

# Board of Commissioners

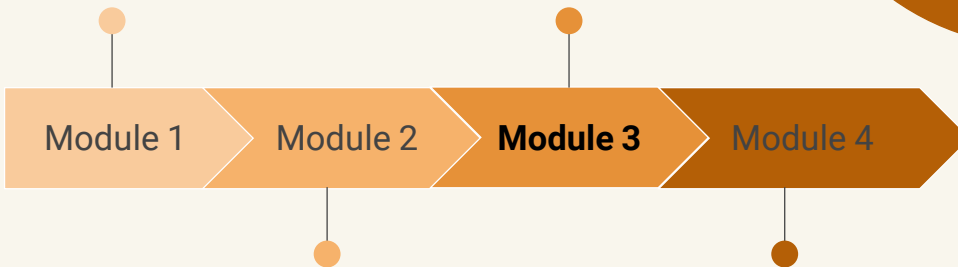
April 8-9, 2021



## Overview

Understanding the basics of NAHASDA & other applicable Federal laws

**Role of Tribal Council & relationship to Board of Commissioners & Executive Director**

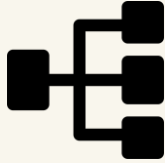


Key requirements of the IHBG Program (24 CFR 1000) and Uniform Administrative Requirements (2 CFR 200)

Understanding Role of HUD & NAHASDA Compliance, Reporting & Audits

## Module 3:

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



Key Roles of Tribal Council Under NAHASDA



Oversight of Housing Board of Commissioners



Relationship to TDHE Executive Director

## Key Roles of Tribal Council

- The Tribal Council by legislation, adopts a Tribal Ordinance creating the Tribally Designated Housing Entity (TDHE) who becomes the Grant Recipient of the IHBG by tribal resolution.
- The Ordinance is the legal document establishing the TDHE unless the Tribe itself will administer the IHBG program through its Tribal Housing Department.
- The Ordinance delegates certain powers and authorities to the Housing Board and the TDHE informing them how to use those powers & authorities.
- The Tribal Council may amend the Ordinances as they deem necessary.

## Key Functions of the Tribal Council

- Selection and/or removal of Housing Board of Commissioners
- Establish staggered term limits for Board members to allow for a good balance of continuity and fresh perspectives
- Provide oversight of the Board of Commissioners pursuant to TDHE output/outcomes
- Provide required Tribal Certifications for IHP and Amendments
- Ensure Board abides by its By-Laws



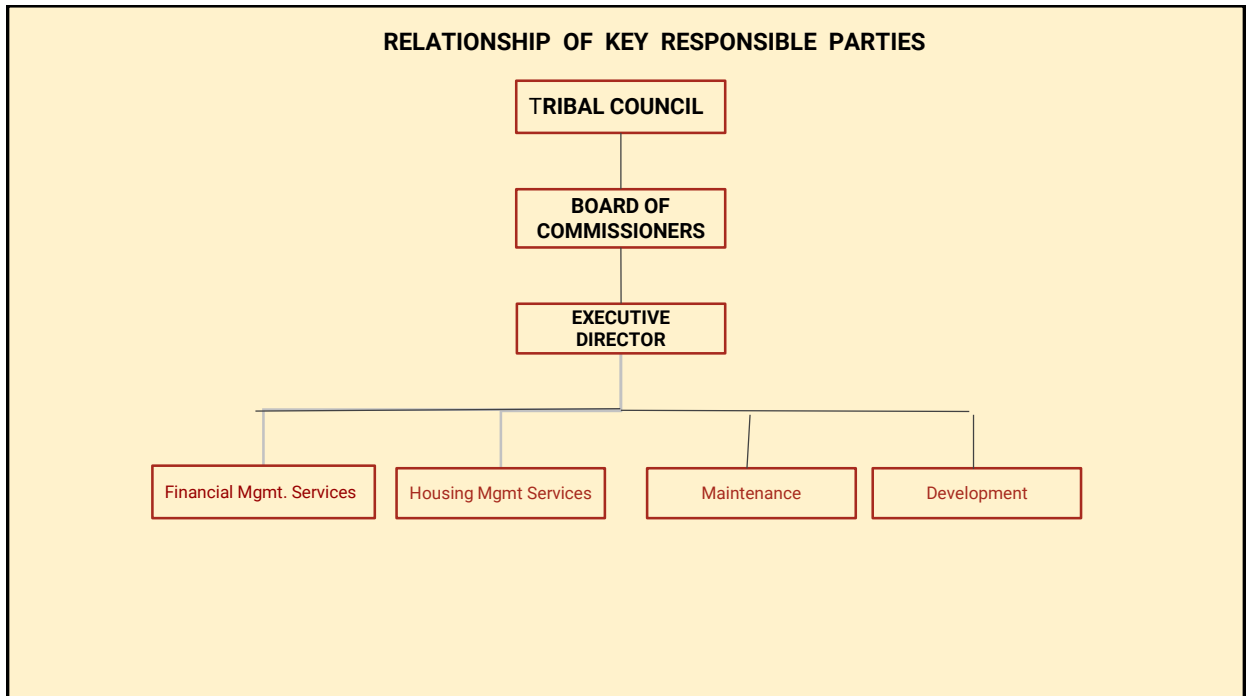
## Organizational Oversight Structure Comparison

### CORPORATION

- Founding Fathers
- Board of Directors
- CEO
- Employees
- Customers and consumers

### TDHE

- Tribal Council
- Board of Commissioners
- Executive Director
- Employees
- Tenants and Homebuyers



## Tribal Council Role in Board Oversight

- Cultivate accountability among Board members and Housing Staff
- May participate in strategic planning process to address short and long-term housing plans expected by Tribe as Grant Beneficiary
- Set clear expectations required from Housing Board in addressing housing needs of Tribal members
- Exit any board members who are not willing or able to serve effectively
- Require periodic IHP Progress on IHP progress
- Assist in review and update of Board By laws to ensure conformance to current Tribal ordinance(s)

## Relationship to Board

Board members are:

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

## Relationship to Executive Director

- **Executive Director is responsible for day-to-day management:**
  - **Plans** – sets IHP goals and objectives and deciding how to achieve them
  - **Organizes** – assigns work, allocate resources & coordinate activities
  - **Leads** – directs efforts and promotes enthusiasm to achieve goals
  - **Controls** – measures performance, identify deficiencies, takes corrective action
- **Responsible for IHP development for Board review and Tribal approval each year.**
- **Responsible to assure NAHASDA compliance, reporting and audit.**

## Some important points to remember for successful housing program:

- Board makes policies and participates in planning and monitoring
- The board and executive director must work together
- The board guides the overall direction of the program
- No business can be conducted outside of a properly called board meeting
- Board members have no individual power
- The power of the board lies within the body as a whole
- No board member has more power than another – not even the Chair
- Board should not micro-manage Executive Director functions

## Additional Points to Remember

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



## How To Make Good Governance Decisions

- Recognize the dilemma
  - Gather all the facts
    - Establish your options
      - Test each option
        - Choose your option
          - Do 'headline' test (Good or bad?)
            - Take appropriate action w/ all documentation!

*SOME EXAMPLES OF  
TRIBAL COUNCIL  
INTERFACE WITH  
HOUSING PROGRAM*



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

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



## *Allowable Deductions from Gross Income:*

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





### Sample Rent calculation for Tenant and Rental Revenue for Tribe/TDHE

<b>Annual Income</b>		<b>\$27,000</b>
Adjustments:		
4 dependents @ \$480		(\$ 1,920)
Child Care		(\$ 1,080)
Total Adjustments		\$ 3,000
Adjusted Annual Income		\$24,000
Adjusted Monthly Income	(24,000/12)	\$ 2,000
Monthly Gross Rent	\$2,000 x 30%	\$ 600
Utility Allowance		(\$ 250)
Monthly Rent		\$ 350
Annual Revenue	\$350 x 12	\$ 4,200

### Sample IHBG Subsidy for Tribe/TDHE

	Using Maximum	Generous IHA	Very Generous IHA
Average Adjusted Monthly Income	\$2,000	\$2,000	\$2,000
Percentage Used	30%	20%	10%
Monthly Gross Rent	\$600	\$400	\$200
Utility Allowance	\$ -0-	\$100	\$200
Net Rent Payment	\$600	\$300	\$-0-
Units	100	100	100
Monthly Revenue	\$ 60,000	\$ 30,000	\$ -0-
Annual Revenue	\$ 720,000	\$ 360,000	\$ -0-
Annual Expenses	(\$900,000)	(\$900,000)	(\$900,000)
IHBG Subsidy Needed	\$ 180,000	\$ 540,000	\$ 900,000

## Rental Payment Policy determination:

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

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

### IHP Planned Activities:

- O&M for 1937 Units	30	\$108,000
- 1937 Modernization	5	\$ 375,000
- O&M NAHASDA Units	10	\$ 30,000
- New Construction Rental*	20	\$3,000,000
- Housing Mgmt. Services	---	\$ 60,000
- P&A	---	<u>\$ 600,000</u>
- Total IHP Planned Costs		\$4,173,000

### APR Accomplishments:

- 1937 Units O&M	30	\$ 195,850
- 1937 Modernization	4	\$ 325,000
- NAHASDA O&M	10	\$ 27,250
- New Construction	10	\$1,750,000
- Housing Mgmt. Svcs.	---	\$ 55,000
- P&A: A/E & Plan Staff---		<u>\$ 300,550</u>
- Total IHP Expenditures		\$2,653,650

### Financial Sources:

- IHBG	\$3,000,000
- Program Income*	\$ 673,000

### Financial Actual Used:

-IHBG	\$2,653,650
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## Analysis of IHP and APR Scenario

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



## A Conflict of Interest Situation

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

## Addressing the Conflict of Interest

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

## Other Typical Interfaces with Tribal Council

- Grievances - disputes by tenants or homebuyers have with respect to their lease or homebuyer agreement relating to actions taken by Tribe/TDHE - all participants should be deferred to Executive Director and respective policy(s)
- Evictions - when tenants or homebuyers violate terms of lease or homebuyer agreement and ends in termination - Same as above, refer all matters to Executive Director and respective policy(s)
- Audits/HUD Monitoring Findings - Seek report from Executive Director and Board on Corrective Action Plan to address achieving compliance
- ***The Bottomline: Always refer back to the federal laws and regulations and TDHE policies and LEGAL COUNSEL in all disputes in order to arrive at proper solutions***

**Question (Q)**

**&**

**Answer (A)**

**Session**

