

NAHASDA Tribal Council Roles and Responsibilities Day 2 Lunch to 4 PM



7. Tribal or Indian preference

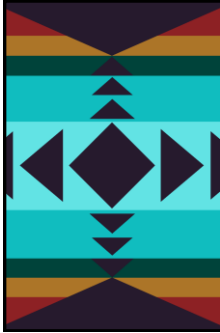
This may be incorporated into the procurement policy or may be a separate policy. IHBG recipients are subject to section 7(b) of the Indian Self-Determination and Education Assistance Act and Section 5 of the Indian Financing Act of 1974, in accordance with §1000.48. Section 1000.52 (a) (1) requires 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.



Indian Preference

You should have the following Documents in place regarding Indian Preference:

- Your Indian Preference Policy
- Your Indian Preference Qualification Application
- Your Indian Preference Determination Letter
- Your Indian Preference Complaint Procedure



Indian Preference Complaint Procedure

ATHA shall not issue a notice to proceed until all complaints and appeals have been resolved.

The following procedures are applicable to complaints arising out of any methods of providing Indian preference:
The burden of proof shall be on the complainant to demonstrate a violation of the policy(ies) or procedure(s).

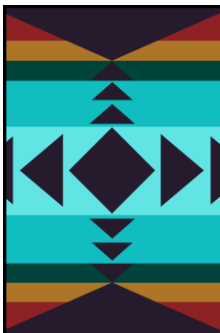
1. Each complaint shall be in writing, signed, dated, and filed with the ATHA.
2. A complaint must be filed with the ATHA no later than 20 calendar days from the date of the action (or omission) upon which the complaint is based.
3. Upon receipt of a complaint, the ATHA shall stamp the date and time of receipt upon the complaint.
4. Within 20 calendar days of receipt of a complaint, the ATHA Executive Director or their designees, shall either meet, or communicate by mail, e-mail, or telephone, with the complainant in an effort to resolve the matter.
5. The ATHA Executive Director shall make a determination on the complaint and notify the complainant, in writing, within 30 calendar days of the submittal of the complaint to the Executive Director. The decision of the Executive Director shall constitute final administrative action on the complaint.

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.





Real Property Acquisition and Relocation

The tribe shall follow the relocation and real property acquisition regulations set out in 24 C.F.R. 1000.14 in relocating tenants and homebuyers and acquiring real property. Under section 702 of NAHASDA no lease of restricted allotments or town site lands shall exceed 50 years.

You will still need to develop minimum standards for appraisals, as well as criteria for determining the minimum qualifications of appraisers.

9. 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 the personnel and procurement policies. This requirement is found at §1000.42.

On Oct 23, 2020 a Dear Tribal Leader letter was issued.

Please See Appendix Documents:
#1 Dear Tribal Leader-Section 3 Oct 23, 2020
#2 Section 3 Final Rule Sept 29, 2020

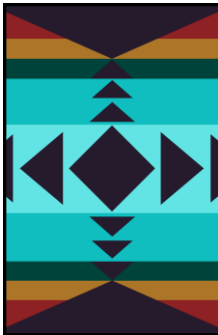


9. Section 3.

On September 29, 2020, the U.S. Department of Housing and Urban Development (HUD) published a final rule entitled "Enhancing and Streamlining the Implementation of Section 3 Requirements for Creating Economic Opportunities for Low- and Very Low-Income Persons and Eligible Businesses" (Section 3 Final Rule) in the Federal Register (FR) at 85 FR 61524.

As you know, Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u) requires that recipients of certain HUD funds make economic opportunities available for low- and very low-income individuals, especially recipients of government assistance for housing, living in the areas where HUD funds are spent.

The Section 3 Final Rule makes changes to the Section 3 regulations, now codified in 24 CFR Part 75 and effective on November 30, 2020, designed to focus on economic opportunity outcomes while simultaneously reducing regulatory burden. These changes improve the effectiveness of Section 3, streamline some processes that have not yielded significant benefits, and encourage HUD grantees to focus on sustained employment for low- and very low-income individuals.



9. Section 3

The Section 3 Final Rule does impact our Native American programs in important ways that I wanted to share with you. The Final Rule provides that "contracts, subcontracts, grants, or subgrants subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 5307(b)) or subject to tribal preference requirements as authorized under 101(k) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4111(k)) must provide preferences in employment, training, and business opportunities to Indians and Indian organizations, and are therefore not subject to the requirements of" 24 CFR Part 75.



9. Section 3

Accordingly, beginning on November 30, 2020, the effective date of the Section 3 Final Rule, Tribes and Tribally Designated Housing Entities (TDHEs) will no longer be required to comply with Section 3 requirements. Additionally, the Final Rule makes conforming technical changes to the Indian Housing Block Grant (IHBG) regulations at 24 CFR 1000.42 clarifying that IHBG recipients are no longer subject to Section 3 requirements.



10. Cash Management


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



11. Travel

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





11. Travel


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

12. Drug-free workplace

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

Drug-free workplace

As described in the Drug-Free Workplace Act, it is the policy of the Authority to provide a drug-free workplace and for all employees to abide by this policy. Accordingly, an employee of the Authority is prohibited from engaging in the unlawful manufacture, distribution, dispersion, possession, or use of a controlled substance in the workplace. Violations of this or other prohibitions on drug use by Authority employees may result in disciplinary action, to include dismissal.



Drug-Free Workplace Written Statement

- In effect: _____ (Date) until further notice
- I have read and been informed about the content, requirements, and expectations of the Drug and Alcohol-Free Workplace Policy for employees of Any Tribal Indian Housing Authority. I have received a copy of the policy and agree to abide by the policy guidelines as a condition of my employment and my continuing employment at ATIHA.
- I understand that if I have questions, at any time, regarding the Drug and Alcohol-Free Workplace Policy, I will consult with the Executive Director, my immediate supervisor, or Tribal Human Resources staff members.
- Please read the Drug and Alcohol-Free Workplace Policy carefully to ensure that you understand the policy before signing this document.
- _____
- _____
- Employee Signature: _____
- Employee Printed Name: _____
- Receipt By: _____
- Date: _____

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





Investment and Internal Control

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

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

Housing Standards

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

More information regarding these requirements can be found in Notice PIH 2010-47, Total Development Costs (TDC) for Affordable Housing under (NAHASDA). ONAP Guidance 2004-02 outlines these policy requirements.



SOME MORE SPECIFICITY:

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



SOME MORE SPECIFICITY:

- 2 CFR 200.474.(d) – Travel
- 24 CFR 1000.14 – Relocation and Property Acquisition
- 24 CFR 1000.26 – Overarching Administrative Requirements
- 24 CFR 1000.42 – Section 3 – See Appendix 1-2
- 24 CFR 1000.46 – Drug-Free Requirements
- 24 CFR 1000.158 – Moderate Housing Standards and (c) = Total Development Costs
- 24 CFR 1000.30, 32, 34 and 36 - Conflicts of Interest:
- 24 CFR 1000.54 – Complaints/Issues stemming from Indian Preference



INDIAN OR TRIBAL PREFERENCE REFERENCES:

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

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



INDIAN OR TRIBAL PREFERENCE REFERENCES:

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

INDIAN OR TRIBAL PREFERENCE REFERENCES:

Tribal Preference – A Tribe may adopt a tribal preference law in housing assistance, employment and contracting, that tribal preference will be given to, and allow, preferential treatment of tribal members over other Indians not members of the tribe. Tribal preference laws may also specify any preferences in workforce reductions or layoffs. See ONAP Program Guidance 2013-07.

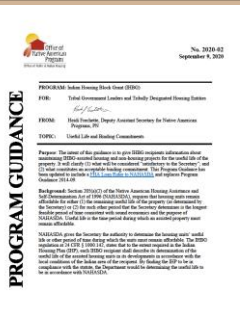
Indian Preference - Section 7(b) of the Indian Self-Determination and Education Assistance Act allows preference to Indians for housing assistance, employment and training and to Indian organizations and Indian-owned economic enterprises in the award of contracts and subcontracts under the IHBG program.

OTHER GUIDANCES:

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



Useful Life & Binding Commitments



TOPIC: Useful Life and Binding
Commitments No. 2020-02
September 9, 2020



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 has been updated to include an FHA Loan Rider to NAHASDA and replaces Program Guidance 2014-09.

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• **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.

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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.



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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.



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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:



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IHBG Funds Invested Affordability Period*

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



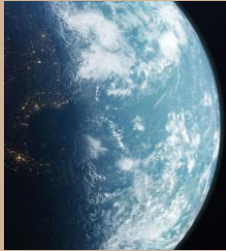
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- NOTE: For relatively minor investments, the designated affordability period can be some nominal period of time, but NAHASDA requires that some period be designated, and that it be secured with a binding commitment. Additionally, if the reasonable 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.
- 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 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.



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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.



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- **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).



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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.



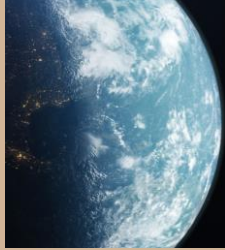
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- **Housing Units:** However, any subsequent transfer by the family member or household member to a third party (not a family member or household member) is subject to any remaining useful life or affordability period under a recorded binding commitment. 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.



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Housing Units: 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 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.



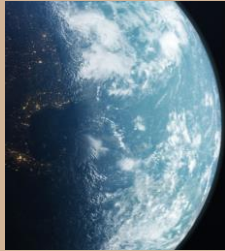
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- **2. Model Activities/Non-housing:** The useful life provisions apply to all model activities and non-housing projects constructed, developed, or acquired with IHBG funds to ensure the remaining useful life of the property will be maintained for 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. There is a sample Record of Use Restrictions form with the guidance 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 model reporting form is designed to be the registry of all of the various use restrictions that are placed on recipient properties.



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Acceptable Binding Commitments: As mentioned earlier, 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.



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- **Acceptable Binding Commitments:** 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.



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- **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 six attached samples of Useful Life/Use Restriction Agreements (two for fee land, two for trust land, one for model activities/non-housing projects and one for FHA insured loans) 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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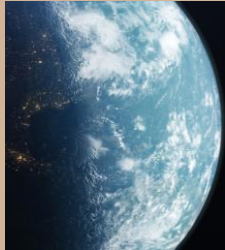
- **Useful Life/Use Restriction Agreements for Use on Fee Land:** When a restriction is placed on fee land, a covenant running with the land is imposed on the property to enforce the restriction.
- **NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION USEFUL LIFE/USE RESTRICTION (Indian Housing 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.



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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 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.



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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.



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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 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.



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- [FHA Loan Rider to NAHASDA Useful Life/Use Restriction](#)
- Some grantees use their IHBG funds to provide down payment assistance to low-income Native American borrowers who receive a loan insured by FHA. Because of FHA requirements under 24 CFR 203.41 the sample useful life restrictions contain language that limits transfer of the property in the event of foreclosure. The FHA Loan Rider addresses the FHA requirements and should be used when NAHASDA funds are invested in the property.

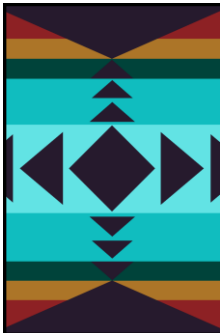


Other Items you should Include:

SEVERABILITY CLAUSE

If any portion of this agreement shall be found to be void or unenforceable, it shall in no way effect the validity and enforceability of any other provision hereof. If any portion of this Lease Agreement shall be found to be in conflict with any of the provisions of the ATIIA policies as they now exist or as they may hereafter be revised or added to by the ATIIA, the provisions of the ATIIA policies shall prevail.





- (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.
- (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.
- (3) The following certifications will only apply where applicable based on program activities.
 - a. The recipient 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.
 - 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.
 - 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
 - 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.

NAHASDA Other Federal Law Requirements

Non-Discrimination Laws:

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



Other Federal Requirements

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

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

- National Environmental Policy Act (NEPA) of 1969
- Flood Disaster Protection Act of 1973
- Lead-based Paint Poisoning Prevention Act of 1973
- Section 3 of the Housing and Urban Development Act of 1968 -training & employment opportunities for low-income persons-DNA After 11/30/2020
- Uniform Administrative Act (2 CFR Part 200) — Consolidation of all former OMB Guidance for Uniform Requirements requirements, Cost Principles, and Audit Requirements for Federal Awards



Some of the major requirements include but are not limited to:

- ❖ National Environmental Policy Act (NEPA – 42 USC 4321) NEPA requires that you determine, prior to the expenditure of any funds, that the activity will have no harmful effects on the environment. Tribes may accept the responsibility for conducting environmental reviews (under 24 CFR Part 58) or may choose to have HUD complete the review for them (under 24 CFR Part 50).
- ❖ Davis Bacon Act (DBRA) The Davis Bacon Act (46 Stat 1494- 40 USC Chapter 3 Section 276 and all subsections) requires workers be paid no less than a determined wage for projects over \$2,000. The tribe can adopt its own prevailing wage rates that supersede Davis Bacon.

Some of the major requirements include but are not limited to:

- ❖ Indian Civil Rights Act (ICRA) The Indian Civil Rights Act (925 USC 1301 - 1303) requires that the tribe and subordinate entities provide due process.
- ❖ Indian Self-Determination and Education Assistance Act The Indian Self-Determination and Education Assistance Act (25 USC 450 e (b)) requires preference for Indians in employment when using federal funds under certain circumstances.

BREAK TIME!

Let's Take 10 or 15 Minutes



The Indian Housing Plan and APR Guidance



IHP and APR Guidance

TIMING AND FORMAT OF SUBMISSIONS in order to receive an IHBG, a recipient must submit a One-Year IHP, as required by NAHASDA § 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.

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 § 102(a)(1)(A). When filling out the IHP, the recipient should leave blank the gray sections that represent the APR.



IHP and APR Guidance

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 submitted 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 submission date must be the following Monday.

The IHP also can be faxed or sent electronically to the Area ONAP. Title I, § 101(b)(2) of NAHASDA provides authority for HUD to waive the submission requirements of § 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.



IHP and APR Guidance

The Grant Recipient must prepare the annual IHP and submit to HUD each year in order to receive IHBG funding:

- ❖ The IHP is a One Year Plan of planned affordable housing activities with related IHBG expenditures to be accomplished within 12-months of the performance period;
- ❖ Recipients must use the combined IHP/APR Performance Report (APR) from HUD 52737 using the online submittal system (EPIC). Link: <https://hud.gov/pin/codetalk>



IHP and APR Guidance

The Federal Fiscal Year (FFY) is always October 1 to September 30 and is always in advance of the calendar year. For example, FFY 2021 starts on October 1, 2020, and ends on September 30, 2021.

The recipient's program year for 2021 could start on October 1, 2020; January 1, 2021; April 1, 2021; or July 1, 2021. The due date of the IHP will depend on the recipient's chosen program year (PY).



IHP and APR Guidance

In some 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.



IHP and APR Guidance

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.



IHP and APR Guidance

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 prior to the recipient's program year end. 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.



IHP and APR Guidance

If appropriations are delayed and a recipient has expended its IHBG funds from prior years, the recipient can access interim funding after a Notice has been published by HUD, provided it has submitted an IHP and HUD has determined the IHP to be in compliance. To take advantage of this flexibility, the recipient's authorizing official must submit a written request to HUD. U.S. Treasury Electronic Line of Credit Control System (eLOCSS) is used to draw down funds to pay for IHP planned expenditures. Recipient must disburse payments within 3 days of receipt of IHBG funds into bank account.



Contents of IHP/APR

- 1.Cover page
- 2.Housing Needs Description
- 3.Program Activity Descriptions
- 4.Maintaining 1937 Act Units, Demolition and Disposition (if any)
- 5.Budgets (Sources and Uses)
- 6.Other Submission Items
- 7.IHP Certification of Compliance
- 8.IHP Tribal Certifications
- 9.Self-Monitoring (APR)
- 10.Inspections (APR)
- 11.Audits (APR)
- 12.Public Availability
- 13.Jobs Supported by NAHASDA
- 14.IHP Waiver Requests
- 15.IHP Amendments



IHP and APR Guidance

The APR is due to the Area ONAP no later than 90 calendar days after the end of the recipient's program year, as required by 24 CFR § 1000.514. 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 the progress of IHP eligible activities.



IHP and APR Guidance

The recipient is required to submit its IHP and APR data using the combined 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.



IHP: Housing Needs Description

Tribes/TDHEs need to describe their housing needs for their tribal members. Periodically, a housing needs assessment should be performed to help determine:

- ❖ How many units of new Housing is needed
- ❖ What type of Housing is needed, elderly, multiplex, independent living centers, single family, apartments, 2,3,4- bedroom homes, etc.
- ❖ What family type and composition are needed, (e.g., elderly, veteran, disabled, college students, etc.);
- ❖ Amount of major and minor repair needed on existing housing
- ❖ Other data such as average annual income, household size (overcrowded), or need for single person dwellings, whether existing homes in service area have adequate plumbing, electricity or other utilities needed, etc.

Such assessments can then guide the Tribe/TDHE to develop short and long-range plans, plans to address your Tribal needs in prioritized manner.

IHP: Program Activity Descriptions

Modernization of 1937 Act Units	Operation of 1937 Act Units
Construction of New Housing	Acquisition of Existing Housing
Rehabilitation of Rental Housing	Acquisition of Land for Housing
Down Payment Assistance	Closing Cost Assistance
Other Homebuyer Assistance	Rehab Assistance to Existing Homes
Tenant-based Rental Assistance	Housing Management Services
Crime prevention & Safety (cost)	Model Activities (Cost)
Reserve Accounts	Infrastructure to support Housing (cost)
Planning & Administration	O&M of NAHASDA-Assisted Units

Other IHP Submission Items

Useful Life-Affordability Periods - Recipient must describe "useful life" of housing units assisted with IHBG funds which must remain "affordable" to low-income families-persons. The "affordability period" is the remaining useful life of the unit-property as approved by HUD. For example:

IHBG Resources Invested:	Affordability Period
Under \$5,000	6 months
\$5,000 to \$15,000	5 years
\$15,001 to \$40,000	10 years
Over \$40,000	15 years
New construction or acquisition of new housing units	20 years

Other IHP Submission Items (continued)

Tribal and Indian Preference:

- ❖ Recipients must describe its preference policy given to tribal members and/or other Indian families for housing assistance, employment and contracting to Indian organizations or Indian owned enterprises.

Model & Over-Income Activities:

- ❖ If a model activity is proposed for funding, the Recipient must describe the undertaking and type households to be served.
- ❖ If non-low (over-income) households are to be served, describe the number for: 80-100% of Median Income, If serving (over 10%) or applicants over 100% of Median Income, require HUD approval.

IHP Tribal Certifications

- Recipient Certification of Compliance
- ❖ Comply with Title II of the Civil Rights Act, Section 504 of Rehab Act of 1973, Age Discrimination Act of 1975 and other federal laws as applicable to Tribe/TDHE
 - ❖ If Recipient receives less than \$200,000 under FCAS, certifies that there are 80% or below AMI households
 - ❖ Recipient maintains adequate Insurance coverage for housing units owned and operated by Recipient
 - ❖ Recipient has Eligibility, Admission and Occupancy policies in place
 - ❖ Recipient has Rents and Homebuyers payments policies in place

Tribal Wage Rate Certification - Recipient certifies use of Davis-Bacon or Tribal Wage rates for IHBG assisted construction or maintenance activities.

Tribal IHP Certification - Tribal Official signs the IHP and certifies:

- ❖ It had an opportunity to review the IHP and -or Amendments and authorizes its submittal OR
- ❖ It allows the TDHE to submit the IHP and or Amendments without prior review by Tribe.

IHP: Administrative & Planning Costs

Administrative & Planning (A & P) costs cannot exceed:

Annual IHBG Grant	Administrative & Planning Spending Cap
Greater than \$500,000	20%
Less than \$500,000	30%

- Eligible A & P costs:
- ❖ Preparation of IHP and APR
 - ❖ Staff & overhead costs directly related to carrying out IHP activities
 - ❖ Challenging the formula funding amount
 - ❖ Overall program cost for administrative management
 - ❖ Other A & P costs as considered at discretion of Recipient

Annual Performance Report (APR)

The Grant Recipient must prepare the APR at the end of the performance year and submit to HUD:

- ❖ Utilize revised IHP/APR form HUD- 52737
- ❖ Report on yearly activity. What was completed/achieved, and money spent for the year.
- ❖ Report on any objectives not met, and why.
- ❖ Report on budget expenditures (cost over runs/exceeded budget).
- ❖ Due within 90 days of program year end to HUD.
- ❖ APR must be made available to the public, and comments received included in the APR.
- ❖ If APR is prepared by the TDHE, submit to Tribe for review and approval.
- ❖ Submit to HUD.
- ❖ HUD has 60 days to review and determine compliance.

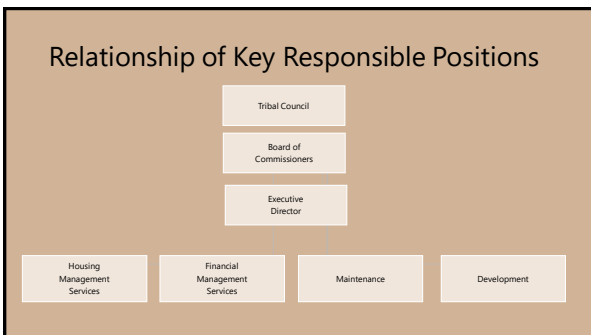
Key Roles of The Tribal Council



Key Roles of The Tribal Council

The Tribal Council after adopting the Tribal Ordinance and designating the Recipient of the Indian Housing Block Grant has the following Governance duties.

- ❖ Selection and or removal of Housing Board of Commissioners.
- ❖ Establishes staggered term limits for Board members to allow for a good balance of continuity and new blood.
- ❖ Provides oversight of the Board of Commissioners pursuant to TDHE output and outcomes.
- ❖ Provides required review and Tribal Certifications for Indian Housing Plans and amendments.
- ❖ Assures Housing Board abides by its By-Laws.



Tribal Council Role in Housing Board Oversight

- ❖ Cultivate accountability among Housing Board Members and Housing Staff.
- ❖ May participate in strategic planning process to address short- and long-term Housing goals expected by the Tribe and Tribal membership as the Grant Beneficiary.
- ❖ Sets clear expectations required from Housing Board in addressing housing needs of Tribal members.
- ❖ Remove any Housing Board members who are not willing or able to serve effectively, or in the best interest of the Housing Organization.
- ❖ Require periodic Indian Housing Plan (IHP) progress and Annual Performance Report(APR).
- ❖ Assist in review and update of Board Bylaws to ensure conformance to current Tribal Ordinance(s).

Tribal Council Role in Housing Board Oversight

If you operate as a Housing Authority, it is a separate legal entity, its mission is mandated by the Tribal Ordinance creating the Authority and reaffirmed more specifically by a comprehensive housing assistance strategy. Functioning as the Tribe's principal housing agency (in HUD terms, Tribally Designated Housing Entity), they will focus upon community needs that require understanding, dedication, enthusiasm, vision, and experience. As a Board member, they serve as a principal advisor on housing issues facing your Tribal Members and as a policymaker for the HA.

They must be continually aware that the decisions they make, even after receiving and evaluating staff recommendations, are not easily made. Many decisions are not discretionary since many housing programs are governed in accordance with program rules and/or federal/state regulations. Because the Tribal Council has the ultimate political and legal responsibility for the conduct of Tribal government and the welfare of the entire community, theirs is an important role in assisting the Housing Board to fulfill its housing obligations to the community.

Tribal Council Role in Housing Board Oversight

However, it must be recognized that the responsibility for making recommendations and decisions is not to be taken lightly. Due to the heavily regulated environment in which Housing Authority operates, decisions are more responsive to legal considerations than to local policy. Failure to base policies and/or decisions according to applicable laws and regulations could result in legal action against the Housing Authority or even the Board. It is imperative that Board members, make policies that are fair and equitable and to keep the Tribal Government informed of the legal basis upon which decisions are made. Those receiving the advice must weigh it against other information and considerations as they reach the decisions for which they are responsible. Excerpts of official Board minutes should be prepared by the Executive Director's designee and submitted to the Tribal Council to assist with their oversight role.

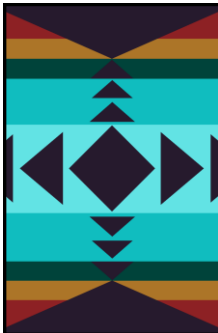
Tribal Council Role in Housing Board Oversight

The primary responsibility of the Board of Commissioners is to set policies which are consistent with applicable regulations and laws and the Tribal community's housing goals. The Housing Board and the Executive Director should submit an Annual Performance Report to the Tribal Council. Additionally, the Executive Director should copy to the Tribal Council information as needed to keep the Tribal Council abreast of any pending legislation or policy development that may affect the Tribe and its members.

The Housing Authority should submit quarterly progress reports to the Tribal Council for the monitoring of the Indian Housing Plan. This quarterly report will be prepared by the Executive Director or designee in consultation with the Board of Commissioners for distribution to the Tribal Council. Technical Assistance regarding new programs and/or policies should be provided as needed by the Executive Director to the Tribal Council via appropriate channels. Policies of the Housing Authority are applicable to members of the Tribal Council.

Tribal Council Role in Housing Board Oversight

Tribal officials as well as tribal staff have the added responsibility of serving the tribal community in an exemplary manner in addition to complying with the tribal and federal laws governing housing affairs. As positive role models, officials facilitate the community housing goals and objectives.



Tribal Council The duties of the Tribal Council may include:

- Cooperating in the enforcement of all housing policies
- Allocating funds for infrastructure (road development, water/sewer, electric, etc.)
- Planning use of Indian Community Development Block Grant (ICDBG) and other funds
- Working closely with Housing staff to develop short- and long-term housing goals and objectives

Tribal Council
The duties of the Tribal Council may include:

- Establishing housing as a priority through adoption of a tribal housing ordinance/law
- Confirming or appointing Housing Commissioners or Committee members
- Donating or making tribal lands available for housing sites
- Approving housing sites (dependent upon land status and restrictions)



Additional Roles of the Tribal Council
Monitoring Roles and Responsibilities

Overview IHBG recipients may be tribes or TDHs. IHBG recipients that are TDHs are required to report to, and be monitored by, the beneficiary tribe(s). Every recipient of IHBG funding is responsible for monitoring its grant activities, monitoring any subrecipients, ensuring compliance with applicable Federal requirements, and monitoring its activities under the IHP. Even for programs that do not have self-monitoring requirements, recipient self-monitoring is beneficial and recommended for all organizations to identify and confirm good practices and where improvements can be made.

Self-Monitoring Requirements IHBG recipients are required to complete a self-monitoring assessment of adherence to IHBG program requirements and applicable statutes and regulations at least once a year. This monitoring requirement includes conducting an on-site inspection of all housing units assisted with IHBG funds. Reporting on self-monitoring assessments is a required element of the APR. IHBG recipients, therefore, should incorporate sufficient time in their business planning cycles to complete the self-monitoring assessment prior to the end of their program year.



Additional Roles of the Tribal Council
Monitoring Roles and Responsibilities

IHBG Tribal Recipients If the tribe is the IHBG recipient, it is responsible for monitoring grant activities to ensure compliance with applicable Federal requirements and monitoring performance under the IHP. Under 24 CFR §1000.502, the tribe is responsible for preparing and submitting to HUD:

- ❖ An APR within 90 days of the end of the program year
- ❖ An Audit in accordance with the Single Audit Act if applicable.

IHBG tribal recipients may request assistance from other tribes and/or TDHs to help complete their housing activities or self-monitoring requirements under NAHASDA. Timeliness of report submission reflects on the organization's administrative capacity. Monitoring reports submitted on time indicate the tribe has incorporated these assessment processes into its annual business planning cycles. Costs incurred for completing the APR, self-monitoring and audit reports are allowable under the IHBG program.



Miscellaneous

How is the recipient of the IHBG for each Tribe determined?

The recipient of the IHBG is determined by the local Tribal government and can be either the Tribe itself, or a separate Tribally Designated Housing Entity (TDHE).

What role does the Tribe play under NAHASDA?

Under NAHASDA the Tribe has the ultimate decision-making authority as to the spending of the annual Indian Housing Block Grant, as well as oversight responsibility of either the Tribal housing department or TDHE.

Did you know that housing payments, rent or homebuyer, are set at the discretion of the Tribe or TDHE?

According to 24 CFR 1000.124, "A recipient can charge a low-income rental tenant or homebuyer payments not to exceed thirty percent (30%) of the adjusted income of the family. The recipient may also decide to compute its rental and homebuyer payments on any lesser percentage of adjusted income of the family. This requirement applies only to units assisted with NAHASDA grant amounts. NAHASDA does not set minimum rents or homebuyer payments; however, a recipient may do so."

Other Times you might have interaction

Grievances - disputes by tenants or homebuyers have with respect to their lease or homebuyer agreement relating to actions taken by Tribe/TDHE - all participants should be deferred to Executive Director and respective policy(s)

• Evictions - when tenants or homebuyers violate terms of lease or homebuyer agreement and ends in termination - Same as above, refer all matters to Executive Director and respective policy(s)

• Audits/HUD Monitoring Findings - Seek report from Executive Director and Board on Corrective Action Plan to address achieving compliance

• The Bottomline: Always refer back to the federal laws and regulations and TDHE policies and LEGAL COUNSEL in all disputes in order to arrive at proper solutions.

Additional Roles of the Tribal Council Monitoring Roles and Responsibilities

IHBG Tribally Designated Housing Entity Recipients

Where the recipient is a TDHE, the tribe, as the grant beneficiary, is still responsible for monitoring programmatic and compliance requirements of the IHP and NAHASDA by requiring the TDHE to prepare periodic progress reports, including:

- ❖ An APR within 90 days of the end of the program year that includes a description of its self-monitoring in Section 10 of the IHP/APR.
- ❖ An Audit in accordance with the Single Audit Act if applicable.
- ❖ The TDHE must provide the tribe, as the grant beneficiary, with a copy of self-monitoring assessments, APRs, and audits so that the tribe can carry out its oversight responsibilities under NAHASDA. This tribal oversight relationship contemplated under NAHASDA may change the character of prior tribal and housing authority relationships. Often, housing authorities operated with mutually-agreed-to autonomy from the tribal government. In practice, this sometimes led to instances in which housing authorities were not perceived as accountable to the tribe for their management of housing assistance programs.

Additional Roles of the Tribal Council Monitoring Roles and Responsibilities

Tribal councils now have a more affirmative responsibility to exercise their oversight responsibilities over the TDHES. TDHES and tribal governments should seek to enhance the flow of information and communication between both bodies to better address IHBG monitoring requirements. One way to accomplish this is to have a member of the tribal council serve on the board of a TDHE as either a voting or an ex-officio member.

Compliance and Monitoring



NAHASDA COMPLIANCE NAHASDA Statute-The Law

Title IV - Compliance, Audits and Reports

- ❖ Sec. 401 Remedies for Noncompliance
- ❖ Sec. 402 Replacement of Recipient
- ❖ Sec. 403 Monitoring of Compliance
- ❖ Sec. 404 Performance Reports
- ❖ Sec. 405 Review and Audit
- ❖ Sec. 406 GAO Audits
- ❖ Sec. 407 Reports to Congress
- ❖ Sec. 408 Public Availability of Information

NAHASDA COMPLIANCE NAHASDA 24 CFR Part 1000.501-558:-The Regulations

Subpart F - Monitoring, Oversight & Accountability

- ❖ HUD Role and Monitoring Responsibilities
- ❖ Grant Beneficiary and Grant Recipient Monitoring Responsibilities
- ❖ Recipient Performance Objectives
- ❖ Annual Performance Report & Public Comment Requirements
- ❖ Noncompliance and Substantial Noncompliance
- ❖ Remedies for Noncompliance
- ❖ Independent Audits



GRANT EVALUATION OVERSIGHT AND MONITORING



GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

Overview

Through oversight and monitoring, the Office of Native American Programs (ONAP) Grants Evaluation Division:

- ❖ ensures that programs are implemented in a timely manner in compliance with all applicable requirements;
- ❖ identifies instances and trends that indicate superior, satisfactory, or deficient performance;
- ❖ develops and implement actions to reinforce, improve, correct, or supplement recipient performance, as appropriate; and
- ❖ identifies technical assistance needs and provide pro-active support.



GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

Monitoring

HUD reviews the performance of recipients to determine whether they:

- ◆ have carried out their eligible activities in a timely manner,
- ◆ have eligible activities and certifications in accordance with the individual program requirements and with other applicable laws, and
- ◆ have a continuing capacity to carry out those activities in a timely manner.



GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

Monitoring

HUD monitoring consists of on-site review and off-site (or remote) review of records, reports, and audits. On-site reviews are conducted at the grant recipients' offices and may include visits to housing sites. Grant recipients may be requested to provide additional information to the Area ONAP after completion of the on-site visit and before completion of HUD's review. Unusual situations aside, the Area ONAP will provide written notice and details of the monitoring visit at least 30 days in advance. A remote review consists of a thorough review of all information available in the Area ONAP's files concerning a grant recipient. The Area ONAP may request submission of information from the grant recipient to supplement information available in HUD's records prior to the completion of the review.



GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

Upon completion of either type of review, a draft report will be provided to the grant recipient for comment, per 24 CFR § 100.526 HUD will issue this report within 30 days of review. The TDHE/Grant Recipient has 30 days to review and comment and can request an additional 30-day time extension for comment if needed. Once the comment period has expired, HUD will issue a final monitoring report that determines if Recipient has carried out eligible activities in a timely manner and to identify any areas of concern or noncompliance and will address any comments received.



HUD Determinations of Noncompliance and Performance Agreements

Noncompliance:

- ❖ Monitoring report stipulates areas of program violations and requires Tribe/TDHE to submit a Corrective Action Plan (CAP) with timeframes
- ❖ Additional Training or TA may be required for remedial action
- ❖ Tribe/TDHE will need to enter into a Performance Agreement for corrective action
- ❖ Failure to address performance problem may elevate to substantial noncompliance



HUD Determinations of Noncompliance and Performance Agreements

Substantial Noncompliance:

- ❖ Letter of Warning issued to Recipient
- ❖ Request Recipient to submit progress schedules for compliance actions
- ❖ Recommend Recipient to suspend, discontinue or not incur further costs
- ❖ Recommend Recipient redirect funds from affected activities to other activities
- ❖ Recommend Recipient reimburse IHBG account of improper expenditures
- ❖ Recommend TA using IHBG funds



Substantial Noncompliance: Two Step Process

HUD reviews circumstances on case-by-case basis to determine if performance problem is substantial:

1. Must be noncompliance with NAHASDA
2. Noncompliance must be substantial, it must:
 - a. Have a material effect on the Recipient meeting its IHP goals
 - b. Represent a material pattern or practice of activities constituting willful noncompliance
 - c. Involves the obligation or expenditure of a material amount
 - d. Places the IHBG program at substantial risk of fraud, waste or abuse

Remedies for Substantial Noncompliance

- ❖ HUD will Terminate IHBG payments to Recipient
- ❖ Reduce payments by amount equal to amount not expended in accordance with NAHASDA
- ❖ Limit availability of payments to programs, projects or activities not affected by failure to comply
- ❖ Replace TDHE for the Recipient (pattern or willful noncompliance)
- ❖ Opportunity for administrative hearing procedures per 24 CFR 26 shall be used.
- ❖ HUD may refer to US Attorney General for civil action

Some helpful points to avoid Noncompliance

- ❖ Tribe/TDHE should ensure all Policies and Procedures are consistent with current NAHASDA Statutes, Regulations, and other related Federal Laws and Regulations, and applicable HUD
- ❖ Tribe/TDHE should ensure all Policies and Procedures are consistent with HUD Notices and Guidances
- ❖ Tribe/TDHE should have standard operating procedures for such policies to allow for uniform implementation and documentation by housing staff
- ❖ Do not put a policy into place that you do not follow
- ❖ Ensure Tribe/TDHE & all new staff attend Ethics & Conduct Policy training
- ❖ Conduct self-assessment prior to year end in order to monitor adherence
- ❖ Develop Performance Improvement Plans with timeframes for self correction
- ❖ Tribe/Board of Commissioners/TDHE should attend HUD/NAIHC T&TA training as needed
- ❖ Tribal Leadership should maintain close relationship with TDHE, while monitoring IHP goals & progress with periodic reports made by Exec. Director


Monitoring Plans for Recipients

The Tribe/TDHE is responsible for monitoring its IHBG fund activities to assure compliance with applicable Federal requirements and performance expectations are being achieved.

Monitoring by the Tribe/TDHE must cover each program, function, or activity. Refer to 403(b) and 1000.502.




Monitoring Plans for Recipients



In addition to the general requirements of the Uniform Guidance, NAHASDA also requires that the Tribe/TDHE conduct self-monitoring at least annually. (Section 403(b), 1000.502, and the Uniform Guidance 200.328).


Monitoring Plans for Recipients

The Tribe/TDHE must conduct ongoing self-monitoring and report those self-monitoring assessment results in the APR. So, your self-monitoring must be completed prior to your APR submission.



Monitoring Plans for Recipients

ONAP provides IHBG recipients with sample monitoring plans that they may use when conducting self-monitoring, as required under NAHASDA. Use of these sample monitoring plans is optional; however, the plans are designed to provide tribes and tribally designated housing entities (TDHE) with an effective, structured approach to evaluate performance and determine compliance with program requirements. The sample monitoring plans can also be used to conduct similar reviews of the Indian Community Development Block Grant (ICDBG), Rural Housing and Economic Development/Rural Innovation Fund (RHED/RIF), and Resident Opportunity and Self-Sufficiency (ROSS) programs. The plans are "living" documents and may change over time. Always use the plans available at this location. See Program Guidance 2012-03 for more information.



GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

- ❖ APR and IHP Compliance Monitoring Plan
- ❖ Lead-Based Paint Monitoring Plan
- ❖ Environmental Review Compliance Monitoring Plan
- ❖ General Instructions to Monitoring Plans
- ❖ Labor Standards Monitoring Plan
- ❖ Maintenance and Inspection Monitoring Plan
- ❖ Organization and Structure Monitoring Plan



GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

- ❖ Other Programs (ICDBG, ROSS & RHED/RIF) Monitoring Plan
- ❖ Procurement and Contract Administration Monitoring Plan
- ❖ Relocation and Real Property Acquisition Monitoring Plan
- ❖ Section 504 Accessibility Monitoring Plan
- ❖ Self-Monitoring Plan
- ❖ Subrecipient Agreements Monitoring Plan



GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

- ❖ Admissions and Occupancy Monitoring Plan
- ❖ Occupancy Review Form
- ❖ Occupancy Tenant Files Review Forms
- ❖ Financial and Fiscal Management Monitoring Plan
- ❖ Financial and Fiscal Management: Appendix 1 Finance System Controls
- ❖ Financial and Fiscal Management: Appendix 2 Cash Management



GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

- ❖ [Financial and Fiscal Management: Appendix 3 - Indirect Costs Cost Allocation](#)
- ❖ [Financial and Fiscal Management: Appendix 4 - Reserve Balances](#)
- ❖ [Financial and Fiscal Management: Appendix 5 - TDCs](#)
- ❖ [Financial and Fiscal Management: Appendix 6 - Program Income](#)
- ❖ [Financial and Fiscal Management: Appendix 7 - Investments](#)



GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

- ❖ [Financial and Fiscal Management: Appendix 8 - Insurance](#)
- ❖ [Title VI Monitoring Plan](#)
- ❖ [Tribal HUD VASH Monitoring Plan](#)



Self-Monitoring Mutual Agreement

In an effort to promote effective self-monitoring in accordance with Section 403(b) of NAHASDA and the IHBG regulations at 24 CFR § 1000.502(a), ONAP offers recipients the opportunity to enter into Self-Monitoring Mutual Agreements (SMMAs). SMMAs are for recipients that have well-established systems, are interested in improving their self-monitoring efforts, and accept the terms of the SMMA. The benefit of entering into such an SMMA is ONAP's pledge to conduct on-site monitoring of the recipient less frequently. For more information, see Program Guidances 2007-08 and 2007-01 (ONAP).





AUDIT REQUIREMENTS


1. A Tribe/TDHE that expends \$750,000 threshold) or more in federal funds in the fiscal year must have a single audit or program-specific audit in accordance with the provisions of Subpart F of 2 CFR 200. The single audit must be conducted in accordance with 200.514 Scope of audit.



AUDIT REQUIREMENTS

COMPLETE YOUR AUDIT AND SUBMIT ON TIME

When the single audit is completed, the reporting package, including the auditor's reports, and the data collection form must be submitted by the Tribe/TDHE (auditee) to the Federal Audit Clearinghouse, which is publicly available online. (1000.546)



AUDIT REQUIREMENTS

Submission dates should be within the earlier of:

- Thirty (30) days after receipt of the auditor's reports; or
- Nine (9) months after the end of the audit period,



FEDERAL FINANCIAL REPORT SF-425

SF-425 submittals are required per 24 CFR 1000.26 and Program Guidance 2014-07. The Federal financial reports are due 30 days after the end of the quarter, except that the 4th quarterly report is due 90 days after the end of the 4th quarter.



FEDERAL FINANCIAL REPORT SF-425 Reporting Due Dates

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






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The fourth quarterly report is the final report for a recipient's 12-month program year. The quarterly reports are due as indicated in the chart above and are based on the recipient's specific program year.

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Thank You for your commitment and service to providing Housing for your Community and our people.



Questions

