requiring the accessibility feature; and second, to an eligible qualified applicant on the waiting list requiring the accessibility features.• The usual standards for ensuring compliance with Section 504 are the Uniform Federal Accessibility Standards (UFAS), although deviations are permitted in specific circumstances. |
| Provide Program Accessibility |
| <ul style="list-style-type: none">• Individuals with handicaps must be able to find out about, apply for and participate in Federally-assisted programs or activities.• Special communication systems may be needed for outreach and ongoing communication (e.g., Telecommunications Devices for the Deaf (TDD), materials on tape or in Braille, accessible locations for activities and meetings).• Policies and procedures must be non-discriminatory (e.g., housing providers may not ask people with handicaps questions not asked of all applicants, screen individuals with handicaps differently or assess an individual's ability to live independently). |
| Make Employment Accessible |
| <ul style="list-style-type: none">• Employers must not discriminate.• Employers must remove physical and administrative barriers to employment.• Employers must make reasonable accommodations for individuals with known handicaps (e.g., job restructuring, providing readers or sign interpreters, making facilities accessible). |

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Chapter 12: Other Federal Requirements

Administrative Requirements

- If recipients or subrecipients have 15 or more employees, they must:
 - designate a Section 504 Coordinator, and
 - notify program participants and employees of non-discrimination policies.
- All recipients and subrecipients must conduct self-evaluations of compliance with Section 504.

EMPLOYMENT AND CONTRACTING

[§ 1000.16 and § 1000.42]

NAHASDA requires that recipients comply with the regulations discussed below concerning employment and contracting opportunities. These regulations are further subdivided into the categories of equal opportunity and labor requirements.

Equal Opportunity (24 CFR 86.36(i))

- Beyond the non-discrimination provisions described earlier, Equal Opportunity regulations seek to ensure that employment opportunities generated by Federal funding are available to all persons on a fair basis.
- Recipients must comply with the following regulations to support equal opportunity for employment and contracting opportunities:
 - Equal Employment Opportunity, Executive Order 11246, as amended.
 - Prohibits discrimination against any employee or applicant for employment because of race, color, religion, sex or national origin. Provisions to enforce this prohibition must be included in all construction contracts exceeding \$10,000. Implementing regulations are found at 41 CFR Part 60.
 - IHBG recipients must ensure that funded contracts over \$200,000 be awarded, to the greatest extent feasible, to business concerns that are located in, or owned by, persons residing in the program service area.
 - Recipients should always keep proper documentation in program files to prove they have taken the following required steps for compliance with tribal preference and contracting laws.
- Recipients must also document the number and dollar value of all contracts awarded to businesses in which Indian preference was exercised.

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Chapter 12: Other Federal Requirements

- Recipients must document the mechanisms by which they ensured that contractors and subcontractors complied with Indian preferences for training, employment and contract awarding.
- Under Executive Orders 11625, 12138, and 12432, recipients must prescribe procedures for a minority outreach program to ensure the inclusion, to the maximum extent possible, of minorities and women, and entities owned by minorities and women, in all contracts (24 CFR 85.36(e)).
- IHBG recipients should evaluate the following administrative areas of their programs to ensure compliance with the various Equal Employment Opportunity regulations:
 - Recruitment;
 - Personnel policies and on-the-job practices;
 - Employment complaints; and
 - Subrecipient agreements (24 CFR 85.37).
 - Labor Requirements

Section 3

- Section 3 requires that, to the greatest extent feasible, opportunities for training and employment arising from Federal funding be provided to low-income persons residing in the program service area. Section 3 requirements can be found at 24 CFR Part 135
 - See 24 CFR 85.36(e), which provides guidance from HUD on acceptable practices.
- Recipients must prepare a Section 3 Plan (or equivalent) which outlines initiatives for local involvement in IHBG projects and make the Plan available to the public.
- Recipients must document their efforts to comply with Section 3 and their success at hiring low-income persons and at awarding contracts to Section 3 businesses.
- Pursuant to 24 CFR § 1000.42I, when an IHBG recipient is subject to a tribal law that provides for preferences in employment and contracting, the IHBG recipient is deemed to be in compliance with Section 3 requirements if the recipient complies with the tribal law. See Attachment 12-1, Program Guidance 2013-07 “*Indian Tribal Preference in Employment and Contracting in IHBG*”.

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WAGE AND LABOR STANDARDS

- ❑ Recipients must comply with certain Federal regulations on wage and labor standards for employment opportunities that are generated by, or otherwise linked to, an IHBG-funded activity. PIH Notice 2003-3 informs tribes that Davis Bacon or HUD-determined prevailing wage rates do not apply to contracts and agreements that are covered by tribal laws and regulations. If a tribe adopts laws or regulations requiring the payment of prevailing wage rates that are tribally determined, these rates and not Davis Bacon and Related Acts (DBRA) rates apply.
- ❑ Federal labor requirements are the result of several major pieces of legislation enacted and periodically amended by Congress and described below.
 - DBRA:
 - Contracts and agreements for assistance, sale or lease under NAHASDA must require prevailing wage rates determined by the Secretary of Labor under the Davis-Bacon Act be paid to laborers and mechanics employed in the development of affordable housing (§ 1000.16, 40 U.S.C. 276a to 276a-7). As noted above, Davis Bacon is not applicable for IHBG projects if tribal prevailing wage rates are adopted by the tribe. Program Guidance 2003-04 provides additional information on how recipients can apply their own prevailing wage rates.
 - Bona fide apprentices and volunteer (including sweat equity) labor are excluded from the DBRA wage requirements.
 - The Department of Labor makes determinations of these “prevailing wage rates” for each local area. In addition, HUD makes separate determinations known as “HUD-determined,” or prevailing wage rates for maintenance workers and design-related professionals and technicians (e.g. architects).
 - DBRA applies to any prime construction contract exceeding \$2,000. If the total cost of the primary contractor’s work is above this threshold, DBRA applies to the entire project (not just the contractor’s immediate scope of work). Recipients cannot separate projects into multiple small contracts to avoid DBRA requirements.
 - DBRA applies to homebuyer assistance programs if there is a prior agreement to use IHBG funds to purchase a newly constructed homebuyer unit.

Remember

DBRA applies to all rental housing non-maintenance activities, as it had applied under the 1937 Act Program.

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Chapter 12: Other Federal Requirements

- Contract Work Hours and Safety Standards Act, as amended (CWHSSA):
 - CWHSSA stipulates that mechanics, laborers, security guards and watchmen employed on Federally-assisted construction jobs be paid time and one-half for work in excess of 40 hours per week, and provides for the payment of liquidated damages where violations occur. This Act also addresses safety and healthy working conditions.
 - CWHSSA applies to all contracts over \$100,000 in value.
 - Volunteer labor may be exempt; guidance is available at 24 CFR Part 70.
 - Copeland (Anti-Kickback) Act (40 USC 276c) 24 Part 85.36(i):
 - Governs the allowable deductions from paychecks. This law makes it a criminal offense to induce anyone employed on a Federally-assisted project to relinquish any compensation to which he/she is entitled, and requires all contractors to submit weekly payrolls and statements of compliance.
 - Fair Labor Standards Act of 1938, as amended (FLSA):
 - Establishes the basic minimum wage for all work, and requires the payment of overtime at the rate of at least time and one-half. It also requires the payment of wages for the entire time that an employee is required or permitted to work and establishes child labor standards.
 - Minimum wage requirements under the Fair Labor Standards Act are applicable to all IHBG-assisted projects. However, the DBRA and CWHSSA wage and overtime requirements do not apply to:
 - Projects involving no construction (such as tenant-based rental assistance or homebuyer assistance with neither construction nor rehabilitation).
- Labor standards requirements are triggered regardless of whether IHBG funds are used for construction or non-construction costs
- Program Guidance 2004-16 “*All Programs: Transmittal of Labor Relations Letters LR 2004-01 and LR 2004-02*” transmits two Labor Relations letters issued by the Department’s Office of Labor Relations (OLR).

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Chapter 12: Other Federal Requirements

- LR 2004-1 discusses the streamlining of six of OLR's policies that pertain to HUD pre-determined wage rates; and
- LR 2004-2 outlines certain exclusions from Federal Labor Standards for tribes, TDHEs, IHAs and the Department of Hawaiian Homelands when they are engaging in construction or maintenance work using their own employees on projects funded under IHBG.

INDIAN PREFERENCE

[NAHASDA Section 201(b)(5), § 1000.50, § 1000.52, § 1000.54]

- IHBG funds are subject to section 7(b) of the Indian Self-Determination and Education Assistance Act. This Act requires recipients to make training, employment and contracting opportunities available to Indian persons to the *maximum extent feasible*. Also see Program Guidance 2013-07 "*Indian and Tribal Preferences in Employment and Contracting in IHBG*" Attachment 12-1 for additional information.

Q: NAHASDA funds are leveraged with other funds to help a homebuyer construct and purchase a home. Does Indian preference apply?

A: No, Indian preference requirements do not apply. A homebuyer is not subject to Indian preference in selecting a contractor.

Part 85 requirements do not apply to the homebuyer. Part 85 is only applicable to recipients and subrecipients.

- In accordance with 24 CFR 1000.52, recipients must:
 - Certify to HUD that the policies and procedures adopted by the recipient will provide preference in procurement activities consistent with section 7(b),
 - Advertise for bids or proposals limited to qualified Indian organizations and Indian-owned enterprises, or
 - Use two-stage preference procedures, as specified in 24 CFR 1000.52(c)(iii).
- Recipients must incorporate a preference clause in each contract awarded in connection with a project funded under IHBG (24 CFR 1000.52(c)(6)). This clause shall be:
 - The work to be performed under this contract is on a project subject to section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C 450e(b)) (the Indian Act). Section 7(b) requires that to the greatest extent feasible:

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Chapter 12: Other Federal Requirements

- Preferences and opportunities for training and employment shall be given to Indians, and
 - Preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises.
 - The parties to this contract shall comply with the provisions of section 7(b) of the Indian Act. In connection with this contract, the contractor shall, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned economic enterprises, and preferences and opportunities for training and employment to Indians.
 - The contractor shall include this section 7(b) clause in every subcontract in connection with the project; shall require subcontractors at each level to include this section 7(b) clause in every subcontract they execute in connection with the project; and shall, at the direction of the recipient, take appropriate action pursuant to the subcontract upon a finding by the recipient or HUD that the subcontractor has violated the section 7(b) clause of the Indian Act.
- Recipients may follow HUD-prescribed methods for resolving complaints that arise from Indian preferences, or they may follow tribal procedures that meet or exceed the following:
- Written and signed complaints must be submitted to the recipient within 20 calendar days of the date of the action or inaction that is the cause of the complaint.
 - Recipients must stamp the complaint with the date on which it was received and acknowledge receipt of the complaint.
 - Recipients must contact the complainant (by mail, telephone or in person) within 20 calendar days of receipt of the complaint in an attempt to resolve the dispute.
 - Within 30 calendar days of receipt of the complaint, the recipient must make a final determination on the complaint and notify the complainant in writing of its decision.

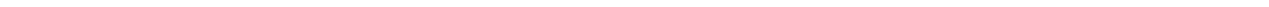
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- Section 101(k) of NAHASDA provides that notwithstanding any other provision of law, with respect to any grant (or portion of a grant) made on behalf of an Indian tribe under NAHASDA that is intended to benefit 1 Indian tribe, the tribal employment and contract preference laws (including regulations and tribal ordinances) adopted by the Indian tribe that receives the benefit shall apply with respect to the administration of the grant (or portion of a grant). Where a tribe has adopted a tribal preference law, the recipient will be required to comply with that tribe's law on employment and contracting preferences rather than the general Indian preference requirements that apply under section 7(b) of the Indian Self-Determination and Education Assistance Act.

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**ATTACHMENT 12-1:
PROGRAM GUIDANCE 2013-07 INDIAN TRIBAL
PREFERENCE IN EMPLOYMENT & CONTRACTING IN IHBG**





No. 2013-07 (R)
July 11, 2013

RECIPIENT GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: All Tribal Government Leaders and Tribally Designated Housing Entities

FROM: Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, PN

TOPIC: Indian and Tribal Preferences in Employment and Contracting in IHBG

Purpose: The purpose of this guidance is to provide tribes and tribally designated housing entities (TDHEs) with updated information on implementing regulatory changes relating to tribal preference in employment and contracting in the IHBG program. The guidance also addresses the distinction between Indian preference and tribal preference, and addresses requirements under Section 3 of the Housing and Urban Development Act of 1968 relating to economic opportunities for low- and very low-income persons.

Background: Section 101(k) of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), authorizes tribal preferences in employment and contracting when using IHBG funds. The NAHASDA final rule, published on December 3, 2012, amended 24 CFR Sections 1000.48, 1000.50, and 1000.52 to provide for tribal preference in employment and contracting. This guidance provides tribes and TDHEs with additional information on administering these revisions.

Indian Preference: IHBG regulations require tribes and TDHEs to comply with Section 7(b) of the Indian Self-Determination and Education Assistance Act (U.S.C. 450e(b)) and, to the greatest extent feasible, give preference in the award of contracts for projects funded under the IHBG program to Indian organizations and Indian-owned economic enterprises. The law requires Indian preference in training and employment and in the award of contracts and subcontracts.

Tribal Preference: When an Indian tribe has adopted a tribal preference law, regulation, or ordinance governing preferences in employment and contracting, that tribal preference law will govern any preferences in employment and contracting under the IHBG program. Such laws may, for instance, provide tribal members with preferential treatment over other Indians that are not members of the tribe in employment and contracting carried out under an IHBG grant. Tribal preference laws may also specify any preferences in reductions in workforce and layoffs.

Tribes and TDHEs that adopt a tribal preference law must comply with that tribal law in lieu of Indian preference requirements that would otherwise apply under Section 7(b) of the Indian Self-Determination and Education Assistance Act.

If a TDHE is the IHBG recipient, it must comply with the tribal preference laws of the beneficiary tribe. If the TDHE is authorized to issue regulations or ordinances under tribal law, any regulations or ordinances issued by the TDHE that provide for tribal preferences in employment and contracting will govern under the IHBG program.

Applicability of Other Requirements:

- a. Small Purchase Procurement:** Procurements that are less than the simplified acquisition threshold, recently increased to \$150,000, but equal to or greater than \$5,000, are considered small purchases under 24 CFR §85.36(d)(1). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. Recipients carrying out small purchase procurement must still comply with Indian preference or tribal preference requirements that are applicable.
- b. De Minimis Exception:** Procurements with a value less than \$5,000, known as "De Minimis procurement" or "Micro-Purchasing," are not subject to Indian preference requirements pursuant to 24 CFR §§1000.48(c) and 1000.52(d). Recipients are also exempt from complying with the general procurement requirements in 24 CFR §85.36 when carrying out De Minimis procurement. See the PIH Notice on *Micro-Purchasing* for additional information.
- c. Federal Supply Sources:** In accordance with Section 101(j) of NAHASDA, recipients may use federal supply sources made available by the General Services Administration (GSA), pursuant to 40 U.S.C. 501. Recipients must still comply with any Indian preference or tribal preference requirements that may be applicable when procuring goods and services through GSA's supply sources. See Program Guidance 2010-09 for additional information.
- d. Section 3:** Generally, if an IHBG recipient has projects or activities that exceed \$200,000 or more in HUD financial assistance, the recipient is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. 1701u), and HUD's implementing regulations at 24 CFR Part 135. Section 3 regulations require recipients to provide certain preferences in job training, employment, and contracting to low-income individuals.

HUD will be launching a new online Section 3 reporting system (60002) for the 2013 reporting period. The new system will resolve some of the technical issues encountered with the current system, will reduce user errors, and will decrease recipient burden. A series of trainings on the new 60002 reporting system will be offered in the coming weeks, and will be posted on the Section 3 webpage at www.hud.gov/section3. This site will also provide assistance if you are having technical difficulties.

The current Section 3 reporting system at:

<http://www5.hud.gov:63001/apps/po/e/srs/Public/form.cfm> **will no longer be available after July 1, 2013.** Additional guidance will be posted on the above webpage after July 1, 2013 for agencies that are unable to meet the reporting requirements before the system terminates.

If you have any questions or concerns, please send an email to: section3@hud.gov. HUD's Section 3 office will make every effort to respond to you within 2 business days.

Recipients must submit a completed Section 3 Summary Report (HUD-60002) describing employment, training, and contracting opportunities provided to low-, and very low-income persons, as required by 24 CFR Section 135.90. The Section 3 Summary Report (HUD-60002) is required to be submitted to HUD's Office of Fair Housing and Equal Opportunity at the same time the recipient submits its Annual Performance Report (APR) to the Area Office of Native American Programs (ONAP).

Exemption: Recipients that are subject to and complying with tribal employment and contract preference laws adopted in accordance with Section 101(k) of NAHASDA are deemed to be in compliance with the requirements of Section 3. Therefore, such recipients do not have to establish preferences for applicants claiming Section 3 status when hiring or procuring goods or services in order to meet the requirements of Section 3. These recipients also are not required to submit the annual HUD-60002 form.

Indian Preference Procurement Requirements: As stated above, in the absence of tribal employment and contracting preference laws, a recipient must, to the greatest extent feasible, give preference and opportunities for training and employment in connection with the administration of NAHASDA grants in accordance with the Indian preference requirements of Section 7(b) of the Indian Self-Determination and Education Assistance Act. Recipients may comply with Indian preference requirements by:

- Certifying to HUD that the policies and procedures adopted by the recipient will provide preference in procurement activities. (An Indian preference policy that was previously approved by HUD for a recipient will meet the requirements of this section);
- For procurement by sealed bids, advertising for bids or proposals limited to qualified Indian organizations and Indian-owned enterprises; or
- Using a two-stage preference procedure as follows:

Stage 1. Invite or otherwise solicit Indian-owned economic enterprises to submit a statement of intent to respond to a bid announcement or request for proposals limited to Indian-owned firms.

Stage 2. If responses are received from more than one Indian enterprise found to be qualified, advertise for bids or proposals limited to Indian organizations and Indian-owned economic enterprises.

All preferences must be publicly announced in the advertisement and bidding or proposal solicitation documents and the bidding and proposal documents. If fewer than two responsive, qualified organizations or enterprises submit a statement of intent, a bid, or a proposal to perform the contract at a reasonable cost, then the recipient must:

- (i) Re-advertise the contract, limiting the solicitation to qualified Indian organizations and Indian-owned enterprises; or
- (ii) Re-advertise the contract without limiting the advertisement for bids or proposals to Indian organizations and Indian-owned economic enterprises; or
- (iii) If only one approvable bid or proposal is received, the tribe or TDHE should request Area ONAP review and approval of the proposed contract and related procurement documents in order to award the contract to the single bidder or offeror.

A recipient may require information of prospective contractors seeking to qualify as Indian organizations or Indian-owned economic enterprises. Examples of such information may include:

- (i) evidence showing fully the extent of Indian ownership and interest; (ii) evidence of structure, management, and financing affecting the Indian character of the enterprise, including major subcontracts and purchase agreements; materials or equipment supply arrangements; management salary or profit-sharing arrangements and evidence showing the effect of these on the extent of Indian ownership and interest; and (iii) evidence sufficient to demonstrate to the satisfaction of the recipient that the prospective contractor has the technical, administrative, and financial capability to perform contract work of the size and type involved.

Recipients must incorporate the following, commonly referred to as the Section 7(b) clause, in each contract awarded in connection with a funded project:

- (i) The work to be performed under this contract is on a project subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) requires that, to the greatest extent feasible:

- (A) Preferences and opportunities for training and employment shall be given to Indians; and

- (B) Preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises.

- (ii) The parties to this contract shall comply with the provisions of Section 7(b) of the Indian Self-Determination and Education Assistance Act.

- (iii) In connection with this contract, the contractor shall, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned economic enterprises, and preferences and opportunities for training and employment to Indians.

(iv) The contractor shall include this Section 7(b) clause in every subcontract in connection with the project; shall require subcontractors at each level to include this Section 7(b) clause in every subcontract they execute in connection with the project; and shall, at the direction of the recipient, take appropriate action pursuant to the subcontract upon a finding by the recipient or HUD that the subcontractor has violated the Section 7(b) clause.

If you have questions or need further assistance please contact your Area ONAP.

**ATTACHMENT 12-2:
PIH NOTICE 2015-01: INDIAN HOUSING BLOCK GRANT (IHBG)
PROGRAM: GUIDANCE AND PROCEDURES FOR ENVIRONMENTAL
REVIEWS UNDER PART 50**



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

Special Attention of:

Notice: PIH-2015-01

ONAP Administrators and Staff,
Field Environmental Officers, and
Indian Housing Block Grant
(IHBG) Recipients

Issued: January 9, 2015

Expires: Effective until revoked,
superseded, or rescinded

Cross Reference: 24 CFR §1000.20(a), Notices PIH 1999-37(ONAP), PIH 2000-37(TDHE),
PIH 2001-31(TDHE) and PIH 2002-25(TDHE)

Subject: Indian Housing Block Grant (IHBG) Program: Guidance and Procedures for
Environmental Reviews under Part 50

I. Introduction

A. Purpose

This Public and Indian Housing (PIH) Notice rescinds Notice PIH 1999-37, issued August 19, 1999, and the three subsequent Notices that either extended or reinstated that Notice.

This Notice provides instructions on conducting environmental reviews under 24 CFR Part 50 for tribes that do not assume these responsibilities under 24 CFR Part 58. In addition, it also describes the responsibilities of the HUD Area Office of Native American Programs (AONAP) and defines the information to be provided by recipients to the AONAP Administrator to facilitate HUD's compliance with environmental review responsibilities under 24 CFR Part 50.

B. Authority

Section 105 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) (25 U.S.C. 4115) grants authority for tribes to assume environmental review responsibilities, which are set out in HUD's regulations at 24 CFR Part 58. The regulations at 24 CFR 58.4(c) contain specific responsibilities of Indian tribes.

IHBG program regulations at 24 CFR §1000.20(a) state that a HUD environmental review must be completed for any IHBG activities not excluded from review under 24 CFR §50.19(b) **before** a recipient may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or non-HUD funds used in conjunction with such IHBG-assisted activities with respect to the property. Regulations at 24 CFR §1000.20(a) provide Indian tribes the option of having HUD carry out the environmental review responsibilities of a project under 24 CFR Part 50 or assuming the environmental responsibilities under 24 CFR Part 58. Under 24 CFR Part 50 the

recipient provides HUD with all available, relevant information necessary for HUD to perform the environmental review. By contrast, under 24 CFR Part 58 the tribe assumes all of the responsibilities for the environmental review, decision making, and actions as specified and required in the regulations.

If an Indian tribe declines to assume the environmental review responsibilities, HUD will perform the environmental review in accordance with 24 CFR Part 50. Tribes that select this option are to submit an Environmental Assurance that the applicant agrees to assist HUD to comply with 24 CFR Part 50 (see Attachment A).

This Notice uses the terms and thresholds in 24 CFR Part 50 to determine which environmental review procedures apply to particular types of activities. This Notice does not address the eligibility of any activity under the IHBG program. Affordable housing activities that are eligible for IHBG funding are set forth in Section 202 of NAHASDA.

C. Timing and Outcome

HUD's award of IHBG funds to a recipient does not constitute approval of any proposed sites. The results of the environmental review may require that proposed activities be modified or that proposed sites be rejected. **Recipients must not undertake or commit HUD or non-HUD funds for a project before HUD completes the environmental review.**

After funds are awarded, a tribe may choose to not assume environmental review responsibilities under 24 CFR Part 58. Instead, a recipient may request reviews pursuant to 24 CFR 50. If a part 50 review is requested, the tribe supplies HUD with all available relevant information necessary for HUD to perform the environmental review. HUD's ability to conduct expeditious and timely environmental reviews under 24 CFR Part 50 is dependent on the availability of resources; therefore, the tribe should notify HUD as soon as possible of its intent to have HUD conduct the environmental review. The tribe must submit the Environmental Assurance in Attachment A to HUD to decline accepting the environmental review responsibilities under 24 CFR Part 58; otherwise, the tribe will assume the environmental responsibilities under 24 CFR Part 58.

D. Definitions

1. HUD Approval - written approval by the AONAP Director in the AONAP jurisdiction in which the IHBG project is located. AONAP Directors handle all responsibilities related to the purpose of this Notice, including rejections of activities with significant adverse environmental impacts.
2. HUD Approving Official - the AONAP Administrator serves as the HUD approving official as defined in 24 CFR §50.2 for the IHBG program within the HUD field office jurisdiction.

3. Qualified Data Source - may include any Federal, State, local, or tribal agency with expertise or experience in environmental protection or any other source qualified to provide reliable information on the particular subject.

II. Responsibilities

A. Recipient's Environmental Responsibility

Recipients shall:

1. Notify HUD of the tribe's intention to have HUD perform the environmental review under 24 CFR Part 50 by submitting Attachment A – Environmental Assurance of Compliance with 24 CFR §50.3(h) with the grant agreement;
2. Supply HUD with all available, relevant information necessary for HUD to perform the environmental review required by 24 CFR Part 50 for each project as specified in Attachment B or Attachment C of this Notice;
3. Carry out mitigating measures required by HUD or select an alternate eligible property;
4. Not acquire, rehabilitate, convert, lease, repair, demolish, or construct property, nor commit or expend HUD or non-HUD funds for these program activities with respect to any eligible property, until HUD approval of the property is received. Ensure that any subrecipient, or any contractor of the recipient or subrecipient, also does not commit or expend HUD or non-HUD funds.

B. HUD AONAP Administrator and Staff Responsibilities

The AONAP Administrator and staff shall:

1. Communicate with the IHBG recipient on the environmental review responsibilities and provide adequate outreach on how to obtain the environmental information that the recipient must supply to HUD;
2. Ensure that the Environmental Assurance is returned to the Area ONAP with the Grant Agreement;
3. Ensure that the Grant Agreement contains or, as appropriate, has attached to it the following items:
 - a. An appendix containing a copy of this Notice;
 - b. The name, address, phone, and fax numbers of the AONAP Administrator to whom recipients must supply the environmental information, and from whom recipients obtain environmental approval of the project; and
 - c. A schedule for the recipient's required submission of environmental information to the AONAP Administrator as set forth in this Notice.

4. Evaluate any information (in accordance with 24 CFR §50.32) supplied by the recipient or its contractor, be responsible for its accuracy, supplement the information as necessary, and make the environmental determinations and the environmental finding;
5. Establish, as necessary (in accordance with 24 CFR §50.22), commitments for environmental management and monitoring of the implementation of mitigation and other safeguards;
6. Complete the environmental review in accordance with 24 CFR Part 50 using the HUD Environmental Review Online System (HEROS);
 - upload the information provided by the recipient or other sources used for completing the environmental analysis and findings into HEROS;
 - obtain certification from the AONAP Administrator as the HUD Approving Official; and
 - allow the Regional Environmental Officer (REO) or Field Environmental Officer (FEO) to review environmental assessments for projects with 200 or more units prior to certification from the AONAP Administrator.
7. AONAP must maintain this environmental review record and make it available upon request.

III. Basic Environmental Requirements

A. Levels of Environmental Review

There are four levels of environmental review under 24 CFR Part 50, each with different documentation requirements:

1. Categorically Excluded from National Environmental Policy Act (NEPA), Not Subject to the Laws and Authorities;
2. Categorically Excluded from NEPA, Subject to the Laws and Authorities;
3. Environmental Assessment; and
4. Environmental Impact Statement

a. Categorically Excluded from NEPA, Not Subject to the Laws and Authorities

The regulation at 24 CFR §50.19(b) lists the activities that do not require environmental review under the other laws and authorities cited at 24 CFR §50.4 or under NEPA except in extraordinary circumstances (24 CFR §50.20(b)). Recipients

may commit and expend funds for the following activities after HUD documents the categorical exclusion and approves the project:

- 1.) Environmental and other studies, resource identification and the development of plans and strategies;
- 2.) Information and financial advisory services;
- 3.) Administrative and management expenses;
- 4.) Public services that will not have a physical impact or result in any physical changes;
- 5.) Inspections and testing of properties for hazards or defects;
- 6.) Purchase of insurance;
- 7.) Purchase of tools;
- 8.) Engineering or design costs;
- 9.) Technical assistance and training;
- 10.) Assistance for temporary or permanent improvements that do not alter environmental conditions and are limited to protection, repair or restoration activities necessary only to control or arrest the effects from disasters or imminent threats to public safety including those resulting from physical deterioration;
- 11.) Tenant-based rental assistance;
- 12.) Supportive services including, but not limited to, health care, housing services, permanent housing placement, day care, nutritional services, short-term payments for rent/mortgage/utility costs, and assistance in gaining access to local, State, and Federal government benefits and services;
- 13.) Operating costs including maintenance, security, operation, utilities, furnishings, supplies, equipment*, staff training and recruitment and other incidental costs;
- 14.) Economic development activities, including but not limited to, equipment purchase*, inventory financing, interest subsidy, operating expenses and similar costs not associated with construction or physical expansion of existing facilities;
- 15.) Activities to assist homeownership of existing dwelling units or dwelling units under construction, including closing costs and down payment assistance, interest buy downs, and similar activities that result in the transfer of title to the property

referenced in 24 CFR §50.19(b)(15). These activities are subject to the requirements of: the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128) as amended by the National Flood Insurance Reform Act of 1994; the Coastal Barrier Resources Act, as amended by the Coastal Barrier Improvement Act of 1990 (16 U.S.C. 3501 et. seq.); and 24 CFR §51.303(a)(3) Airport Runway Clear Zones and Clear Zones; and

16.) Housing pre-development costs including legal, consulting, developer, and other costs related to site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

- * Equipment purchased as part of operating costs or economic development activities is subject to compliance with the requirements of the Flood Disaster Protection Act of 1973 as amended by the National Flood Insurance Reform Act of 1994 (24 CFR §§50.19(b)(13) and (14)). If equipment is federally assisted and located within the special flood hazard area, flood insurance is required.

Documentation

For “Categorically Excluded, Not Subject To the Laws and Authorities” activities, HUD will document the categorical exclusion in HEROS. The tribe or tribally designated housing entity (TDHE) shall submit to HUD a project description, including a list of activities to be undertaken, the estimated total project cost, the amount of HUD funding to be used towards the project, and categorically excluded activities. For activities that require additional compliance as discussed above, the tribe or TDHE must also submit qualified data sources to the ONAP Administrator using Attachment B as appropriate. The ONAP Administrator or his or her designee will make the appropriate determination using Attachment B.

If you have any questions about whether an activity identified in your Indian Housing Plan requires submission of documentation to HUD, contact the Area ONAP staff before you commit IHBG, local, or other funds to the activity.

b. Categorically Excluded from NEPA, Subject to Laws and Authorities

The regulation at 24 CFR §50.20(a) lists the following relevant categorically excluded activities subject to the Federal laws and authorities cited at 24 CFR §50.4:

- 1.) Special projects directed to the removal of material and architectural barriers that restrict the mobility of and accessibility to elderly and persons with disabilities;
- 2.) Rehabilitation of existing buildings and improvements when the following conditions are met:

- i. In the case of a building for residential use (with one to four units), the density is not increased beyond four units, the land use is not changed, and the footprint of the building is not increased in the floodplain or a wetland;
- ii. In the case of multifamily residential buildings: (A) unit density is not changed more than 20 percent; (B) the project does not involve changes in land use from residential to non-residential; and (C) the estimated cost of rehabilitation is less than 75 percent of the total estimated cost of replacement after rehabilitation; and
- iii. In the case of non-residential structures, including commercial, industrial, and public buildings: (A) the facilities and improvements are in place and will not be changed in size or capacity by more than 20 percent; and (B) the activity does not involve a change in land use, such as from non-residential to residential, commercial to industrial, or from one industrial use to another.

3.) Individual actions:

- i. An individual action on up to four dwelling units where there is a maximum of four units on any one site. The units can be four one-unit buildings or one four-unit building or any combination in between; or
- ii. An individual action on a project of five or more units developed on scattered sites when the sites are more than 2,000 feet apart, and there are not more than four units on any one site.

Note: Paragraphs 3.i. and ii. do not apply to the rehabilitation of a building for residential use (with one to four units). That rehabilitation is categorically excluded if it meets the conditions in paragraph 2.i. above.

- 4.) Acquisition (including leasing) or disposition of, or equity loans on, an existing structure, or acquisition (including leasing) of vacant land, provided that the structure or land acquired, financed, or disposed of will be retained for the same use.

Documentation

HUD will document the environmental review in HEROS. The recipient must provide information from Attachment C as appropriate.

c. Environmental Assessment

All other activities require an Environmental Assessment, unless the project is determined to have a significant impact on the human environment; would provide a site for hospitals or nursing homes containing a total of 2,500 or more beds; or would involve 2,500 or more

housing units, in which case HUD must prepare an environmental impact statement (24 CFR 50.42).

Documentation

HUD will document the environmental review in HEROS. The recipient must provide information to HUD on all questions in Attachment C.

d. Environmental Impact Statement

HUD will prepare an environmental impact statement for projects deemed to have a significant impact on the human environment and for projects that involve 2,500 or more housing units or beds. It is the policy of the Department to reject proposals that have significant adverse environmental impacts, and to encourage the modification of projects to enhance environmental quality and minimize environmental harm (24 CFR §50.3(a)).

B. Qualified Data Sources

Recipients are encouraged to obtain information at the earliest possible stage. The guidance in Attachment C should be followed to provide HUD with information pertaining to compliance with the Federal environmental laws and authorities for projects that are categorically excluded from NEPA, but are subject to laws and authorities at 24 CFR §50.4, and for environmental assessments. Attachment B should be used for homebuyer assistance activities for existing units or units already under construction or equipment purchase. Information provided by recipients must be from a qualified data source. A single letter from a qualified source could possibly provide threshold information for several of the applicable Federal environmental laws and authorities.

IV. Conclusion

If a tribe chooses not to assume environmental review responsibility under 24 CFR Part 58, a recipient shall supply HUD with all available relevant information necessary for HUD to perform the environmental review under 24 CFR Part 50. HUD retains all decision-making authority, but relies on the tribe or TDHE to provide information required to complete the environmental review. Tribes that select this option are to submit an Environmental Assurance that the applicant agrees to assist HUD to comply with 24 CFR Part 50. **Recipients are strongly cautioned not to undertake or commit funds for acquisition, demolition, or development of proposed properties before HUD's approval of specific properties or areas.**

/s/

Jemine A. Bryon, Acting Assistant Secretary for
Public and Indian Housing

Attachment A

ENVIRONMENTAL ASSURANCE OF COMPLIANCE WITH 24 CFR §50.3 (h)

Complete only if your tribe is not assuming environmental responsibilities under 24 CFR Part 58.

The undersigned agrees to assist the Department of Housing and Urban Development (HUD) in complying with the requirements of 24 CFR Part 50 – Protection and Enhancement of Environmental Quality with respect to the projects or activities included in Program Number _____ . As part of this assistance, the Indian tribe, or Tribally Designated Housing Entity on its behalf, shall:

- (1) Supply HUD with all available relevant information necessary for HUD to perform the environmental review required by 24 CFR Part 50 for each project;
- (2) Carry out mitigating measures required by HUD or select an alternative property; and,
- (3) Not acquire, rehabilitate, convert, lease, repair or construct property, nor commit any funds, HUD or non-HUD, for these program activities with respect to any eligible property, until HUD approval of the property is received.

NAME & TITLE: _____
(type or print)

SIGNATURE & DATE: _____

Attachment B

ENVIRONMENTAL REVIEW INFORMATION: Homebuyer Assistance Program (section 1) and Equipment Purchase (section 2) under the Indian Housing Block Grant Program

Section 1: Homebuyer Assistance Program (existing housing units without rehabilitation)

Provide documentation as identified in “type of documentation” for **each housing unit**. HUD may request additional information or clarification when conducting the environmental review.

Project Address: _____

Use of funds (e.g., down payment, gap financing) _____ Amount: _____

| Documentation Attached: | Law or Authority | Type of Documentation |
|------------------------------|-------------------------------|--|
| <input type="checkbox"/> Yes | Coastal Barrier Resources Act | - Coastal Barrier Resources Act (CBRA) Map with project site identified; or - Statement that the project is not in a state with Coastal Barrier Resources ¹ |
| <input type="checkbox"/> Yes | Flood Insurance | - Flood Insurance Rate Map with project site identified. - Documentation of flood insurance if the unit is in a 100 year floodplain |
| <input type="checkbox"/> Yes | Airport Clear Zones | - Map showing the site relative to any airports and the Accident Potential Zone (APZ) or Runway Protection Zone/Clear Zone (RPZ/CZ) or documentation from a qualified data source - A copy of the disclosure statement signed by the purchaser if unit is in a RPZ/CZ |

¹ Only Alabama, Connecticut, Delaware, Florida, Georgia, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, New Jersey, New York, North Carolina, Ohio, Puerto Rico, Rhode Island, South Carolina, Texas, the Virgin Islands, Virginia, and Wisconsin have Coastal Barrier Resources System units. See <http://www.fws.gov/cbra/Maps/index.html> for maps.

Section 2: Equipment Purchase

Provide documentation as identified in “type of documentation” for equipment to be purchased. HUD may request additional information or clarification when we conduct the environmental review.

Project Address: _____

Project description _____ Amount: _____

| Documentation Attached: | Law or Authority | Type of Documentation |
|------------------------------|------------------|--|
| <input type="checkbox"/> Yes | Floodplain | - Flood Insurance Rate Map with project site identified. - Documentation of flood insurance if the unit is in a 100 year floodplain |

CHAPTER 13: EFFECTIVE FINANCIAL MANAGEMENT

This chapter covers:

- ***Financial Management Controls in compliance with 2 Part 200.302;***
- ***Budgeting in accordance with § 1000.236, 238 and 239;***
- ***Cost Principals in compliance with 2 CFR § 200.400-447;***
- ***Procurement;***
- ***Debarred Contractors;***
- ***LOCCS;***
- ***Investments;***
- ***Obligation of Funds;***
- ***Calculating Program Income in compliance with § 1000.62 and § 1000.64; and***
- ***Required audits in accordance with § 1000.544 and § 1000.548.***

WHAT IS FINANCIAL MANAGEMENT?

- Housing is a business. As such, it requires sound financial management to run smoothly. Of all the programs in Indian Country, housing assistance can be the most complex when it comes to financial management.
- The tribal government often sees its role as a recipient as the organization that can obtain grant funds from HUD to build, maintain and rehabilitate housing for its members. While it is all of these, as a recipient, it is also in the property management business.
- Depending on the number of units, the recipient may operate a small business with few staff or a complex entity that is among the area's largest employers or anything in between.
- The people charged with responsibility for directing this business are the recipient's governing board. They, through the Executive Director, Tribal Administrator, or Housing Director and staff, administer an expensive corporation. They must preserve, conserve and augment the housing assets of the corporation for the benefit of the community. Like any business, a tribe's housing operation can succeed or fail. Success requires diligence in adhering to a business orientation. That, in turn, requires sound financial management.

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- ❑ Most tribal programs provide services that meet the immediate needs of tribal members. For example, health services, education, job training, day care, alcohol and family counseling, and other programs funded by grants and tribal dollars are generally heavily subsidized. In the provision of these types of services, there is no financial relationship and generally no on-going relationship once the service is rendered.
- ❑ However, the Indian Housing Block Grant (IHBG) recipient, in providing housing, is also providing a service as well as delivering a product that requires payments from its members. These payments keep the program viable and should give the tribal members as tenants and homebuyers an opportunity to see a "return" for their "investment."
- ❑ The recipient really resembles a non-profit corporation that rolls its revenues (income derived from tenant/homebuyer payments and subsidies) back into the program to keep it self-generating.
- ❑ Since the tenants and homebuyers make a contribution for the products they receive, the recipient has the responsibility and fiduciary trust to see to it that these dollars are spent wisely and are allocated for the intended purposes.

EFFECTIVE FINANCIAL SYSTEMS

- ❑ Regardless of whether a recipient elects to maintain an internal accounting staff or hire a fee accountant, the recipient has the responsibility for:
 - Maintaining daily transactions and historical files;
 - Monitoring operating, development and modernization costs to prevent cost over-runs;
 - Preparing operating and development budgets in accordance with Indian Housing Plan (IHP) requirements;
 - Preparing requisitions for funds through the Line of Credit Control System (LOCCS);
 - Preparing cash forecasts to determine the amount of funds to be either requisitioned or invested;
 - Preparing internal and external reports; and
 - Recording payments and charges for each tenant/homebuyer. As the recipient of IHBG funds, you should have financial management policies and procedures that include internal controls. Even though recipients are no longer required to comply with HUD

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Handbooks, it is still an excellent idea to use the handbooks as guides. For example, internal financial management controls are described in HUD Handbook 7460.1; Ch.3, sec.4. These controls address provisions for the following:

- Cash collections;
- Case disbursements;
- Payroll disbursements;
- Assets;
- Petty cash funds; and
- Self-monitoring and evaluation procedures.

The components which make up the financial operation of a recipient are:

- Finance, which is the actual provision of funds, and
- Accounting, which provides a system that allows the recipient to track all of its financial activities, including assets, liabilities, equity and surplus, income and expenses.

A recipient should consider its staff and accounting capabilities before implementing its own internal accounting program. Since having trained accounting technicians on staff can be expensive, a recipient may not be able to perform its own accounting functions. Recipients who do not have in-house accounting capabilities may wish to hire the services of a fee accountant.

- A fee accountant provides accounting services for a fee. Fee accountants are obtained through competitive negotiations in compliance with the recipient's procurement procedures.
- A fee accountant should be able to:
 - ⇒ Maintain recipient operations, transactions and historical records, as well as monitor development, operating and modernization programs;
 - ⇒ Prepare monthly, quarterly and annual financial reports;
 - ⇒ Assist in planning and budgeting;

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- ⇒ Compute receivables and disbursements for cash control; and
- ⇒ Provide staff training.
- The main purpose of maintaining accurate accounting records is to establish fiscal control.
 - The accounting function enhances fiscal control by maintaining internal records of all recipient transactions.
 - The maintenance of proper internal accounting records:
 - ⇒ Provides a means to trace receipts, disbursements and bank account balances;
 - ⇒ Provides a reasonably accurate picture of the receipts and disbursements by project or program for monitoring purposes;
 - ⇒ Enables a recipient to check reports prepared in-house or by fee accountants;
 - ⇒ Provides an accurate accounting of the financial status of each tenant/homebuyer relative to amounts billed, paid and owed; and
 - ⇒ Tracks investments and income.
 - Help monitor program performance. Program performance monitoring ensures that the recipient is:
 - ⇒ Carrying out statutory, regulatory and contractual obligations;
 - ⇒ Avoiding mismanagement, waste, or fraud; and
 - ⇒ Adequately protecting the recipient's interest and investments.
 - Control cash flow. All cash collected (receipts) and all cash disbursed by the recipient must be recorded in their respective registers.
 - ⇒ This summary provides a record of the cash received and cash disbursed by the recipient.
 - ⇒ Cash control procedures are established to reconcile cash transactions.

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- ⇒ Once the Cash Control Register is posted, up-to-date information is provided on the overall cash position and where cash is located; i.e., checking accounts, savings accounts and/or investments.
- Analyze and forecast cash flow and comply with reporting requirements. Cash flow analysis allows the recipient to determine when:
 - ⇒ Funds are going to be received and spent;
 - ⇒ Funds should be requisitioned;
 - ⇒ Will be available for the payment of bills; and
 - ⇒ If funds will be available for investment.
- The recipient's main accounting record is the General Ledger. The General Ledger states the recipient's financial position. All items recorded in the General Ledger originate from three sources:
 - Cash receipt register – records cash collections,
 - Cash disbursement register – records cash disbursements, and
 - Journal voucher – records all other transactions.
- The General Ledger lists all assets, liabilities, equities and surplus, revenue and expenses.

BUDGETING

Budgeting is comparing planned expenditures to projected revenues. A budget is a realistic estimate of operating receipts and expenditures for a given period of time and should be used as a plan of operation and a monitoring tool to measure a recipient's performance. It is an instrument through which the recipient expresses its thoughts and actions as to proposed activities, including overhead factors, and estimates and assigns available resources to accomplish planned objectives and goals.

The purpose of the budget as a financial summary and analysis of immediate and long-range operating programs and plans is to provide the recipient with an effective instrument to control operations and achieve operating objectives in a balanced and business-like manner.

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- ❑ Budgeting decisions are based on information gathered from several different sources. These include:
 - Historical data – information about prior year expenses, contracts and other available recipient budgeting information such as the last year’s Indian Housing Plan (IHP). This data must be consistently updated with current contracts and inflation costs.
 - HUD requirements – controls placed by HUD on expenditures and performance as defined in the IHP format.
 - Anticipated needs and future project activities – projections of necessary equipment replacement, repairs, training, utility costs, and other expense information known by a recipient prior to submitting the IHP.
 - Salary and staffing needs – increases in salary due to inflation and job responsibility must be taken into account. An increase or decrease in the number of units being served will also affect salary budgeting.

- ❑ Section 102(b)(2)(C) of NAHASDA states that the recipient is required to submit:
 - An identification and a description of the financial resources reasonably available to the recipient to carry out the purposes of the Act, including an explanation of the manner in which amounts made available will leverage additional resources, and
 - The uses to which those resources will be committed, including eligible and required affordable housing activities under Title II and administrative expenses.

The budget information required for the IHP provides an estimate of costs. For a sample of what a tribe/TDHE budget outline may look like please see the following chart.

OPERATING BUDGET

| Grant Number: | | | |
|-------------------------------------|----------------|---|---------------|
| Fiscal Year Ending: 00/00/00 | | | |
| Line | Account | Description | Amount |
| 1 | | <i>Administration and Planning</i> | |
| 2 | 01-4170 | Accounting | |
| 3 | 01-4191 | Advertising and Public Relations | |
| 4 | 01-4120 | Advisory Council | |
| 5 | 01-4171 | Audit Services | |
| 6 | 01-4180 | Communications | |
| 7 | 01-4197 | Contractual | |

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| | | | |
|-------------|----------------|--|---------------|
| 8 | 01-4550 | Employee Morale, Health and Welfare Costs | |
| 9 | 01-4196 | Equipment – Administrative | |
| 10 | 01-4440 | Other Capital Expenditures | |
| 11 | 01-4540 | Fringe | |
| 12 | 01-4510 | Insurance | |
| 13 | 01-4135 | Interest Expense | |
| 14 | 01-4130 | Legal | |
| 15 | 01-4410 | Maintenance, Operations and Repairs | |
| 16 | 01-4420 | Materials and Supplies – Maintenance | |
| 17 | 01-4194 | Memberships, Subscriptions and Professional Services | |
| 18 | 01-4110 | Personnel (Salaries) | |
| 19 | 01-4192 | Professional Services Costs | |
| 20 | 01-4195 | Publications and Printing | |
| 21 | 01-4193 | Materials and Supplies – Administration | |
| 22 | 01-4520 | Taxes, PILOTs and User Fee | |
| Line | Account | Description | Amount |
| 23 | 01-4150 | Travel Costs | |
| 24 | 01-4140 | Training | |
| 25 | 01-4530 | Utilities | |
| 26 | 01-4190 | Other | |
| 27 | | Total Administration and Planning | |
| 30 | 01-5200 | Indirect Costs | |
| 31 | | Total | |
| 32 | | Other Activities | |
| 33 | 01-4600 | Modernization '37 Act Units | |
| 34 | 01-4700 | Rental/Homeownership Construction | |
| 35 | 01-4800 | Rental/Homeownership Acquisition | |
| 36 | 01-4850 | Rental/Homeownership Rehabilitation | |
| 37 | 01-4910 | Housing Services | |
| 38 | 01-4920 | Housing Management Services | |
| 39 | 01-4930 | Crime Prevention and Safety | |
| 40 | 01-4940 | Model Activities | |
| 41 | 01-4950 | Other | |
| 42 | | Total Other Activities | |
| 43 | | Total Budget | |
| 44 | 01-7010 | Reserves | |

- Common sense tells us that budget planning should begin early in the "Current Budget Year." This calls for coordinated efforts by principal staff members, the Executive Director and the Board. It will help if staff assignments for planning and preparation of your budget

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are made to each department within the recipient organization.

- **Example:** Department supervisors should outline major operating problem areas and recommend specific corrective actions and improvement programs. The maintenance supervisor should develop plans and programs for routine and non-routine maintenance of physical properties and essential property, etc.
- Under the U.S. Housing Act of 1937, grantees were required to use the HUD accounting system that consisted of several major elements, including operating revenues, operating expenses, operating subsidies and operating reserves. Operating subsidies from HUD were calculated using the complicated Performance Funding System (PFS).
- Now under NAHASDA, there are only two major categories:
- Sources of funds for NAHASDA activities, and
 - Allocation of funds for NAHASDA activities.
- The HUD prescribed form for submitting an operating budget is now a simple two-page table included as Table 2 of the 1 Year IHP format.
- A copy of the One-Year IHP/APR combined format along with the instructions for completing the plan is included in the attachments in Chapter 9.

OMB COST PRINCIPALS

[§ 1000.26, § 1000.28]

- The Federal government's Office of Management and Budget (OMB) is an agency of the Executive Office of the President.
- OMB previously published circulars regarding administrative requirements which have been codified in 2 CFR Part 200.
- Section § 1000.26 states that recipients shall comply with the OMB's administrative requirements located at "2 CFR Part 200 Subpart E Cost Principals."

Q: Can TDHE Board of Commissioner (BOC) members be paid a stipend with IHBG funds?

A: Although stipends for Boards of Commissioner members are not specifically addressed in 2 CFR Part 200, Tribes must follow the basic guidelines of this circular. Thus, any payments must be:

- Necessary and reasonable for proper and efficient performance and administration of the Federal award.
- Be authorized or not prohibited under tribal law (tribal resolutions may need to state this).
- Be consistent with policies, regulations and procedures that apply uniformly to both Federal awards and other activities of government units (For example, if there is a BOC for schools, are they receiving stipends to attend meetings?). Either all or none are paid stipends.
- Be adequately documented.

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- ❑ OMB 2 CFR Part 200.400 establishes principles and standards that provide a uniform approach for determining costs and promoting effective program delivery, efficiency and better relationships between recipients and the Federal Government.
- ❑ The principles are for determining allowable costs using IHBG funds only and are not intended to identify the circumstances or to dictate the extent of the Federal Government's participation in providing financing for the recipient's operation.
- ❑ OMB's regulations guide recipients in establishing cost principals for IHBG funds facilitate the following:
 - Responsibility for the efficient and effective administration of IHBG funds through the application of sound management practices,
 - Responsibility for administering IHBG funds in a manner consistent with underlying agreements, program objectives, and the terms and conditions of the IHBG, and
 - Recognition that its own unique combination of staff, facilities and experience will have the primary responsibility for employing whatever form of organization and management techniques necessary to ensure proper and efficient administration of IHBG funds.
- ❑ 2 CFR Part 200 describes allowable and unallowable costs related to the use of IHBG funds. Recipients should become very familiar with what costs are allowable when using IHBG funds.
- ❑ Pursuant to § 1000.28, a self-governance tribe may be exempted from the applicability of § 1000.26 if it meets certain conditions.

PROCUREMENT GUIDELINES

[§ 1000.26, § 1000.30, § 1000.32, § 1000.34, § 1000.36, § 1000.48, and § 1000.52]

24 CFR 1000.26 states that recipients shall comply with the Uniform Administrative Requirements for Federal Awards regarding the procurement and disposition of materials, supplies, equipment and services purchased by recipients with IHBG funds. Indian preference requirements also apply to procurement activities, as described at § 1000.52.

| | |
|----|--|
| Q: | Is 2 CFR Part 200 procurement regulations applicable to the money received from insurance claims? |
| A: | Yes. Insurance proceeds from a unit assisted by IHBG or 1937 Act funds must be treated like IHBG funds and used in accordance with NAHASDA requirements. |

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☐ Methods of procurement:

- Section 203(g) of NAHASDA provides a De Minimis Exemption for IHBG recipients to procure goods and services less than \$5,000 without having to comply with any competitive rule on procurement. Recipients that are procuring goods and services under this De Minimis Exemption are also exempt from complying with Indian preference requirements. See PIH Notice 2013-22 “*Micro-Purchase Process for Purchases of Less Than \$5,000 by Indian Housing Block Grant Recipients*” for additional information.

- Price or rate quotations for purchases under \$150,000:

⇒ Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies or other property that do not cost more than the simplified acquisition threshold fixed at 41 U.S.C. 403(11) (currently set at \$150,000).

Q: Does a TDHE need to follow procurement rules in purchasing environmental, surveying or sanitation or other services from the tribe?

A: No. This is a tribal program. Therefore, if the tribe provides these services, it is acceptable to purchase these services from the tribe without procurement.

⇒ If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

⇒ Small purchase procedures can be used for standard software which is already developed and can be purchased “off the shelf”, such as Microsoft Word.

- Sealed bids (formal advertising):

⇒ Bids are publicly solicited and a firm-fixed-price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction if the conditions in 2 CFR Part 200 Subpart D apply.

- Competitive proposals (2 CFR Part 200 Subpart D):

⇒ The technique of competitive proposals is normally conducted with more than one source submitting an offer, after which either a fixed-price or cost-reimbursement-

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type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids.

- ⇒ The award is made to the firm whose proposal is most advantageous to the program, with price and other evaluation factors considered. This method of procurement is more suitable for purchasing items such as software or professional services including legal services, accounting, and auditing because they must be designed or tailored to meet certain program needs when no other type of software exists.
- Non-competitive proposals (2 CFR Part 200 Subpart D):
 - ⇒ Procurement by non-competitive proposals is procurement through solicitation of a proposal from only one source, or after solicitation of a number of sources, competition is determined inadequate.
 - ⇒ This method of procurement may be used when the award of a contract is infeasible under other methods of procurement because the item is only available from a single source, the item is needed immediately and will not permit a delay resulting from a competitive solicitation, the awarding agency authorizes noncompetitive proposals, or after solicitation of a number of sources competition is determined inadequate.
- Projects developed and operated under NAHASDA are subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)), as required by § 1000.48).
 - Section 7(b) provides that to the greatest extent feasible, preference shall be given to Indian organizations and Indian-owned economic enterprises in the award of all contracts and subcontracts.
 - Where Indian preference is determined not to be feasible, the recipient must document the procurement file with the basis for its decision.
 - Indian preference applies not only on-site, on the reservation or within the recipient's jurisdiction, but also to contracts with firms that operate outside those areas.
 - In accordance with § 1000.52, the recipient shall certify that the procurement policies adopted provide for Indian preference consistent with the Indian Self-Determination & Education Assistance Act.

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- ❑ A written procurement policy is required which provides procurement procedures and standards (See 2 CFR Part 200 Subpart D).
 - Usually, the Board of Commissioners designates the Executive Director, Tribal Administrator or Housing Director as the person responsible for carrying out its procurement policy.
 - The Executive Director, Tribal Administrator, or Housing Director must have the authority to formally delegate responsibility for certain functions to positions/individuals, based on the organization of the recipient.
 - The adoption of such a policy authorizes the Executive Director, Tribal Administrator, or Housing Director and his/her staff to make purchases, standardize administrative procedures and implement internal controls on purchases and contracts. See § 85.36(b).

- ❑ Since the awarding of contracts by recipients involves the expenditure of taxpayer funds, those employees of the recipient involved in the procurement process and the recipient's contractors are held to a higher standard of conduct than those who make private contracts.
 - Procurement officials are expected to follow exemplary standards of conduct.
 - Many tribal governments have enacted laws to enforce the public trust placed in those who work in the public contracting field.
 - To maintain public confidence in the recipient's fairness, it is essential that high standards of conduct be maintained at all times.
 - Recipient employees must discharge their duties impartially so as to ensure fair competitive access to governmental procurement by responsible contractors.
 - Recipient employees must conduct themselves in a manner as to foster public confidence in the integrity of the recipient procurement organization.
 - Any attempt to realize personal gain through recipient employment by conduct inconsistent with the proper discharge of the employee's duties is a breach of public trust.

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CONFLICT OF INTEREST

[§ 1000.30, § 1000.32, § 1000.34. and § 1000.36]

- The regulations explain the prohibitions and exceptions regarding conflict of interest. It is a breach of ethical standards for any recipient employee (including other members, such as board members) to participate directly or indirectly in a procurement when the employee/member knows that:
 - The employee/member or any relative (as defined in the recipient's procurement policy) has a financial interest pertaining to the procurement,
 - A business or organization in which the employee, or any relative, has a financial interest pertaining to the procurement, or
 - Any other person, business or organization with which the employee or any relative is negotiating or has an arrangement concerning prospective employment is involved in the procurement.

DEBARRED CONTRACTORS

[§ 1000.44]

- Recipients must adhere to the prohibitions in 2 CFR part 180 and 2 CFR 2424 (HUD supplement) on the use of debarred, suspended or ineligible contractors. These regulations codify Executive Order 12549, which provides that a person who is debarred or suspended shall be excluded from Federal financial and non-financial assistance and benefits under Federal programs and activities. (See § 1000.44.)
- IHBG funds may not be used to directly or indirectly employ, award contracts to, or otherwise engage the services of any contractor or subrecipient during any period of debarment, suspension or placement on ineligibility status. Recipients should check all contractors, subcontractors, lower-tier contractors and subrecipients against the Federal publication that lists debarred, suspended and ineligible contractors.
- Recipients must certify, using Form HUD-2992, compliance with debarment and suspension prohibitions for primary transactions and lower-tier transactions.
- Information on parties excluded from Federal procurement and non-procurement programs is available at <https://www.sam.gov/portal/public/SAM/>.

Obligated Funds and New Construction

If the invested funds will eventually be used to cover the cost of new construction under a construction contract, the funds are considered obligated when the construction contract is signed.

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OBLIGATION

Although there is no specific timeframe or expending IHBG funds, recipients are encouraged to implement projects as expeditiously as possible. In order to be considered “obligated,” the funds must meet the definition of “obligated” outlined in PIH Notice 2000-26 and extended indefinitely by PIH Notice 2002-24 “*Native American Housing Assistance and Self-Determination Act (NAHASDA)-Indian Housing Block Grant (IHBG) Program - Performance Measure for the Obligation of Funds.*”

- However, if funds are under contract with a construction entity or other party for a project, they may count as obligated.
- Funds that will be provided to a subrecipient do not count as “obligated” until the subrecipient begins work on an affordable housing activity. If the subrecipient is going to have the construction carried out via a third party contract, then the obligation date is the date the subrecipient enters into a contract. If the subrecipient is going to do the work the obligation date is the date the subrecipient begins work on an affordable housing activity.

WHAT IS PROGRAM INCOME?

[§ 1000.62]

Section 104 of NAHASDA describes how recipients shall treat income derived from IHBG funds. In accordance with § 1000.62, program income is defined as any income that is realized from the disbursement of IHBG amounts.

- There are several documents that provide additional guidance on program income. They are:
 - Notice PIH 2000-18 “*Accounting for Program Income under the Native American Housing Assistance and Self-Determination Act*, extended by PIH 2002-16, describes how to treat income generated from 1937 Housing Act units assisted with IHBG funds.
 - Program Guidance 2002-12T “*Accounting for Program Income under the Native American Housing Assistance and Self-Determination Act*”.
 - Program Guidance 2001-03T “*Accounting for Program Income: Frequently Asked Questions Regarding Accounting for Program Income under the IHBG Program.*”
 - Program Guidance 2000-06 “*Accounting for Program Income under the Native American Housing Assistance and Self-Determination Act*. transmitted PIH Notice 2000-18 (same title as Program Guidance) with minor corrections and provides guidance on

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accounting for program income under NAHASDA. PIH Notice 2002-16 (same title) extends this information indefinitely.

- Program income includes:
 - Income from fees for services performed from the use of real or rental of real or personal property acquired with IHBG funds;
 - Income from the sale of property developed or acquired with IHBG funds;
 - Proceeds from the sale or lease of real property acquired, constructed or rehabilitated with IHBG funds. **For example**, if you constructed a multi-unit elderly rental complex with your IHBG funds, the rental income received by the recipient would be counted as program income;
 - Proceeds from the sale of any current assisted stock except homeownership units;
 - Proceeds from the sale of equipment and supplies purchased with IHBG funds;
 - Payments of principal and interest earned on loans made using IHBG funds;
 - Proceeds from the sale of loans made with IHBG funds;
 - Proceeds from the sale of obligations secured by loans made with IHBG funds;
 - Income from payments of principal and interest earned on IHBG funds prior to disbursement;
 - Interest earned on funds in an IHBG revolving fund pending its use for eligible housing loans; and
 - Interest earned on program income pending its use for eligible activities.
- Program income may be used for any housing or housing-related activities and is not subject to other federal requirements (§1000.64). See § 1000.10 for the definition of housing related activities.
- Costs related to the generation of program income shall be deducted from the gross program income to determine net program income.

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- If a recipient and all its subrecipients receive \$25,000 or less of net income in a program year, then the income is not subject to Federal requirements including NAHASDA requirements.
 - If a recipient and all its subrecipients receive more than \$25,000 of net income in a program year, the entire amount of this income (including the first \$25,000) is program income and must be used for any housing or housing related activity and is not subject to other applicable Federal requirements.
- Program income does not need to be obligated within a particular timeframe.
- If program income is generated from an eligible activity funded with both IHBG funds as well as other funds, then the amount of program income realized would be based on a percentage calculation that represents the proportional share of funds provided for the activity generating the program income.
- Program income is recognized when the recipient receives the income and the income is available for obligation or expenditure and when the total net proceeds exceeds \$25,000 annually.
- Program income **does not** include:
- Fees charged to borrowers to recover IHBG funds used to pay the costs of using and servicing loans made with IHBG funds,
 - LIHTC developer fees earned by the recipient when acting as the developer,
 - Proceeds from the sale of homeownership units developed under the 1937 Housing Act,
 - Program year income less than \$25,000, and
 - Any amounts generated from the operation of 1937 Housing Act units **unless** the units are assisted with IHBG amounts and the income is attributable to such assistance.

INVESTMENTS

[NAHASDA Section 204, § 1000.58]

- Investments:
- Can recipients invest IHBG funds? For how long?

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- How much of their annual formula amount can a recipient invest?
- What specific requirements must be met before an investment can be made?

❑ What are investments?

- Since 1998, HUD has enabled tribes to use some of their IHBG funds to purchase financial instruments that will earn a safe return or increase in value. HUD issued PIH Notice 2015-08 establishing the basis upon which the Department will determine if a recipient of IHBG funds has the administrative capacity to draw down IHBG funds for investment purposes. See Attachment 13-1 for additional information.

**HUD PIH Notice That
Relates to Investments**

PIH Notice 2015-08: “*Administrative Requirements for Investing Indian Housing Block Grant Funds.*”

❑ What types of investments are allowable?

- Recipients can only invest the IHBG funds under §1000.58.
- IHBG funds may only be invested in financial obligations issued by:
 - ⇒ The United States Government;
 - ⇒ Government-sponsored agencies;
 - ⇒ Privately-issued securities that are guaranteed
 - ⇒ or insured by the U.S. Government;
 - ⇒ Mutual (or other) funds which are registered with the Securities and Exchange Commission and which invest only in obligations of the United States or in securities that are guaranteed or insured by the United States.
- IHBG funds can also be invested in accounts that are insured by an agency or instrumentality of the United States, or that are fully collateralized to ensure protection of the funds, even in case of bank failure.

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❑ What conditions are required before making investments?

- In accordance with Section 204(b) of NAHASDA, recipients may only invest funds for the purposes of carrying out affordable housing activities.
- Recipients can only invest IHBG funds if the following two requirements are first met:
 - ⇒ There are no unresolved significant or material audit findings or exceptions in the most recent annual audit completed under the Single Audit Act, or in an independent audit conducted according to generally accepted accounting principles, and
 - ⇒ The tribe is self-governing, or has the administrative capacity and financial controls in place to responsibly manage the investment.
- Recipients must not mix IHBG investments together with other funds in the same account.
- Any investment account must be covered by a HUD-approved agreement that enables implementation of IHBG investment rules and which permits HUD to suspend the expenditure of funds by a recipient who is in substantial non-compliance with IHBG regulations.
- Program Guidance 2014-21 “*Depository Agreements for Investing and Administering Indian Housing Block Grant (IHBG) Funds*” transmits the current depository agreement forms that must be used when investing IHBG funds; form HUD-52736-A (11/2013) for banking accounts and form HUD-52736-B (11/2013) for brokers/dealers are available at http://portal.hud.gov/hudportal/HUD?src=/program_offices/administration/hudclips.

Reminder

NAHASDA funds cannot be invested for more than 5 years.

❑ How much of the IHBG annual amount can be invested?

- Under § 1000.58 recipients can invest its IHBG annual grant in an amount equal to the annual formula grant amount.

Q: Do invested funds count as “obligated” under NAHASDA? If a tribe invests funds and holds them so that they can accumulate sufficient funds to purchase land, will they be considered a poor performer?

A: Funds drawn down for investments must still be obligated to an eligible activity within five years. They are not considered obligated just because they have been invested.

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What is the allowable timeframe for an investment?

- Investments can only be made for a maximum term of five years.

Are funds that are invested considered “obligated”?

- No. Such funds must still be obligated and expended at a later time.
- For further guidance, see PIH Notice 2015-08 “*Administrative Requirements for Investing Indian Housing Block Grants*”

AUDITS: A FINANCIAL MANAGEMENT TOOL

[§ 1000.544 - § 1000.550]

An audit is an excellent tool to help ensure effective financial management and compliance with program requirements. An audit that meets the requirements of the Single Audit Act of 1984, as amended, and 2 CFR Subpart E Part 200.500 is required to be conducted for each fiscal year in which the recipient spends at least \$750,000 in Federal funds (from all sources). If applicable, a certification that the recipient has not expended federal funds in excess of the audit threshold that is set by OMB shall be included in recipient’s Annual Performance Report. The audit must be done by a licensed Independent Public Accountant (IPA). Either HUD, or another Federal agency, e.g. the Department of the Interior, will have oversight responsibilities for recipient audits. Attachment 13-2 PIH NOTICE 2014-06-Financial Audit Requirements for Tribal Participants in Public and Indian Housing Programs

- When you select an auditor, proposals should be solicited from at least three qualified accounting firms. In those limited number of situations in which the anticipated cost of the audit is expected to exceed \$100,000, a formal advertised Request for Proposals (RFP) process must be followed. Firms suggested by your fee accounting professional, as well as firms expressing an interest in providing services should make up the solicitation pool from which specific requests are made.
- In addition to preparing financial reports and relating the auditor's opinion, the auditor should identify internal control and/or management policy weaknesses. It is the recipient's responsibility to find solutions to the identified deficiencies. Your accounting professional, board or council, and staff should meet to formulate alternative solutions and to select the best course of action.
- When preparing for an audit, it would be helpful if the following suggestions are met prior to the event:

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- Board or council minutes are up to date, filed and signed;
 - Management policies are current and adopted by board or council passed resolutions;
 - Cash counts have been conducted periodically and signed by individuals performing them;
 - Copies of all bids and quotations are filed and documented;
 - Checks have proper invoices attached;
 - Cash forecasts are completed and on file; and
 - The recipient's office is neat and organized. This will impress an auditor more than an office laden with piles of paper. The auditor must be able to locate items he/she requests.
- Cash receipts should be filed.
- Do not have blank signed checks.
- Be cooperative with the auditor. He/she is there to help you improve your business operation. Do not waste his/her time with your personal problems but feel free to consult with him/her about procedures you do not understand.
- Become familiar with 2 CFR Subpart E and with PIH Notice 2014-06 "*Financial Audit Requirements for Tribal Participants in Public and Indian Housing Programs.*"
- The audit must be submitted to the appropriate HUD ONAP area office at the same time it is submitted to the Federal Audit Clearinghouse (FAC). TDHEs must also submit the audit to the tribe.

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**ATTACHMENT 13-1: PIH NOTICE 2015-08
ADMINISTRATIVE REQUIREMENTS FOR INVESTING IHBG FUNDS**



U. S. Department of Housing and Urban Development Public and Indian Housing

Special Attention of:

Tribes; Tribally
Designated Housing Entities;
and ONAP Administrators

Notice PIH 2014-06 (TDHEs)

Issued: April 16, 2014

Effective until revoked, superseded,
or amended

Cross Reference(s):

24 CFR Part 1000

24 CFR Part 1003

24 CFR Part 1006

24 CFR Part 85

2 CFR Part 200

2 CFR Part 225

OMB Circular A-133

Subject: Financial Audit Requirements for Tribal Participants in Public and Indian Housing Programs

Purpose: This Notice rescinds and supersedes PIH Letter L-2007-03, issued June 29, 2007, to provide specific guidance on the financial audit requirements for the tribal participants in the following programs: the Indian Housing Block Grant (IHBG), the Indian Community Development Block Grant (ICDBG), the Native Hawaiian Housing Block Grant (NHHBG), Residential Opportunity and Self-Sufficiency (ROSS) Service Coordinators, the Rural Innovation Fund (RIF), and Rural Housing and Economic Development (RHED). The Notice incorporates revisions to the IHBG regulation at 24 CFR Part 1000, which became effective January 2, 2013.

Background: Grant recipients are required to comply with the Single Audit Act (SAA) and Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments, and Non-Profit Organizations* (Circular A-133), in accordance with 24 CFR § 85.26. Audits are to be conducted by an independent auditor in accordance with generally accepted auditing standards covering financial audits. Circular A-133 sets forth standards for obtaining consistency and uniformity for audits of non-federal entities expending federal awards. Circular A-133 can be downloaded at: http://www.whitehouse.gov/omb/circulars_default.

Circular A-133 requires that non-federal entities that expend federal funds equal to or in excess of a threshold amount specified by OMB (currently set at \$500,000 in a fiscal year) shall have a single or program-specific audit conducted for that year in accordance with the provisions of Circular A-

133. Non-federal entities that expend less than the threshold are exempt from the audit requirement for that year; however, records must be available for review or audit by appropriate officials of the Federal agency, pass-through entity, and General Accountability Office pursuant to Circular A-133 §___.200(d).

Annual audits are required in Circular A-133 except as permitted in Circular A-133 §___.220(a) where a tribe is required by tribal law, which was in effect on January 1, 1987, to undergo its audits less frequently than annually. If this requirement is still in effect for the biennial period under audit, the tribe may undergo its audits biennially; or in §___.220(b) where a non-profit organization that for the periods between July 1, 1992, and January 1, 1995, had biennial audits may continue with biennial audits.

Grant recipients should note that new Federal government regulations on Administrative Requirements, Cost Principles, and Audit Requirements were promulgated on December 26, 2013 at 2 C.F.R. Part 200. HUD intends to update its regulations by December 26, 2014 to implement these new requirements in its programs. Audits covering recipients' final years that begin in January 2015 will be subject to the revised audit requirements. In the meantime, applicable OMB Circulars and the regulations at 2 C.F.R. Part 225 will continue to apply to grants until implementation of the new requirements.

Responsibilities of ONAP recipients: All federal awards received and expended and the federal programs, including CFDA number, award number, and name of federal agency under which funds were received must be identified in its accounts pursuant to Circular A-133 §___.300. The recipient must maintain internal control over federal programs that provides reasonable assurance that the recipient is managing federal awards in compliance with laws, regulations, and the provisions of contracts or grant agreements that could have a material effect on each of the federal programs. The recipient must comply with laws, regulations, and the provisions of contracts and grant agreements related to each of its federal programs. The recipient must prepare appropriate financial statements, including the Schedule of Expenditures of Federal Awards (SEFA) in accordance with §___.310. The recipient must ensure that the audits required by Circular A-133 are properly performed and submitted when due. In order to ensure compliance with Circular A-133 and applicable audit requirements, ICDBG recipients must send a copy of the audit to the Area ONAP at the same time the audit is submitted to the FAC, or submit the signed audit certification with the Annual Status and Evaluation Report (ASER) if the audit threshold was not met. The recipient must follow up and take corrective action on audit findings, including preparation of a summary schedule of prior audit findings and a corrective action plan in accordance with §___.315(b) and §___.315(c), respectively.

A chart follows detailing requirements and length of record retention along with their relevant citations for the IHBG and Title VI Loans, ICDBG, NHHBG, ROSS, RIF, and RHED programs.

| NAME | CITATIONS | REQUIREMENTS | RECORDS RETENTION |
|---------------|--|--|---|
| IHBG Program | 24 CFR §§ 1000.544, 1000.548, 1000.550 and 1000.10. Section 405(a) of NAHASDA. Records retention in 24 CFR § 1000.552. | Comply with SAA and Circular A-133. Send a copy of audit to the Area ONAP at the same time the audit is submitted to the FAC or indicate in the APR if the audit threshold was not met. Tribal program year means fiscal year. <u>TDHEs Additionally:</u> If the audit threshold was met, the TDHE must be audited separately and cannot meet its audit requirements by being included in the Tribe's annual audit because, in accordance with Section 405(a) of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), an entity designated by an Indian tribe as a housing entity shall be treated for purposes of Chapter 75 of Title 31, United States Code, as a non-federal entity that is subject to the audit requirements that apply to non-Federal entities under that chapter. The TDHE must provide a copy of the audit report to the Indian Tribe as grant beneficiary. <u>TRIBES:</u> The Indian Tribe as grant beneficiary must receive a copy of the TDHE's audit report so that it can fully carry out its oversight responsibilities with NAHASDA. | All financial and programmatic records, supporting documents and statistical records must be maintained by recipients of IHBG programs for 3 years from the end of the tribal program year during which the funds were expended. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later. |
| ICDBG Program | 24 CFR § 1003.501, 24 CFR § 85.26, and A-133 § .__320(f). Records retention in 24 CFR § 85.42. | Comply with SAA and Circular A-133. Send a copy of the audit to the Area ONAP at the same time the audit is submitted to the FAC or submit the signed audit certification with the Annual Status and Evaluation Report (ASER) if the audit threshold was not met. The ASER reminder letter will include a blank certification. | Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of 3 years from the date of submission of the ASER. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken. |
| NHHBG Program | 24 CFR §§ 1006.375(d) and 85.26. Records retention in 24 CFR § 85.42. | Comply with SAA and Circular A-133. Send a copy of the audit to the Native Hawaiian Housing Specialist in Honolulu, HI at the same time the audit is submitted to the FAC. | Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of 3 years from the date of submission of the final expenditure report. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records |

| | | | |
|----------------|---|---|---|
| | | | must be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken. |
| ROSS Program | 24 CFR § 85.26. Records retention in 24 CFR § 85.42. | Comply with SAA and Circular A-133. Send a copy of the audit to the Area ONAP at the same time the audit is submitted to the FAC. | Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of 3 years from the date of submission of the final expenditure report. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken. |
| RIF Program | 24 CFR § 85.26. Records retention in 24 CFR § 85.42 | Comply with SAA and Circular A-133. Send a copy of the audit to the Area ONAP at the same time the audit is submitted to the FAC. | Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of 3 years from the date of submission of the final expenditure report. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken. |
| RHED Program | NOFA, 24 CFR § 85.26. Records retention in 24 CFR § 85.42 | Comply with SAA and Circular A-133. Send a copy of the audit to the Area ONAP at the same time the audit is submitted to the FAC. | Financial records, supporting documents, statistical records, and all other records pertinent to an award shall be retained for a period of 3 years from the date of submission of the final expenditure report. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until all litigation, claims or audit findings involving the records have been resolved and final action taken. |
| Title VI Loans | 24 CFR § 1000.502. Records retention in 24 CFR § 1000.552. | Comply with SAA and Circular A-133. Include the balance of all previous year Title VI loans when determining audit threshold. Send a copy of the audit to the Area ONAP at the same time the audit is submitted to the FAC. | All financial and programmatic records, supporting documents and statistical records must be maintained by recipients of IHBG programs for 3 years from the end of the tribal program year during which the funds were expended. If any litigation, claim, negotiation, audit or other action involving the records has been started before the expiration of the 3-year period, the records must be retained until completion of the action and resolution of all issues which arise from it, or until the end of the regular 3-year period, whichever is later. |

Subrecipients: Subrecipients that spend Federal funds in excess of the threshold amount are subject to the SAA and Circular A-133. The subrecipient is required to submit audits. The determination of when a federal award is expended should be based on when the activity related to the award occurs as stated in Circular A-133 § ____.205(a). Generally, the activity pertains to events that require the non-federal entity to comply with laws, regulations, and the provisions of contracts or grant agreements such as: expenditure/expense transactions associated with grants, cost-reimbursement contracts, cooperative agreements, and direct appropriations; the disbursement of funds passed through to subrecipients; the use of loan proceeds under loan and loan guarantee programs; the receipt of property; the receipt of surplus property; the receipt or use of program income, the distribution or consumption of food commodities; the disbursement of amounts entitling the non-federal entity to an interest subsidy; and, their period when the insurance is in force. Specifically, the disbursement of funds passed through to the subrecipient is cited in § ____.205(a) as when a federal award is expended. A subrecipient's expense is incurred when the work by force labor is begun or a contract with a third party is signed.

The recipient must monitor the subrecipient as governed by 24 CFR 85.26(b). The recipient must include the amount of pass-through grant funds when determining whether the recipient qualified for the A-133 audit. The recipient must include the grant as a direct award on its Schedule of Expenditures of Federal Awards in the audit package, even if the funds are passed through to another entity. The recipient must identify in the SEFA the cumulative grant and current period expenditures for each open grant. The recipient is also required to ensure that the subrecipient includes all of the pass-through funds in the subrecipient's audit.

The subrecipient must also include in the audit the pass-through funds on its SEFA and identify the funds as pass-through. Regardless of whether an audit finding or questioned cost is disclosed, pursuant to Circular A-133 § ____.320(e), subrecipients shall submit to each pass-through entity one copy of the audit reporting package including auditor letters and work papers. When a subrecipient's audit discloses no audit findings or questioned costs, a copy of the audit is requested to be sent to the pass-through entity rather than notification only per § ____.320(e)(2).

Audit report package: The audit report package as instructed in Circular A-133 §§ ____.320(b) and .320(c) is comprised of the completed data collection form with the financial statements and Schedule of Expenditures of Federal Awards, Summary Schedule of Prior Audit Findings, the auditor's report(s), and a corrective action plan.

Audit due dates: Recipients are to submit a complete audit report package to the Federal Audit Clearinghouse (FAC) within 30 days of receipt from the auditor, or 9 months after the end of the recipient's fiscal year, whichever occurs earlier as required in Circular A-133 § ____.320(a).

Submission to the Federal Audit Clearinghouse: The Circular A-133 audit report package and a Data Collection Form for Reporting on Audits of States, Local Governments, and NonProfit Organizations (Form SF-SAC) are to be submitted to the FAC as instructed in Circular A-133 §§ ____.320(i) and ____.320(j). All audits for fiscal periods ending in 2008 or later must use the Internet Data Entry System (IDES) to submit Form SF-SAC and Single Audit reporting

package to the FAC electronically at the website:

<https://harvester.census.gov/fac/collect/ddeindex.html>.

Audit as eligible cost: Circular A-133 §___.225 provides that no audit costs may be charged to federal awards when required audits have not been made or have been made but not in accordance with Circular A-133.

24 CFR § 1000.546 states that audit costs or financial review costs that are attributable to NAHASDA-funded activities are an eligible program or administrative expense under the IHBG program. 24 CFR § 1003.206(a)(a)(ix)(3) for the ICDBG program states that audit services are an eligible part of general services, which combined with total general services and eligible planning services listed under §§ 1003.206 and 1003.205, cannot exceed 20 percent of grant fund plus program income received. 24 CFR § 1006.230(a)(1)(vi)(3) for the NHHBG program includes audit costs as eligible program administration costs. For all other programs included in this Notice, 2 CFR part 225, Appendix B, provides that the costs of audits required by, and performed in accordance with the SAA, as implemented by Circular A-133 are allowable.

Recipient Responsibilities: As an awarding agency, HUD has the responsibility to issue a Management Decision Letter (MDL) on audit findings related to its federal awards as cited in the OMB Circular A-133 §___.400 (c)(5). The recipient is responsible pursuant to §___.315 for follow up and corrective action as shown on the MDL for all audit findings, including the preparation of a corrective action plan for current year findings and preparation of a summary schedule of prior year audit findings. The recipient is responsible for responding to the MDL issued by HUD in a timely manner.

The recipient is also responsible for the issuance and follow up of an MDL to its subrecipients in accordance with OMB Circular A-133 §___.400(d)(5). The recipient shall provide a copy of the MDL issued to subrecipients and follow-up correspondence to ONAP.

The recipient shall respond to requests by a Federal agency or pass-through entity with appropriate copies of the reporting package and a copy of any management letters issued by the auditor pursuant to Circular A-133 §___.320(f).

CFDA titles and numbers: CFDA titles and numbers may be found on the Internet at <https://www.cfda.gov/>. The applicable CFDA titles and numbers for the most common ONAP programs are provided below:

- 14.250 Rural Housing and Economic Development
- 14.263 Rural Innovation Fund
- 14.862 Indian Community Development Block Grant Program
- 14.865 Section 184 Public and Indian Housing: Loan Guarantees for Indian Housing
- 14.867 Indian Housing Block Grants
- 14.869 Title VI Federal Guarantees for Financing Tribal Housing Activities
- 14.870 Resident Opportunity and Supportive Services
- 14.873 Native Hawaiian Housing Block Grant

- 14.874 Section 184A Public and Indian Housing: Loan Guarantees for Native Hawaiian Housing
- 14.893 Training and Technical Assistance for the IHBG Program
- 14.894 Training and Technical Assistance for the NHHBG Program

Permitted review of auditor's work papers: Audit working papers as required in Circular A-133 §___.515(b) shall be made available upon request to the cognizant or oversight agency for audit or its designee, a federal agency providing direct or indirect funding, or the U.S. Government Accountability Office. ONAP has delegated its responsibility to conduct quality control reviews of audit working papers to the Real Estate Assessment Center's Quality Assurance Subsystem (QASS) Team for those entities for which HUD is the oversight agency. This delegation does not limit ONAP's ability to access and review auditor work papers. The auditor is required to retain working papers and reports for a minimum of 3 years after the date of issuance of the audit pursuant to §___.515(a).

Failure to Comply with Circular A-133 Requirements: The imposition by HUD of any sanction for failure by an IHBG recipient to meet the audit requirements of Circular A-133 would follow the process provided for in Title IV of NAHASDA as implemented by Subpart F of 24 CFR Part 1000. In a similar manner, the imposition by HUD of any sanction for failure by an ICDBG recipient to meet the audit requirements of Circular A-133 would follow the process provided for in Subpart H of 24 CFR Part 1003. This responsibility includes enforcement for any ONAP program, including RHED, RIF, and ROSS.

Paperwork Reduction Act: The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501-35200) and assigned OMB control number 2577-0218 (Exp. 09/30/2014). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Technical Assistance: If you have any questions regarding this policy, please contact the local ONAP Area Office. Persons with hearing or speech impairments may access their Area ONAP via TTY by calling the Federal Information Relay Service at (800) 877-8339.

/s/

Sandra B. Henriquez
Assistant Secretary for
Public and Indian Housing

Chapter 13: Effective Financial Management

**ATTACHMENT 13-2: PIH NOTICE 2014-06
FINANCIAL AUDIT REQUIREMENTS FOR TRIBAL PARTICIPANTS IN
PUBLIC AND INDIAN HOUSING PROGRAMS**



**U.S. Department of Housing and Urban Development
Office of Public and Indian Housing**

Special Attention of:
Tribes, Tribally Designated
Housing Entities, Indian
Housing Authorities,
ONAP Administrators

Notice: PIH-2014-08 (ONAP)
Issued: May 8, 2015

Expires: Effective until Amended,
Superseded or Rescinded
Cross Reference: 24 CFR 1000.58,
PIH 2010-33, PIH 2011-43

SUBJECT: Administrative Requirements for Investing Indian Housing Block Grant (IHBG) Funds

- 1. PURPOSE:** This Notice establishes the basis upon which the Department will determine if a recipient of Indian Housing Block Grant (IHBG) funds has the administrative capacity to draw down IHBG funds for investment purposes as authorized under Section 204(b) of the Native American Housing Assistance and Self-Determination Act (NAHASDA). Previous IHBG investments were limited to a maximum 2-year period. The IHBG regulations were amended December 3, 2012 and effective January 2, 2013 in 2013 to allow for a 5-year investment period. This notice implements these new requirements and replaces PIH Notice 2010-33 (extended by PIH Notice 2011-43).
- 2. BACKGROUND:** Pursuant to 24 CFR 1000.58, a recipient may invest grant funds for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by the Secretary. Following approval, a recipient may continue to invest NAHASDA funds in accordance with 24 CFR 1000.58, as long as it demonstrates to HUD that it has adequate administrative capacity.
- 3. DEFINITIONS:** For the purposes of this Notice, the following definitions apply.
 - a. *Self-governance tribe* - An Indian tribe that participates in tribal self-governance as authorized under Public Law 93-638, as amended (25 U.S.C. 450 et seq).
 - b. *Recipient* - An Indian tribe or the Tribally Designated Housing Entity (TDHE) for one or more Indian tribes that is authorized to receive grant amounts under NAHASDA on behalf of the tribe or tribes.
 - c. *Significant and Material Audit Findings* - A significant or material finding is one that: (1) identifies a material weakness in financial or accounting controls; or (2) a finding of substantial financial mismanagement or misapplication of funds that has not been resolved; or (3) has any questioned costs for HUD programs that were subsequently disallowed, and which total 5 percent or more of the total expenditures for HUD programs identified in the audit or final monitoring report.

4. ELIGIBILITY TO INVEST: Pursuant to 24 CFR 1000.58(b), an IHBG recipient must demonstrate, to HUD's satisfaction, that:

- a. Annual audits were completed timely and submitted to the Federal Audit Clearinghouse in accordance with Office of Management and Budget Circular A-133 or 2 CFR 200.512 (the regulations at 2 CFR Part 200, Subpart F apply to audits for fiscal years December 26, 2014 and thereafter);
- b. There are no unresolved significant and/or material monitoring or audit findings or exceptions in the most recent annual audit completed under the Single Audit Act or in an independent financial audit prepared in accordance with generally accepted auditing principles; and
- c. It is a self-governance Indian tribe or the tribe or TDHE that has demonstrated the administrative capacity and controls to responsibly manage the investment.

5. DOCUMENTATION REQUIRED: The following documentation must be provided to the Area Office of Native American Programs (ONAP).

- a. **Audits:** To document that there are no unresolved significant and material audit findings or exceptions, the recipient must submit its most recent annual audit. Recipients must also provide a status of the Single Audit Act findings controlled by the cognizant agency (if other than HUD). This audit must be current in accordance with the Single Audit Act requirements. If an independent financial audit was conducted in place of an annual audit or in addition to an annual audit, a copy of this financial audit must be submitted. Based on the information provided, the Area ONAP will determine if there are any unresolved significant and/or material audit findings. If the recipient is not required to submit an audit report under the Single Audit Act, an audit will not be required to comply with this provision. If the recipient is a newly created Tribally Designated Housing Entity (TDHE) or a Housing Department of the tribe and the tribe is without a current audit, an audit will not be required to comply with this provision.
- b. **Monitoring Reports:** To document that there are no significant and or material unresolved findings, the Area ONAP will review the status of any open findings included in Final Monitoring Reports. Based on the information provided, the Area ONAP will determine if there are any unresolved significant and/or material monitoring findings.
- c. **Administrative Capacity:** To document that the recipient is a self-governance tribe, as defined above, a certification from the tribe that it is a self-governance tribe or a copy of the designation from the Bureau of Indian Affairs must be submitted. This provision applies only if the tribe is the recipient. If the tribe has designated a TDHE, the recipient is the TDHE, not the tribe, and the TDHE must demonstrate its administrative capacity and controls as outlined below in section 5c.

If the recipient is not a self-governance tribe, a newly created TDHE or a Tribe administering IHBG funds for the first time, the recipient must demonstrate it has the administrative capacity and controls to responsibly manage the investment. The recipient must show that it has carried out eligible affordable housing activities in a timely manner, has continuing technical capacity, and has complied with its Indian Housing Plans.

The recipient's financial management system must also comply with the standards in 24 CFR 85.20(as of April 1, 2014). These standards include the following: accurate, current and complete financial reporting; adequate accounting records; effective internal controls; adequate budget control; and reasonable procedures for cash management. In order to document that such a system is in place, the recipient must submit the following:

1. A copy of its financial management policy. The policy must provide for the adequate safeguarding of all grant and sub-grant cash, real and personal property and other assets. Specifically, the financial management policy should include:
 - An authorization by the appropriate oversight body (e.g., the Board of Commissioners) for all investment transactions as documented in the official records of that body;
 - A listing of eligible investment instruments;
 - Procedures for the safekeeping and security of investment documents;
 - A requirement for the separation of responsibilities for the custody of securities/investment documents from the maintenance of accounting records;
 - A requirement to maintain investments in a custodian or trust account;
 - A requirement that investment funds will be held in one or more accounts separate from other funds of the recipient. Each account shall be subject to an agreement in a form prescribed by HUD.
 - A requirement that investments only be made in the name of the IHBG recipient;
 - A requirement that detailed investment ledgers be maintained;
 - A system to ensure that all interest earned is collected, recorded, and credited to appropriate accounts;
 - A requirement that periodic reconciliations be conducted of the investment ledger(s); and
 - A requirement to maintain a schedule of maturity dates.
2. A copy of the recipient's written investment policy. The policy must include a statement of purpose, list the eligible investment instruments, contain an assignment of authority to staff, and outline each staff member's responsibilities.
3. The recipient must have no outstanding findings as a result of a HUD audit or monitoring review (including Inspector General Audits) or HUD Monitoring Review that affect the administrative capacity and controls to responsibly manage the investment. The recipient must submit a certification that there are no findings that affect its administrative capacity.
4. There are no other issues documented by the Area ONAP that affect the recipient's administrative capacity and internal controls to responsibly manage the investments.

6. PROCESSING REQUESTS:

- a. A recipient requesting approval to invest IHBG funds in accordance with 24 CFR §1000.58 must submit the documentation outlined above to the Area ONAP. The Area ONAP will review the documentation, including current LOCCS balances, and approve

- or disapprove the request within 60 calendar days of receipt;
- b. If the request is approved, written notification will provide the effective date that the recipient may drawdown funds for investment;
 - c. If the request is not approved by the Area ONAP, the recipient will be notified in writing with the specific reasons for the denial. Within 30 calendar days of receiving HUD's denial of a request for consideration of investment, the recipient may request reconsideration of the denial in writing. The request must include justification for the reconsideration. Within 30 calendar days of receipt of the recipients request for reconsideration, HUD will affirm or reverse its initial decision in writing, setting forth its reason for the decision.
 - d. If the request is denied and a request for reconsideration is not successful, the tribe or TDHE may request another determination when the conditions for denial have been corrected. This resubmittal will be processed in accordance with the above procedures.
- 7. DEPOSITORY AGREEMENT:** Invested IHBG funds must be held in one or more accounts separate from other funds of the recipient. Each of these accounts must be subject to a depository agreement approved by HUD. PIH Notice 2014-21 *Depository Agreements for Investing and Administering Indian Housing Block Grant (IHBG) Funds*, includes the current depository agreement forms to be used when investing IHBG funds (Form HUD-52736A (11/2013) for investments held in bank accounts, and Form HUD-52736B (11/2013) for investments managed by brokers/dealers). The Notice also clarifies investment options available under 24 CFR 1000.58 and special requirements applicable to reserve accounts.
- 8. TERM OF APPROVAL:** Approval to invest IHBG funds is valid as long as the recipient continues to have no delinquent audits, unresolved significant and/or material audit findings or exceptions, or unresolved HUD monitoring review findings that affect the administrative capacity to responsibly manage the investments and still can demonstrate the capacity to draw down and disburse IHBG funds in a timely manner. In addition, investment approval is only valid for the recipient that requested it, i.e., the tribe or TDHE. If the recipient changes, for example, from a TDHE to a tribe, the tribe must be approved to invest IHBG funds Pursuant to this Notice, recipients approved for a two year investment period prior to January 2, 2013 are subsequently approved for a five year investment period.
- 9. MATURITY SCHEDULE:** Investments may be for a period of no longer than 5 years. The 5-year period starts on the date the recipient draws down funds for investment purposes. Investment drawdowns prior to January 2, 2013 and all subsequent investment funds will mature no more than 5 years from the date the funds were withdrawn from LOCCS. A 5-year period is the maximum length of time that any IHBG amount can be invested before being disbursed on an eligible affordable housing activity. Prior to drawing down funds for investment purposes, the recipient should do an analysis of anticipated cash needs for this investment period, and identify those acceptable investment options or instruments with varying dates of maturity (shorter and longer term) within the projected investment period. The recipient shall report quarterly on the SF 425 all investment activity and maintain a schedule

evidencing that the proposed investments will mature, the approximate dates the funds will be needed, and that investment maturity dates do not exceed the approved investment period.

When an investment instrument matures, the mature investment funds must be expended for an affordable housing activity. Disbursement for this purpose means actual expenditure, not just the obligation of funds. If the funds are not needed for an activity at that time, or not disbursed on eligible affordable housing activities the funds must be returned to LOCCS by the recipient. Any interest earned prior to the expiration of the approved investment period may only be spent on affordable housing activities. Because the regulation at 24 CFR 1000.58(g) restricts the investment period to up to 5 years, any interest earned after the expiration of the approved investment period is interest that is unlawfully earned, and must be returned to HUD to be remitted to the U.S. Treasury. If a recipient returns funds to LOCCS or HUD the recipients must notify their Area ONAP office.

10. ELIGIBLE INVESTMENT INSTRUMENTS: Pursuant to 24 CFR § 1000.58(c), recipients shall invest IHBG funds only in the following:

Obligations of the United States; obligations issued by Government sponsored agencies; securities that are guaranteed or insured by the United States; mutual (or other) funds registered with the Securities and Exchange Commission and which invest only in obligations of the United States or securities that are guaranteed or insured by the United States; or

Accounts must be insured by the United States or fully collateralized to ensure protection of the funds, even in the event of bank failure. Collateralization shall consist of identifiable U.S. Government securities as prescribed by HUD and specific authority contained in the agreement permitting HUD to exercise its rights pursuant to 24 CFR § 1000.60.

12. INVESTMENTS PRIOR TO JANUARY 3, 2013: Investments drawn from LOCCS before or after January 2, 2013, may be for a period of no longer than 5 years. The 5-year period starts on the date the recipient drew down funds for investment purposes. This 5-year period is the maximum length of time that any IHBG amount may be invested before disbursement on an eligible affordable housing activity.

13. REPORTING INVESTMENTS: The recipient must comply with all applicable reporting requirements and must report investment activity quarterly on the SF 425 Reference Program Guidance for the Federal Financial Report (SF-425), Program Guidance for Calculating Program Income, and Revised Guidance for the Indian Housing Plan/Annual Performance Report for additional direction.

14. CONTACTS: Should you need additional information, please contact your Area ONAP.

/s/

Lourdes Castro Ramirez
Principal Deputy Assistant Secretary

CHAPTER 14: RECORDKEEPING AND REPORTING

This chapter will cover the following topics:

- *What programmatic and financial records a recipient must maintain, and how long they must be retained,*
- *What are the requirements for submitting Federal Financial Report SF-425,*
- *What audits are required as part of reporting, and*
- *What monitoring is required by HUD*

This chapter addresses the following regulatory citations.

- *24 CFR 100.501 – 100.558*

THE IMPORTANCE OF RECORDKEEPING

- Accurate recordkeeping is crucial to the successful management of Indian Housing Block Grant- (IHBG) funded activities. Insufficient documentation is likely to lead to audit or monitoring findings and these findings will be more difficult to resolve if records are missing, inadequate, or inaccurate.

RECORDKEEPING REQUIREMENTS

[§ 100.552 - § 100.558]

- The recipient is required to keep the following records, which are required by statute, regulation or grant agreement:
 - Financial and programmatic records,
 - Supporting documents, and
 - Statistical records.
- The recipient must retain financial records for 3 years from the date end of the tribal program year during which the funds were expended.
- If any claim, litigation, negotiation, audit or other action involving a record is begun before the end of the three-year period, the records must be retained until the completion and resolution of the action, or until the end of the three-year period, whichever is later.

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- ❑ HUD and the Comptroller General of the United States, and any of their authorized representatives, have the right to access the relevant Native American Housing Assistance and Self-Determination Act (NAHASDA) records of the recipient. This right lasts for as long as the records are maintained.
- ❑ The Freedom of Information Act and the Federal Privacy Act do NOT apply to the recipient's records. However, there may be other State or tribal laws that do apply to these records.
- ❑ Section 408 of NAHASDA requires the recipient to make any housing plans, policy, or annual report prepared by the recipient available to the general public.

RECORDS TO MAINTAIN

Each recipient will have its own unique system and set of documents for meeting NAHASDA recordkeeping requirements. The list below includes broad categories of documents but does not list every form or report that must be filed in accordance with the regulations. If you have any doubts about whether a document must be filed, err on the side of caution and keep the document. Documents a recipient should keep on file include, but are not limited to:

- ❑ **General Administrative:** Recipients must maintain files and records that relate to the overall administration of the IHBG program. These records will include the following:
 - Indian Housing Plan (IHP) submission to HUD;
 - Demographic and other data, if the recipient is challenging HUD formula data;
 - Executed agreements;
 - All adopted policies;
 - APR and supporting program-wide monitoring documents; and
 - Organizational documents, including but not limited to:
 - ⇒ Ordinances;
 - ⇒ Partnership agreements;
 - ⇒ Tribal resolutions;
 - ⇒ Board minutes;

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- ⇒ Recipient designations;
- ⇒ Organization charts and reporting relationships; and
- ⇒ Policy procedures.

- Financial:** These include project-specific, general financial documents of the recipient, procurements and contracts, audits and other permanent financial records that are necessary to meet all applicable audit requirements.
- Project-specific:** For each project or activity, the recipient should determine what data must be maintained in individual case files. These may include documents to demonstrate the eligibility of the project and participants, monitoring reports and environmental records.

Other documents: There may be other documents that do not fit into one of the above categories that the recipient should keep on file. These may include documents to demonstrate compliance with other Federal requirements or documents required by other funding sources.

GOOD RECORDKEEPING SYSTEMS

- In addition to knowing what documents to keep on file, for recordkeeping to function well there must be a well-designed and maintained system in place. Key elements of such a system are:
 - Consistent filing of documents in appropriate locations;
 - Written and electronic documents that are easily retrieved;
 - Clear procedures for getting documentation to the appropriate person for filing; and
 - Timely filing of documents.

SF-425 FEDERAL FINANCIAL REPORT

- The Federal Financial Report (FFR) SF-425 accounts for funds received and disbursed. Program Guidance 2014-07 provides detailed instructions on completing the FRR SF-425. The SF 425 form is available for downloading from the following website:
http://www.whitehouse.gov/sites/default/files/omb/assets/grants_forms/SF-425.pdf

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- Each recipient is required to submit one FFR per quarter for each 12-month program year. The 1st, 2nd, and 3rd quarterly reports must be submitted no later than 30 days after the end of the calendar quarter. The 4th quarterly report is due 90 days after the end of the 4th quarter, and is the final report for the recipient's 12-month program year. The quarterly reports are due as indicated in the chart below, and must be mailed, faxed, or e-mailed to your Area ONAP office.

| Program Year | Q1 Due Date | Q2 Due Date | Q3 Due Date | Q4 Due Date |
|------------------|-------------|-------------|-------------|-------------|
| Oct 1 – Sept 30 | Jan 30 | April 30 | July 30 | Dec 29 |
| Jan 1 – Dec 31 | April 30 | July 30 | Oct 30 | Mar 31 |
| Apr 1 – March 31 | July 30 | Oct 30 | Jan 30 | Jun 29 |
| July 1 – June 30 | Oct 30 | Jan 30 | April 30 | Sept 29 |

- LOCCS will automatically generate a reminder that this report is due.
- Recipients submit signed hard copies of the report to their Area ONAP.
- In order to complete the SF-425:
 - Make sure that all sections are complete and totaled (when applicable).
 - Note all of your disbursements and draw downs. HUD will look to see if there are excessive (lump sum) drawdowns or no drawdowns, as these conditions might indicate a problem.
- If you fail to submit a SF-425 report in the stated timeframe, LOCCS will generate a letter stating that your report is overdue.
 - This letter is sent 30 days after the end of the quarter.
 - If you continue to be late in submitting these reports or do not submit them at all, this may be cause for a monitoring finding.
 - Attachment 14-1, Program Guidance 2014-07 “*Federal Financial Report (FFR) - Standard Form 425 for Indian Housing Block Grant Program*” provides detailed instruction with attachments for submitting the FFR (SF425) for the IHBG program.

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DEVELOPING A GOOD SELF-MONITORING SYSTEM

- ❑ Monitoring is the primary tool that grantees use to ensure that IHBG-assisted projects are being carried out in accordance with program requirements. Monitoring is a review of program or project performance and compliance.
- ❑ Recipients of IHBG funds are responsible for monitoring their grant agreement to ensure compliance with Federal requirements and to measure performance goals under their IHP and to produce an assessment of compliance as the conclusion or result of its monitoring efforts.
 - Recipients are required to monitor their IHBG program activities at least annually.
- ❑ As stated in 24 CFR 1000.502(a), the recipient is responsible for:
 - Preparing a compliance assessment (self-monitoring) at least annually to determine if all the applicable federal requirements are being followed,
 - A performance report covering the assessment of program progress and goal attainment under the IHP, and
 - An audit in accordance with the Single Audit Act, as applicable.

If the recipient is a TDHE, the tribe also has a responsibility in the monitoring process.

- ❑ To better prepare for an external monitoring review, it is important to develop protocols for internal monitoring to ensure compliance and efficiency. There are several types of monitoring:
 - Internal audit monitoring ensures that staff members follow the proper underwriting, project selection and program procedures.
 - Project implementation monitoring ensures that property owners and managers develop their projects in compliance with program regulations and other Federal standards, such as the Davis-Bacon labor standards.
 - Program monitoring evaluates the operations and management of funding recipients and subrecipients for efficiency, effectiveness, and compliance.

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- Long-term monitoring begins when project funds have been expended and a project is completed. This type of monitoring ensures compliance with requirements related to unit rents, tenant incomes, affirmative marketing and fair housing.
- Why Monitor?
- Congress and HUD take monitoring very seriously.
 - Monitoring helps ensure that programs are in compliance with all of the applicable federal laws and regulations, as well as applicable state and local requirements.
 - Monitoring ensures accountability and addresses the effective and efficient use of resources.
 - Monitoring measures the impact of the program on local priorities. Monitoring ensures that the completed activities met the housing priorities.
- Recipients are to report on their self-monitoring activities in their APR under the Self-Monitoring Section.
- Refer to Program Guidance 2012-03 *“Monitoring Plans for Recipients”* for sample monitoring forms.

HUD MONITORING

One of the ONAP's key goals is to gain consistency in the implementation of the programs it administers. ONAP's Office of Grants Evaluation (GE) is charged with monitoring tribal and TDHE compliance with the policies and programs managed by ONAP's Office of Grants Management (GM). The primary purpose of an on-site monitoring visit by GE staff is to collect information about a recipient's performance and capabilities that cannot be ascertained from the documents normally submitted to HUD. ONAP uses the information gathered during those visits to develop a more complete picture of how effectively the recipient is managing the grant funds, implementing its plans, and providing help to the intended program beneficiaries.

- The monitoring process is intended to help ONAP fulfill its public trust responsibilities by ensuring that HUD grants are implemented in a timely manner and in compliance with all applicable requirements. Specific objectives of the on-site monitoring process include:
- Collecting data from grant recipients that will help HUD assess recipient risk. Validating and/or refining technical assistance (TA) needs as defined in the risk assessment process;

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- Identifying additional technical assistance needs;
 - Identifying and initiating HUD actions that will reinforce, improve, supplement, and correct recipient performance; and
 - Identifying and analyzing patterns of recipient activity that indicate superior, satisfactory, and deficient performance, which then can be used to improve HUD programs and increase overall recipient success rates.
- ☐ GE staff may provide or recommend specific types of technical assistance (TA) based on issues and problems that are discovered and documented in their monitoring and risk assessment processes. In some cases, GE staff will provide one-on-one TA, remote or on-site, related to the resolution of identified problems. GE staff may also provide TA through group training when it involves self-monitoring activities, APR, audit issues, and other functions performed by GE staff.
- ☐ The GE Specialist provides TA related to corrective actions undertaken by the grant recipient as the result of audit and/or monitoring review findings or remedies.
- ☐ When monitoring IHBG, if the GE Specialist finds statutory or regulatory noncompliance, ONAP must review the specific circumstances to determine whether the noncompliance is substantial. The following text, excerpted from § 1000.534, defines **substantial noncompliance**:
- *“Noncompliance is substantial if:*
 - ⇒ The noncompliance has a material effect on the recipient meeting its major goals and objectives as described in its IHP;
 - ⇒ The noncompliance represents a material pattern or practice of activities constituting willful noncompliance with a particular provision of NAHASDA or the regulations, even if a single instance of noncompliance would not be substantial;
 - ⇒ The noncompliance involves the obligation or expenditure of a material amount of the IHBG funds budgeted by the recipient for a material activity; or
 - ⇒ The noncompliance places the housing program at substantial risk of waste, fraud, or abuse.”

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**ATTACHMENT 14-1: PROGRAM GUIDANCE 2014-07:
FEDERAL FINANCIAL REPORT (FFR) - STANDARD FORM
425 FOR INDIAN HOUSING BLOCK GRANT PROGRAM**

RECIPIENT GUIDANCE

PROGRAM: Indian Housing Block Grant

FOR: Tribal Government Leaders and Tribally Designated Housing Entities
TRIBA

FROM: Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs

TOPIC: Federal Financial Report – Standard Form 425
Instructions and Guidance for the IHBG Program

PURPOSE: The purpose of this guidance is to update tribes and tribally designated housing entities (TDHE) on the requirements of the Federal Financial Report (FFR) as it applies to the Indian Housing Block Grant (IHBG) program. For the IHBG program, this guidance replaces Program Guidance 2012-01 and 2014-04.

BACKGROUND: The FFR applies to all Federal grants including the IHBG program. Each recipient of Federal financial assistance must account for the funds received and disbursed. Reports must be signed and submitted to the Area Office of Native American Programs (Area ONAP).

On April 28, 2011, ONAP issued PIH Notice 2011-23, implementing the new Indian Housing Plan/Annual Performance Report (IHP/APR) Form and related changes to the IHP and APR business process which initiated a shift from grant-specific to program year reporting. As a result of this change, all IHBGs were consolidated under a single grant number with funding budgeted and reported on a 12-month, program-year basis. This guidance provides instruction on how the FFR (SF 425) should be completed.

DUE DATES: Each recipient is required to submit one FFR per quarter for each 12-month program year. The 1st, 2nd and 3rd quarterly reports must be submitted no later than 30 days after the end of the calendar quarter. The 4th quarterly report is due 90 days after the end of the 4th quarter. The 4th quarterly report is the final report for the recipient's 12-month program year. The quarterly reports are due as indicated in the chart below and are based on the recipient's specific program year.

| Program Year | Q1 Due Date | Q2 Due Date | Q3 Due Date | Q4 Due Date |
|---------------------|--------------------|--------------------|--------------------|--------------------|
| Oct 1 – Sept 30 | Jan 30 | April 30 | July 30 | Dec 29 |
| Jan 1 – Dec 31 | April 30 | July 30 | Oct 30 | Mar 31 |
| Apr 1 – March 31 | July 30 | Oct 30 | Jan 30 | Jun 29 |
| July 1 – June 30 | Oct 30 | Jan 30 | April 30 | Sept 29 |

DEFINITION OF TERMS: The FFR and its instructions contain several technical terms. The definitions are provided below in alphabetical order.

- *Accrual Accounting:* An accounting method that records revenue and expenses when incurred, regardless of when cash is exchanged. In general, economic events are recognized by matching revenues to expenses (the matching principle) at the time when the transaction occurs, rather than when payment is made (or received). This method allows the current cash inflows/outflows to be combined with future expected cash inflows/outflows to give a more accurate picture of a recipient’s current financial condition.
- *Cash Basis Accounting:* An accounting method where income (or revenue) is recognized only when payment is received and expenses are recognized only when payment is made. Basically, when cash is received for the sale of property, it is recorded in the accounting records as revenue at the time. This is in contrast with accrual accounting, where the sale would be recorded in the books of account when a contract is executed rather than when cash is actually received.
- *Cash Disbursements:* Payment for goods or services in cash, check or electronic payment.
- *Cash on Hand:* Cash in actual possession; also called cash-in-hand or cash-on-hand.
- *Cash Receipt:* A printed or electronic document recording each time cash is received for a good or service.
- *Federal Share of Un-liquidated Obligations:* The amount of Federal funds legally committed that have not been expensed such as an account payable for items ordered or received but for which the supplier has not been paid. See below for definition of obligation.
- *Fund Accounting:* A system used by nonprofit and government organizations, including tribal governments and TDHEs. The accounting records take the form of a collection of funds, each fund having a distinct purpose, ranging from operating expenses to funding the various activities of the organization.
- *Obligation:* Any legally-binding agreement to pay a particular sum of money for contract labor, supplies, materials or services. Please refer to PIH Notice 2000-26 (TDHEs) for a description of the different types of funding obligations.
- *Program Income Earned:* Represents income earned by the recipient that is directly generated by a supported activity or earned as a result of the award.

- *Total Federal Funds Authorized:* Represents the total amount of Federal funds awarded for approved activities or projects.

INSTRUCTIONS FOR COMPLETING THE FFR: Generally, procedures for grant programs require recipients to request periodic disbursements concurrent with incurring eligible costs. HUD’s disbursement policy permits grant recipients to request funds to meet immediate cash needs for reimbursement of eligible costs incurred/paid with other funding sources. Grant disbursements are expected to be expended within three (3) business days of receipt. The primary focus of the FFR for the IHBG program is to:

- Record and track the revenue and expenditure of IHBG funds;
- Capture anticipated obligations of IHBG funds (paid expenses that will be reimbursed with IHBG funds); and
- Report on investments, program income and planning and administration reserve amounts.

Recipients are expected to follow the instructions and guidance closely to ensure data accuracy, consistency, and reliability. All FFRs submitted to the Area ONAP are based on single grant reporting; therefore, only the SF-425 is used. The SF-425A is used for multiple grant reporting and is not applicable to any of ONAP’s programs at this time.

The SF 425 form is available for downloading from the following website:
http://www.whitehouse.gov/sites/default/files/omb/assets/grants_forms/SF-425.pdf

LINE-BY-LINE INSTRUCTIONS AND GUIDANCE: The following table outlines the instructions for reporting IHBG program revenue and expenditures:

| Form Line Item | ONAP Guidance |
|----------------|---|
| 1 | Enter “Department of Housing and Urban Development ONAP”. |
| 2 | Enter the grant number assigned by the Federal agency. |
| 3 | Enter the name and complete address of the recipient organization including zip code. |
| 4(a) | Enter the recipient organization’s Data Universal Numbering System (DUNS) number. |
| 4(b) | Enter the recipient organization’s Employer Identification Number (EIN). |
| 5 | This is optional. The recipient may enter an account number or other identifier they assign, not HUD, or leave blank. |
| 6 | Mark appropriate box. |
| 7 | Mark appropriate box Cash or Accrual. Financial data should be presented using the same basis of accounting as the APR and the Schedule of Expenditures of Federal Awards (SEFA). (i.e. financial statements prepared by the recipient in preparation for completion of the A-133 audit process). To ensure that the grant accrual methodology remains reasonable and appropriate, HUD will review the approach each quarter based on receipt of FFR (SF-425) data. It is critical that the methodology of the accrual process is consistently applied. |

| Form Line Item | ONAP Guidance |
|----------------|--|
| 8 | Indicate the period established in the award. The “From” date will be the first day of the recipient’s current 12-month program year and the “To” date will be the last day of that 12-month program year. For a recipient with a program year that begins in October, the “From” date will be October 1 of that year and the “To” date will be September 30 of the following year (e.g., October 1, 2012, to September 30, 2013). There will be four quarterly FFRs submitted for each 12-month program year and then the reporting process will start over. |
| 9 | Enter the ending date of the reporting period. Use the following reporting period end dates: 3/31, 6/30, 9/30 or 12/31. |
| 10a | Enter the cumulative amount of actual cash received for the 12-month program year from the Federal agency as of the reporting period end date. This is the amount of all LOCCS draw-downs received for the subject grant from the “From” date until the end of this reporting period. This should include any <u>undisbursed</u> cash on hand at the end of the prior program year. (See definition of <i>Cash Disbursements</i> above). |
| 10b | Enter the cumulative amount of Federal fund disbursements (such as cash or checks) as of the reporting period end date. Disbursements are the sum of actual cash disbursements for direct charges for goods and services, the amount of indirect expenses charged to the award, and the amount of cash advances and payments made to sub-recipients and contractors and the amount of expenses paid from other funds that will be reimbursed by IHBG funds as of the reporting period end date. |
| 10c | Enter the amount of Line 10a minus Line 10b. This amount represents immediate cash needs. Excess cash on hand, for more than three business days, requires an explanation on Line 12, Remarks, explaining why the draw down was made prematurely or other reasons for the excess cash. |
| 10d | Enter the total Federal funds authorized as of the reporting period end date. This will be the IHBG grant amount for the 12-month program year. For ease of reporting, recipients should include the balance in LOCCS for the “55 Project” at the beginning of its program year and any undisbursed IHBG cash on hand from the previous program year. Recipients must add any grant amounts awarded during the program year. |
| 10e | Enter the amount of Federal fund expenditures. This amount will equal or exceed the amount reported on Line 10b. For reports prepared on a cash basis, expenditures are: the sum of cash disbursements for direct charges for property and services; the amount of indirect expense charged; the value of third-party in-kind contributions applied; and the amount of cash advance payments and payments made to sub-recipients. Expenditures are the sum of cash disbursements for direct charges for property and services; the amount of indirect expense incurred; the value of in-kind contributions applied; and the net increase or decrease in the amounts owed by the recipient for (1) goods and other property received; (2) services performed by employees, contractors, sub-recipients, and other payees; and (3) programs for which no current services or performance are required. |

| Form Line Item | ONAP Guidance |
|----------------|---|
| 10f | Enter the Federal portion of unliquidated obligations. Unliquidated obligations on a cash basis are obligations incurred, but not yet paid including amounts due to sub-recipients and contractors. On an accrual basis, they are obligations incurred, but for which expenditures have not been recorded. Do not include any amount in Line 10f that has been reported in Line 10e. Do not include any amount in Line 10f for a future commitment of funds (such as a long-term contract) for which an obligation or expense has not been incurred. |
| 10g | Enter the sum of Lines 10e and 10f. |
| 10h | Enter the amount of Line 10d minus Line 10g. |
| 10i | A recipient share is not required under the IHBG program. |
| 10j | Enter recipient funds (e.g., tribal funds, revolving loans, non-program income, rental receipts, etc.) expended for program activities. |
| 10k | Enter sum 10j minus 10i. |
| 10l | Enter the cumulative amount of Federal program income earned during the reporting period, including interest earned on IHBG investments. Include any program income on hand from the previous reporting period (Line 10.o.). See instructions for Line 12, Remarks, for additional reporting requirements related to program income. |
| 10m | Leave blank. IHBG recipients are not required to use earned income to reduce the grant amount. |
| 10n | Enter the cumulative amount of program income expenditures for the reporting period. |
| 10o | Enter the amount of Line 10l minus Line 10n. This amount equals the program income that has been earned but not expended, as of the reporting period end date. |
| 11 | This information is optional for the IHBG program. |
| 12 | <p>The remarks should clarify or explain information contained in the report. Additional pages may be attached. Explanations should be provided for the following:</p> <p>Cash on Hand: Explain any IHBG cash on hand that exceeds cash needs of 3 business days including: (1) funds drawn down for investment purposes; and (2) funds drawn down to establish or replenish a reserve for planning and administration.</p> <p>Invested IHBG Funds: Include: (a) the amount(s) drawn down; (b) the draw down date(s); (c) the date(s) that the funds were invested in an approved investment instrument; and d) the current balance for all IHBG investments.</p> <p>Planning and Administration Reserves: This must include: (a) the amount(s) drawn down; (b) the draw down date(s); (c) the date(s) that the funds were placed in a separate account established for this purpose; (d) amount of interest earned; and (e) current balance of the Planning and Administration Reserve Account(s).</p> <p>Amounts Entered on Line 10l: Explain amounts entered on 10l that include, but are not limited to, the amount of interest earned on the investment of IHBG funds.</p> |
| 13a | Enter the name and title of the authorized certifying official. |
| 13b | The authorized certifying official must sign here. |
| 13c | Enter the telephone number (including area code and extension) of the individual listed in Line 13a. |
| 13d | Enter the email address of the individual listed in Line 13a. |

| Form Line Item | ONAP Guidance |
|----------------|--|
| 13e | Enter the date the FFR is submitted to the Federal agency using the month, day, and year format. |

SOURCE DOCUMENTATION RETENTION: Recipients of Federal funds must maintain relevant and reliable accounting systems to ensure that the information provided in the FFR is consistent and fairly presented. Furthermore, recipients are required to maintain all source documents and accumulated transactional documents for expenses included in the FFR.

SANCTIONS: In the event that HUD determines that a recipient has failed to comply with its financial accounting, documentation and reporting responsibilities, HUD is authorized to initiate sanctions against the recipient, as stipulated at 24 CFR Part 1000, Subpart F. These sanctions include the suspension, limitation, and/or termination of the recipient's HUD-funded grants.

Note: The Office of Management and Budget (OMB) published new regulations on Guidance for Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which will supersede previous OMB Circulars. HUD is implementing regulations in accordance with the guidance, and expects the new audit and financial regulations will become effective December 26, 2014, or later. FY 2014 grantees will be required to comply with the HUD implementing regulations when they become effective, but should not use them before the effective date.

ADDITIONAL GUIDANCE: Contact your Area ONAP if you have any questions.

CHAPTER 15: UNIT MAINTENANCE

This chapter Includes:

- ***NAHASDA maintenance requirements as described Section 203(b).***
- ***Maintenance program functions***
- ***Developing Maintenance Policies and establishing maintenance standards in compliance with NAHASDA.***
- ***Budgeting***
- ***Staffing***
- ***Inventory Control***
- ***Implementing Work Order Systems***

WHAT IS MAINTENANCE?

[NAHASDA Section 203(b); PIH Notice 2004-17; PIH Notice 2006-19; PIH Notice 2010-36; PIH Notice 2012-37]

- Maintenance is the upkeep of property and equipment so that it is kept in decent, safe and sanitary condition, as required by Title II, Section 203(b) of the Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996, and detailed in Program Guidance 2000-09 "Regulatory and Statutory Requirements for Maintenance of 1937 Housing Act Units".
 - It also prevents the recipient's housing stock from deteriorating or declining into disrepair and is the most important day-to-day aspect of on-site management.
 - Other than recipient-paid utilities, it is the largest single area of expense in housing management.
 - The APR Inspection Section of the IHP/APR Combined Form (HUD-52737) requires recipients to annually report on the inspection results of their units.
- Without an effective maintenance program, a recipient's expenses can soar and even go out of control.
 - This is especially true since a recipient spends approximately 75 percent to 80 percent of its management budget on the labor to repair or replace an item and 20 percent to 25 percent on the item itself.

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- The time it takes to replace an item could be as much as three (3) times the cost of the item.
 - Consequently, the recipient could spend a considerable amount on labor costs when units begin to deteriorate as a result of poor maintenance.
- Many residents define good management as good maintenance.
- Maintenance is most critical in establishing good resident relationships.
- Developing a good maintenance program is an essential ingredient in a recipient's successful operation.

WHAT ARE NAHASDA MAINTENANCE REQUIREMENTS?

[NAHASDA Section 203(b)]

- The recipient is responsible, under NAHASDA, to maintain its owned and managed units. Title II, Section 203 describes some of the program requirements recipients are expected to comply with, and Section 203(b) describes and defines maintenance responsibilities as follows:
- **Maintenance and Efficient Operation:** Each recipient who owns or operates (or is responsible for funding any entity that owns or operates) housing developed or operated pursuant to a contract between the Secretary and a recipient under the U.S. Housing Act of 1937 (1937 Act) shall, using amounts of any grants received under this Act, reserve and use for operating assistance under Section 202(1) such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing.
 - ⇒ This subsection may not be construed to prevent any recipient from demolishing or disposing of Indian housing referred to in the subsection, pursuant to regulations established by the Secretary.
 - ⇒ This means that a recipient must take care of existing units that are under management developed with 1937 Act funds.
 - Maintaining existing units must be one of the priorities outlined in its Indian Housing Plan (IHP). In addition, the recipient must allocate adequate funding to maintain its units in accordance with NAHASDA and the related applicable regulations.

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- This may mean allocating Indian Housing Block Grant (IHBG) funds to maintain existing units rather than develop new units.
- Failure to maintain 1937 Act units may result in the imposition of remedies authorized under Section 401 of NAHASDA and § 1000.532. Section 102(b)(2)(A)(v) requires that in their IHP recipients identify the manner in which they will protect and maintain the viability of their owned and operated housing inventory that was developed under a contract between HUD and an IHA pursuant to the 1937 Act. It is also required under Section 203(b) of NAHASDA that recipients of IHBG funds who own or operate housing developed under the 1937 Act shall use funds provided under NAHASDA for the continued maintenance and efficient operation of such housing.

MAINTENANCE MANAGEMENT PLAN

- The size of the tribally designated housing entity (TDHE) will determine the extent and complexity of the management plan, but all recipients should have one whether they are small or large.
- Developing a maintenance plan is useful in several ways: the planning process may result in improved maintenance and operations, more effective use of resources, and the plan will ensure that the recipient maintenance requirements are being met in a systematic manner.
- Such a plan will also help in the budgeting process: both in justifying and getting needed resources to conduct maintenance activities. A maintenance plan will also help avoid a crisis management approach to maintenance.
- Such a comprehensive plan must also be supported by a staffing plan, inventory and procurement plan, contract schedule, leave schedule, resident input and approved budget.

WHAT IS THE FUNCTION OF A RECIPIENT'S MAINTENANCE PROGRAM?

- A recipient's most important maintenance function is to manage and maintain its current assisted housing stock. Two programs that are common to almost all recipients and require continual commitment to maintenance are the low-income rental housing program and the homeownership program. Some recipients may also have Turnkey III and Section 8 programs. Responsibilities for each program are described as follows:
- Maintenance for a low-income rental program:

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- ⇒ The recipient may design its own maintenance program that will include defining who is responsible for maintenance and repairs when tenants cause the damage.
- ⇒ Depending on the terms of their lease, tenants may be required to repair damages at their own expense.
- ⇒ If, however, the tenant fails to make any required repairs, the recipient's maintenance policies and Dwelling Lease may or may not require the recipient to make sure that the repairs are made and bill the repair charges to the tenant.
- ⇒ If applicable, failure of the tenant to pay such repair bills is usually grounds for termination of the Dwelling Lease.
- Maintenance for a homeownership program:
 - ⇒ The following elements are usually included in homebuyer's contracts:
 - Under an existing Mutual Help & Occupancy Agreement, if the homebuyer fails to maintain the unit in good repair, the recipient would see to it that the repairs are made and bill the repair charges to the homebuyer.
 - Failure of the homebuyer to pay such repair bills is usually grounds for termination of the homebuyer agreement.
- Maintenance for the Turnkey III Homeownership Opportunities Program. The recipient may elect to include the following elements in their homebuyer contracts:
 - ⇒ As with the homeownership programs, homebuyers usually are responsible for all maintenance.
 - ⇒ If contained in the homebuyer contract, any repairs that are made will be billed to the homebuyer if they fail to maintain the unit in good repair.
 - ⇒ Failure of the homebuyer to pay such repair bills is grounds for termination of the homebuyer agreement. (HUD started this program in the 1970's and recipients are encouraged to convert Turnkey III homes to either the homeownership or rental program.)
- Maintenance for the Section 8 Program:

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- ⇒ Under the Section 8-voucher program, the private landlord is responsible for maintenance not caused by the tenant. Damages caused by the tenant are to be repaired by the tenant at their own expense.

HOW DO YOU DEVELOP MAINTENANCE POLICIES AND PROCEDURES?

- The recipient's governing board is responsible for adopting maintenance policies and procedures.
- The recipient's Executive Director is usually responsible for developing maintenance policies and procedures, along with implementing the policies and procedures as adopted.
- A policy or procedure is a definite course of action chosen from various alternatives and is a guide to determine present or future decisions.
- Maintenance policies and procedures set the ground rules or "Standard Operating Procedures" for operating a maintenance program that will comply with the Federal government's regulations.
- Following is a sample outline of a Maintenance Policy and Procedure:

SAMPLE OUTLINE OF MAINTENANCE POLICIES AND PROCEDURES

- I. Purpose and Objectives
 - A. Applicability
- II. Resident Responsibilities
 - A. Homebuyer maintenance
 - B. Renter maintenance
 - C. Failure to maintain home
 - D. Hazardous conditions
- III. Types of Maintenance
 - A. Routine maintenance
 - B. Preventive maintenance
 - C. Schedule for preventive maintenance
 - D. Non-routine maintenance
- IV. Recipient Responsibilities
 - A. General inspection requirement
 - B. Annual inspections
 - C. Insurance claims

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- D. Personnel responsibilities
 - E. Instructional materials
 - V. Maintenance Program
 - A. Work order procedures
 - B. Procurement
 - C. Counseling
 - D. Inventory control
 - E. Vacant unit turn around
 - F. Charges to residents
- ☐ There are five important documents needed in order to write a comprehensive maintenance management policy. They are:
- Applicable sections of NAHASDA;
 - HUD's Code of Federal Regulations or "24 CFR 1000";
 - Recipient's Admission and Occupancy Policy
 - Dwelling Lease;
 - ⇒ A Dwelling Lease is a contract between the recipient and the resident. It guarantees that the recipient will provide certain services to the resident, and that the resident will maintain the property in the same condition in which it was rented.
 - ⇒ The dwelling lease is particularly important in developing a maintenance policy because it specifically outlines the recipient's responsibility to its residents and vice versa.
 - Homeownership Agreement (and the Turnkey III Homebuyer Agreement, if applicable).
 - ⇒ The Homeownership Agreement is an agreement signed between the recipient and the homebuyer.
 - Under NAHASDA, many recipients are editing the original Mutual Help and Occupancy (MHOA) from the HUD Mutual Help Homeownership Program for use as their homeownership agreement.
 - ⇒ The MHOA under maintenance outlines who will maintain the unit and how it will be done. If homebuyers have an MHOA dated November 1991, maintenance is addressed in Article IV.

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- ⇒ Both versions of the MHOA state that the homebuyer shall be responsible for all maintenance of the home, including all repairs and replacements and replacements necessitated by damage from any cause.
- ⇒ On the other hand, the recipient is responsible for "assuring that the housing is being kept in decent, safe and sanitary condition, and that the home and grounds are maintained in a manner that will preserve their condition." It also lays out the terms under which the home will be inspected.
- ⇒ Whatever type of homeownership agreement you use, make sure that it describes the maintenance responsibilities of both the homebuyer and the recipient.

WHAT ABOUT THE MAINTENANCE BUDGET?

- For a recipient's maintenance program, the budget is the financial picture of plans and activities that the maintenance staff should undertake in the next fiscal year, as described in their IHP.
- The recipient's administrative or financial departments usually prepare the overall budget.
- A maintenance department director or supervisor must work closely with whoever is preparing the budget, informing that person of all the plans and activities the maintenance department wants to undertake in the upcoming plan year.
 - The first consideration in preparing the maintenance department's budget is to be realistic.
 - Look for guidance in last years' budget.
- Be careful to consider the likely occurrence of price increases. Also, keep in mind that properties age, and some older units may need special maintenance.
- The budget must reflect any replacements that may be needed.
- The budget must also include any necessary maintenance supplies and materials.
- Having accurate supply management records will help determine the items that will need to go into the department's budget.

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□ In preparing your maintenance budget, the following categories should be funded:

- Emergency Maintenance
- Ordinary Maintenance
 - ⇒ Labor,
 - ⇒ Supplies/Materials, and
 - ⇒ Contract Costs.
- Non-routine Maintenance
 - ⇒ Extraordinary (and perhaps non-recurring) Maintenance, and
 - ⇒ Casualty Loss (Net after settlement)
- Capital Expenditures
 - ⇒ Equipment Replacement, and
 - ⇒ Betterments and Additions.
- Salaries and Benefits (the following items should be included in this line item)
 - ⇒ Current salary or hourly rate for all maintenance staff,
 - ⇒ Overtime,
 - ⇒ Seasonal/Temporary Workers,
 - ⇒ Staff Additions,
 - ⇒ Benefits, and
 - ⇒ Training and Travel Expenses

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Here is a typical maintenance budget format:

SCHEDULE OF MAINTENANCE, OPERATIONS, AND REPAIRS EXPENSES

| Line | Account | Description | Total |
|------|-------------|---|----------|
| 1 | 01-4410.001 | Security | 0 |
| 2 | 01-4410.002 | Janitorial Services | 0 |
| 3 | 01-4410.003 | Elevator Service | 0 |
| 4 | 01-4410.004 | Upkeep of Grounds | 0 |
| 5 | 01-4410.005 | Necessary Maintenance | 0 |
| 6 | 01-4410.006 | Normal Repairs & Alterations | 0 |
| 7 | 01-4410.007 | Maintenance Materials | 0 |
| 8 | 01-4410.008 | Vehicle Fuel | 0 |
| 9 | 01-4410.009 | Vehicle Maintenance | 0 |
| 10 | 01-4410.010 | Equipment Repairs | 0 |
| 11 | 01-4410.011 | Contracts | 0 |
| | | Total 01-4410 Maintenance Expenses | 0 |

WHAT ARE THE COMPONENTS OF A GOOD MAINTENANCE PROGRAM?

A comprehensive maintenance program includes various types of maintenance activities.

- Individually, these activities serve to keep the recipient's housing stock in good condition, and collectively they provide residents with comprehensive maintenance and make them feel the recipient is responsive to their needs.
- There are ten components to a good maintenance program. They are:
 - Emergency Maintenance
 - ⇒ These are tasks include such things as gas line leaks, exposed electrical lines, broken water pipes, lack of heat, etc. These are items that, if not repaired properly, could cause injury, loss of life, threaten resident health or cause serious property damage.
 - Preventive Maintenance
 - ⇒ Regular inspections, monitoring and care of facilities and equipment will help prevent future emergency maintenance and/or major failures.

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- Routine Maintenance
 - ⇒ Routine maintenance tasks are recurring in nature and include minor repairs and replacements.
- Non-Routine Maintenance
 - ⇒ These tasks entail major repairs and/or improvements to a property, or equipment or the replacement of an item, usually at a substantial cost to the recipient or homebuyer.
- Inspections
 - ⇒ Inspections are a very crucial part of preventive maintenance and include move-in, move-out, annual, warranty, and special inspections. Inspections are also very helpful in developing a risk management plan. Typically, the recipient will state how often, when and what types of inspections are required in their Maintenance Policy. Annual inspections should be stated as a requirement in existing Dwelling Leases or homebuyer contracts. Most recipients inspect their owned and managed rental units at least annually and their owned and managed Mutual Help Homeownership Units developed under the 1937 Act periodically as necessary, depending upon the condition of the homes. For guidance on inspections required under NAHASDA, see PIH Notice 2012-45 “*Recipient Inspection of Housing Units Assisted under the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) and Those Assisted Under the United States Housing Act of 1937*”. Specific guidance on inspections is also provided in Chapters 5, 6, and 7 of this manual.
- Resident Maintenance
 - ⇒ Generally, participants in homeownership opportunity programs (e.g., lease with option to purchase, Mutual Help, etc.) are responsible for the routine and non-routine care and maintenance of the home. Tenants occupying rental units are not responsible for routine and non-routine maintenance and repairs that are a result of normal wear and tear. Regardless of the program type, standards of care applicable to all program participants ensure the viability of the units.
- Deferred Maintenance
 - ⇒ Simply put, it is maintenance that is not undertaken due to a lack of funds, inadequate staffing or poor planning.

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- Inventory Control
 - ⇒ Knowing what you have on hand, knowing what you are going to need, and when to reorder.
 - Work Order System
 - ⇒ Using forms that are beneficial for scheduling, prioritizing and charging tenants or homebuyers for work completed by the recipient.
 - Vacant Unit Turn-around
 - ⇒ The recipient's system for turning over vacant units to prepare them for occupancy is an important component of a maintenance program. Some recipients include vacancy turn-around in their work order system.
 - The recipient's Occupancy Department usually contacts the Maintenance Department to let them know that a unit is vacant or will be vacant at the end of the month.
 - The Maintenance Department should then schedule an inspection of the unit to determine what repairs are needed.
 - This action will determine the turn-around time (amount of time from move-out inspection to becoming available for occupancy).
 - Turn-around time is typically anywhere from three days to ninety days depending on the condition of the unit and the length of time it takes the maintenance staff to procure materials and complete the work.
 - Once the unit is repaired, the Maintenance Department usually contacts the Occupancy Department, and then the unit is put back on the market to rent.
- An effective maintenance program must work to provide decent, safe, sanitary and affordable housing.
 - If the recipient's units are not maintained, they will wear out, become obsolete or perhaps totally destroyed.
 - Operating and maintaining the current assisted stock should be the top priority when you are putting together your budget for your IHP.

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WHY IS MAINTENANCE PROGRAM STAFFING SO IMPORTANT?

- Staffing a maintenance program is one of the most, if not the most, essential component of a maintenance program.
- The level of management ability depends on the maintenance manager's aptitude in a wide variety of skills.
- Maintenance managers or coordinators must be able to:
 - Organize;
 - Communicate;
 - Solve problems; and
 - Relate to others.
- For supervisors, management skills are as important as technical skills. A problem often encountered in finding staff to run an effective maintenance program is the lack of well-trained applicants with the technical expertise necessary to do the job.
- That is why it is so important to "hire the right person for the right job."
- When hiring staff, recipients must comply with certain Federal regulations on wage and labor standards for employment opportunities that are generated by, or otherwise linked to, an IHBG-funded activity. If a tribe adopts laws or regulations requiring the payment of prevailing wage rates that are tribally determined, these rates and not Davis Bacon rates apply.
- All maintenance employees must have job descriptions.
 - The title of the job is not enough to define the position's varied duties.
 - A statement of the job's duties and the basic skills that are the two main elements of a maintenance employee's job description.
 - The job description establishes the rules by which an employee's work is judged.

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- A job description also ensures that employees know their assigned duties and responsibilities, and the standards against which his/her performance will be measured.
 - When a maintenance staff member does not have an accurate job description, he/she could be confused about what is expected of him/her, and that affects performance.
- In-house vs. outside contracting
- One of the many responsibilities of the maintenance program is to determine the best and most cost effective way to get the work done. In most cases, this can be accomplished by assigning the work to a member of the maintenance staff. In other cases, it may be better to contract with an outside source to do the work. Sometimes, there may not be a choice. All outside contracting must be secured through proper procurement procedures. This is to insure that the recipient is getting the best service for the lowest price. There are both advantages and disadvantages to using in-house or outside contractors, all of which must be explored in the course of conducting the maintenance business of the recipient.
- Advantages of outside contracting:
- Will get the specialized skills and expertise for the job;
 - Able to utilize just for the duration of the job or at peak operating times;
 - May reduce overall personnel costs and administrative time; and
 - May reduce inventory size and equipment costs.
- Disadvantages of outside contracting:
- May lose general flexibility and control;
 - Resident relationships with staff may deteriorate;
 - May lose scheduling control; and
 - Administrative costs may increase with complicated bidding and monitoring activities.

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WHY IS INVENTORY CONTROL NECESSARY?

[§ 1000.26]

- In accordance with § 1000.26 entitled Administrative Requirements required under NAHASDA and the Procurement Regulations at § 85.32, Equipment, a recipient is required to conduct a physical inventory at least once every 2 years.
 - An inventory of capitalized maintenance equipment and tools must be conducted to provide a status of the inventory and the dollar amount of the inventory for financial and accounting purposes.
 - This information, including the purchases and disposition of equipment and tools, must be available in order for the recipient's auditor to prepare an accurate financial statement of the recipient.
- Nothing will undermine the success of your maintenance operation quicker than the failure to supply items when needed. Simply put, a good inventory system requires only three things--knowing what you have on hand, what you will need and when you will need it.
- In developing an inventory system, it is probably best to start with what you need. Using a planned maintenance schedule as a guide, you can begin to estimate the supplies and materials needed to maintain the recipient's projects.
- First, ask the maintenance staff. The staff works with the supplies and materials every day and will be able to provide a wealth of information about what is needed.
- Second, look at what needs to be on hand.
- Third, look at when it will be needed. For example, reoccurring items like furnace filters can be ordered in bulk and well before they are needed.
- Finally, look at the purchasing records to see what was purchased over the last 2 years. These figures will also come in handy when beginning to estimate what is actually needed.
- This is the basic information required for a good inventory system.
- It is equally important to be involved in the development stage of the construction of new units. Work with the architects and contractors and advise them not to use hard to replace items. They must design the construction that will use parts that are readily available and are the same brand name items that are currently in existence. This will cut down on high overhead and unnecessary inventory.

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- A good inventory system must include reorder points, reorder quantities and storage facilities. This would be comprised of 3 parts:
 - Method of tracking the number of items remaining at any given time,
 - Making a decision to reorder a certain quantity of items when the stock reaches a certain level, and
 - Having adequate space for storing equipment, materials and supplies.
- All non-expendable equipment, as determined by the limits set by the recipient within regulations, must be properly inventoried as property of the recipient.
- Non-expendable equipment includes all non-attached equipment in project units, such as ranges and refrigerators. Other examples are equipment owned and used by the recipient, including such equipment as vehicles, desks, file cabinets, typewriters, computers, large tools, lawn mowers, etc.
- A capitalization policy should include:
 - The dollar limit at which capitalized purchases must receive board approval;
 - The method to be used to conduct an annual non-expendable equipment physical inventory;
 - The procedure for reconciliation of the annual physical inventory to the general ledger accounts;
 - The procedure for correcting any errors.
- All capitalized recipient equipment should be identified, numbered and inventoried at the time of purchase.
- Disposition of inventory:
 - Whenever the recipient determines that inventories have become obsolete or are more than is needed, it is advisable to dispose of the obsolete or excess stocks immediately.
 - Keeping these items results in unnecessary warehousing, inventory control and paperwork, as well as possible deterioration and theft of items.

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- ⇒ Prior to disposing of property, the recipient should adopt a disposition policy that requires the maintenance staff to:
- ⇒ Get authorization to dispose: The maintenance staff should review the recipient's supply management policy and procedures that specify disposition. In most cases, the policy authorizes the executive director or another staff member to dispose of obsolete or excess property within stated limits.
- ⇒ Try to sell: The items should not be destroyed, abandoned or donated until every reasonable effort has been made to sell them. If the items have no scrap or salvage value and a purchaser cannot be found, the recipient must record the names of prospective purchasers solicited, and the time and manner in which the property was disposed.

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