

Executive Director Training  
 September 30, 2021  
 11:00 AM-4:00 PM E.S.T.  
 Part 2

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

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LUNCH TIME  
 1 To 2 PM EST




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### SEC. 202. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES

Affordable housing activities under this title 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:

- (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.
- (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.

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### SEC. 202. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES

- (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.
- (4) 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 with funds provided under this Act, and management of affordable housing projects.

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### SEC. 202. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES

- (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.
- (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.
- (7) COMMUNITY DEVELOPMENT DEMONSTRATION PROJECT.
- (8) SELF-DETERMINATION ACT DEMONSTRATION PROJECT.

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### SEC. 202. ELIGIBLE AFFORDABLE HOUSING ACTIVITIES

(9) RESERVE ACCOUNTS-

(A) IN GENERAL- Subject to subparagraph (B), the deposit of amounts, including grant amounts under section 101, in a reserve account established for an Indian tribe only for the purpose of accumulating amounts for administration and planning relating to affordable housing activities under this section, in accordance with the Indian housing plan of the Indian tribe. 19

(B) MAXIMUM AMOUNT- A reserve account established under subparagraph (A) shall consist of not more than an amount equal to 1/4 of the 5-year average of the annual amount used by a recipient for administration and planning under paragraph (2).

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### SEC. 203. PROGRAM REQUIREMENTS.

(a) RENTS-

(1) ESTABLISHMENT- Subject to paragraph (2), each recipient shall develop written policies governing rents and homebuyer payments charged for dwelling units assisted under this Act, including the methods by which such rents and homebuyer payments are determined.

(2) MAXIMUM RENT- In the case of any low-income family residing in a dwelling unit assisted with grant amounts under this Act, the monthly rent or homebuyer payment (as applicable) for such dwelling unit **may not exceed 30 percent of the monthly adjusted income of such family.**

(b) 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 an Indian housing authority pursuant to the United States 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 subsection may not be construed to prevent any recipient (or entity funded by a recipient) from demolishing or disposing of Indian housing referred to in this subsection, pursuant to regulations established by the Secretary.

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### SEC. 203. PROGRAM REQUIREMENTS.

(c) INSURANCE COVERAGE- Each recipient shall maintain adequate insurance coverage for housing units that are owned or operated or assisted with grant amounts provided under this Act.

(d) ELIGIBILITY FOR ADMISSION- Each recipient shall develop written policies governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act.

(e) MANAGEMENT AND MAINTENANCE- Each recipient shall develop policies governing the management and maintenance of housing assisted with grant amounts under this Act.

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### SEC. 203. PROGRAM REQUIREMENTS.

- (f) USE OF GRANT AMOUNTS OVER EXTENDED PERIODS-
  - (1) IN GENERAL- To the extent that the Indian housing plan for an Indian tribe provides for the use of amounts of a grant under section 101 for a period of more than 1 fiscal year, or for affordable housing activities for which the amounts will be committed for use or expended during a subsequent fiscal year, the Secretary shall not require those amounts to be used or committed for use at any time earlier than otherwise provided for in the Indian housing plan.
  - (2) CARRYOVER- Any amount of a grant provided to an Indian tribe under section 101 for a fiscal year that is not used by the Indian tribe during that fiscal year may be used by the Indian tribe during any subsequent fiscal year.
- (g) DE MINIMIS EXEMPTION FOR PROCUREMENT OF GOODS AND SERVICES- Notwithstanding any other provision of law, a recipient shall not be required to act in accordance with any otherwise applicable competitive procurement rule or procedure with respect to the procurement, using a grant provided under this Act, of goods and services the value of which is less than \$5,000. (No Competitive Procurement or Indian Preference)



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### SEC. 204. TYPES OF INVESTMENTS.

- (a) IN GENERAL- Subject to section 203 and the Indian housing plan for an Indian tribe, the recipient for that tribe shall have—
  - (1) the discretion to use grant amounts for affordable housing activities through equity investments, interest-bearing loans or advances, noninterest-bearing loans or advances, interest subsidies, leveraging of private investments, or any other form of assistance that the Secretary has determined to be consistent with the purposes of this Act; and
  - (2) the right to establish the terms of assistance.
- (b) INVESTMENTS- A recipient may invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by the Secretary.



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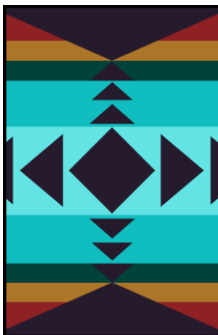
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### SEC. 205. LOW-INCOME REQUIREMENT AND INCOME TARGETING.

- (a) IN GENERAL- Housing shall qualify as affordable housing for purposes of this Act only if--
  - (1) each dwelling unit in the housing--
    - (A) in the case of rental housing, is made available for occupancy only by a family that is a low-income family at the time of their initial occupancy of such unit; and
    - (B) in the case of a contract to purchase existing housing, is made available for purchase only by a family that is a low-income family at the time of purchase;
    - (C) in the case of a lease-purchase agreement for existing housing or for housing to be constructed, is made available for lease-purchase only by a family that is a low-income family at the time the agreement is entered into; and
    - (D) in the case of a contract to purchase housing to be constructed, is made available for purchase only by a family that is a low-income family at the time the contract is entered into; and



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## When Must a Family be Low-Income

**AT THE TIME SERVICES ARE PROVIDED:**

- Rental Housing Program \* Lease signed with family
- Homeownership Program \* Mortgage signed with family
- Rehab Program \* Agreement signed with family
- Rental Assistance Program \* Agreement signed with landlord




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## Non-Low-Income Indian Families

- ❖ Refer to the Appendix Guidance and review for non-low-income. If under 10% no HUD approval required
- ❖ If over 10%, HUD approval required
- ❖ If assistance provided to family over 100% of median income, HUD approval required in Advance...
- ❖ Must show housing need that cannot be reasonably met without IHBG assistance
- ❖ Refer to Assisting Non-Low Income PIH Notice 2014-02




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### Summary of Requirements for serving Non-Low-Income Indian 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/DHE 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

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### SEC. 205. LOW-INCOME REQUIREMENT AND INCOME TARGETING.

(2) except for housing assisted under section 202 of the United States Housing Act of 1937 (as in effect before the date of the effectiveness of this Act), each dwelling unit in the housing will remain affordable, according to binding commitments satisfactory to the Secretary, for the remaining useful life of the property (as determined by the Secretary) without regard to the term of the mortgage or to transfer of ownership, or for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purposes of this Act, except upon a foreclosure by a lender (or upon other transfer in lieu of foreclosure) if such action--

- (A) recognizes any contractual or legal rights of public agencies, nonprofit sponsors, or others to take actions that would avoid termination of low-income affordability in the case of foreclosure or transfer in lieu of foreclosure; and
- (B) is not for the purpose of avoiding low-income affordability restrictions, as determined by the Secretary.

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### SEC. 205. LOW-INCOME REQUIREMENT AND INCOME TARGETING.

- (b) EXCEPTION- Notwithstanding subsection (a), housing assisted pursuant to section 201(b)(2) shall be considered affordable housing for purposes of this Act.
- (c) APPLICABILITY- The provisions of paragraph (2) of subsection (a) regarding binding commitments for the remaining useful life of property shall not apply to a family or household member who subsequently takes ownership of a homeownership unit.

\*Sec 206 Certification of Compliance with Subsidy Layering Requirements -No longer Applies.




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### SEC. 207. LEASE REQUIREMENTS AND TENANT SELECTION

- (a) LEASES- Except to the extent otherwise provided by or inconsistent with tribal law, in renting dwelling units in affordable housing assisted with grant amounts provided under this Act, the owner or manager of the housing shall utilize leases that—
  - (1) do not contain unreasonable terms and conditions;
  - (2) require the owner or manager to maintain the housing in compliance with applicable housing codes and quality standards;
  - (3) require the owner or manager to give adequate written notice of termination of the lease, which shall be the period of time required under State, tribal, or local law;
  - (4) specify that, with respect to any notice of eviction or termination, notwithstanding any State, tribal, or local law, a resident shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination;

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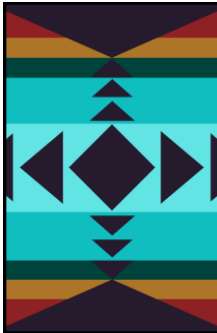
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**SEC. 207. LEASE REQUIREMENTS AND TENANT SELECTION**

(5) require that the owner or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms or conditions of the lease, violation of applicable Federal, State, tribal, or local law, or for other good cause; and

(6) provide that the owner or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that-

(A) threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the owner or manager of the housing;

(B) threatens the health or safety of, or right to peaceful enjoyment of their premises by, persons residing in the immediate vicinity of the premises; or

(C) is criminal activity (including drug-related criminal activity) on or off the premises.

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**SEC. 207. LEASE REQUIREMENTS AND TENANT SELECTION**

(b) TENANT AND HOMEBUYER SELECTION- The owner or manager of affordable rental housing assisted with grant amounts provided under this Act shall adopt and utilize written tenant and homebuyer selection policies and criteria that—

(1) are consistent with the purpose of providing housing for low-income families;

(2) are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and

(3) provide for—

(A) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth 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 that rejection and the grounds for that rejection.

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**SEC. 208. AVAILABILITY OF RECORDS**

(a) PROVISION OF INFORMATION- Notwithstanding any other provision of law, except as provided in subsection (b), the National Crime Information Center, police departments, and other law enforcement agencies shall, upon request, provide information to Indian tribes or tribally designated housing entities regarding the criminal conviction records of applicants for employment, and of adult applicants for, or tenants of, housing assisted with grant amounts provided to such tribe or entity under this Act for purposes of applicant screening, lease enforcement, and eviction.

(b) EXCEPTION- A law enforcement agency described in subsection (a) shall provide information under this paragraph relating to any criminal conviction of a juvenile only to the extent that the release of such information is authorized under the law of the applicable State, tribe, or locality.

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### SEC. 208. AVAILABILITY OF RECORDS

(c) CONFIDENTIALITY- An Indian tribe or tribally designated housing entity receiving information under this section may use such information only for the purposes provided in this section and such information may not be disclosed to any person who is not an officer, employee, or authorized representative of the tribe or entity or the owner of housing assisted under this Act, and who has a job related need to have access to the information for the purposes under this section. For judicial eviction proceedings, disclosures may be made to the extent necessary. The Secretary shall, by regulation, establish procedures necessary to ensure that information provided under this section to any tribe or entity is used, and confidentiality is maintained, as required under this section.

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### SEC. 209. NONCOMPLIANCE WITH AFFORDABLE HOUSING REQUIREMENT

If a recipient uses grant amounts to provide affordable housing under this title, and at any time during the useful life of the housing the recipient does not comply with the requirement under section 205(a)(2), the Secretary shall take appropriate action under section 401(a).



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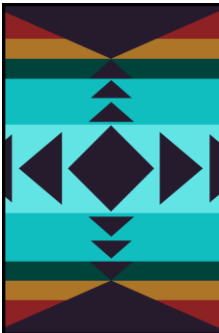
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### SEC. 210. CONTINUED USE OF AMOUNTS FOR AFFORDABLE HOUSING

Any funds for programs for low-income housing under the United States Housing Act of 1937 that, on the date of the applicability of this Act to an Indian tribe, are owned by, or in the possession or under the control of, the Indian housing authority for the tribe, including all reserves not otherwise obligated, shall be considered assistance under this Act and subject to the provisions of this Act relating to use of such assistance.



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### TITLE III--ALLOCATION OF GRANT AMOUNTS

Sec. 301. Annual allocation.  
HUD allocates IHBG grant to Tribes in accordance with established formula each fiscal year  
Sec. 302. Allocation formula.



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### Sec. 302. Allocation Formula



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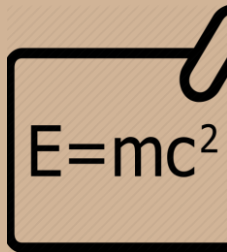
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### IHBG Formula

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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### Statutory & Regulatory Requirements



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

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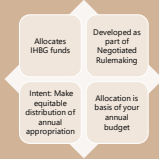
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### Formula Purpose and Background



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### Key Dates

**Formula Response Form (FRF):**

- Sent each year around June 1
- Includes data to be used in formula and the estimated allocation amount for the coming FY
- Corrections due 60 days after date of FRF
- Census challenge deadlines for following FY specified in FRF
- Corrections must be submitted to the IHBG Formula Customer Service Center on FRF Appendices A-D

**Final Allocations: Completed after the budget is appropriated**



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### Final Allocations

Final allocations can vary from estimate based on many reasons; different final allocation amount than what was used in the estimate, tribe's data changed, other tribe's data changed.



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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 four key components:
  - (1) Current Assisted Stock (CAS)
  - (2) Need
  - (3) 1996 Minimum
  - (4) NEW -Undisbursed IHBG Funds Factor (UDFF) [§1000.310 and 342]



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### Undisbursed IHBG Funds Factor (UDFF)

Undisbursed IHBG Funds: Applies to Tribes/TDHES with:

- 1) Amount of initial allocation of => \$5M
- 2) With funds in eLOCCS. Does not apply to Tribes/TDHES with approved investments.
- 3) Undisbursed amount = Amount in excess of the sum of the prior 3 years initial allocation calculations or its 1996 Minimum.



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### Component 1: FCAS

1. FCAS is Housing developed under the 1937 Act (before NAHASDA) called Current Assisted Stock (CAS):
  - Low Rent
  - Mutual Help
  - Turnkey III
  - Section 8
2. 1937 units in the development pipeline (after NAHASDA)
3. Section 8 – expired but still managed like Sec 8 program




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### FCAS

Two elements of FCAS in formula

- Operating subsidy
- Modernization allocation

FCAS adjusted by

- FY96 national averages for Operating subsidy and Modernization allocation
- Local costs and inflation adjustments

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### Demolished Units 1000.318(e)

A unit that is demolished pursuant to a planned demolition may be considered eligible as a FCAS unit if the unit is rebuilt within one year.

If the unit cannot be rebuilt within one year because of relative administrative capacities and other challenges faced by the recipient, a one-time, one-year extension may be requested.

Requests must be submitted in writing and include a justification for the request.




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### Units Not Eligible as FCAS

Units built over the number specified in the original ACC for Projects with DOFA after October 1, 1997.

Units not used as low-income housing dwelling units include:

Conveyance eligible, conveyed, or demolished units.

Units constructed with NAHASDA funds. Units being used for VASH Program.

Vacant units, unless being made available for occupancy. Units used for non-dwelling purposes

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### Section 302(b)(1)(A)

Section 302(b)(1)(A) makes it clear that units should not remain under subsidy forever.



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### Reviewing FCAS Data

Review the Formula Response Form. Report any corrections to unit counts, unit types, and actual/expected Date of Full Availability (DOFA) for occupancy. Submitted corrections will be reviewed and HUD will inform the tribe of the corrected unit counts.



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### Component 2: Need

After determining the FCAS allocation, remaining funds are allocated by need component

The need component consists of Seven criteria

Based on Decennial Census and American Community Survey (ACS) 5-year data

Adjusted for local Development Cost




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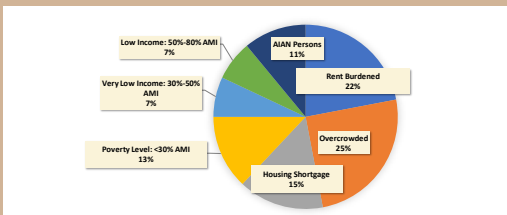
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### Need Component Weights [\$1000.324]




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### Formula Area

Geographic area providing substantial housing services

Formula area and Indian area are different!




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What if a formula area is served by more than one Indian tribe?

- (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 divided 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.




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What if a formula area is served by more than one Indian tribe?

- (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.




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Population Cap

- Control to maintain fairness
- Only if AIAN persons > 2x enrollment
- Challenge process available

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### Component 3: 1996 Hold Harmless

A tribe's IHBG funding is never reduced below its FY 1996 funding level.

This is the amount the tribe's IHA received in FY 1996 for operating and modernization subsidy.

IHBG funding is adjusted to the amount received in FY 1996. This is a statutory requirement.

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### Component 4: Undisbursed IHBG Funds Factor (§1000.342)

+ New formula factor

₿ Provides adjustments for tribes with Initial allocation of \$5 million or more  
Have undisbursed IHBG funds greater than the sum of their prior 3 years' initial allocation

📄 Initial allocation will be reduced, and any amounts recovered will be redistributed

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### Formula Response Form & Other Funding



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### Formula Response Form & Other Funding

The CARES Act appropriated \$8 billion for tribal governments to cover expenditures incurred with respect to the COVID-19 pandemic. Congress directed Treasury Secretary Steven Mnuchin to disburse these funds within 30 days.

The act specified that the amount paid to each tribe "shall be the amount the Secretary [of the Treasury] shall determine... that is based on increased expenditures of each such Tribal government... and determined in such manner as the Secretary determines appropriate." [2]

The Treasury Department decided that 60% of the \$8 billion would be distributed immediately based on population, while the remaining 40% would be distributed later based on employment and expenditures data.

The department sought enrollment data from all 574 federally recognized tribes. In response, the Shawnee Tribe certified that it had 3,021 enrolled members. But the department did not use the tribe-supplied enrollment numbers to distribute the 60% portion of the funds.

Rather, it relied on population data used in connection with the Indian Housing Block Grant program. This data estimates a tribe's population in a geographical formula area based on the number of individuals who consider themselves American Indian or Alaska Native on census forms.

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### Formula Response Form & Other Funding

Because the IHBG data does not reflect actual enrollment, federal regulations recognize that a tribe's IHBG population sometimes exceeds its actual enrollment numbers.

The opposite happened with the Shawnee Tribe; the IHBG data reported that the tribe had a formula area population of zero. So, although the tribe had over \$6.6 million in expenditures in 2019, and although it incurred significant expenses in responding to the pandemic, it received just \$100,000 — the minimum payment for tribes with a population of fewer than 37 members.

Twenty-four other tribes also had formula area populations of zero, including the Miccosukee Tribe, which has 605 enrolled members.

The Shawnee Tribe filed suit, contending that it was arbitrary and capricious for the department to use population as a proxy for increased expenditures, to select the IHBG population data rather than other available data, and to refuse to adjust what the tribe deemed errors in the IHBG data.

**So, you might want to put this form under more eyes within the Tribe to ensure the information is correct.**

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### IHBG Formula Customer Service Center

- Calculates formula allocations
- Provides TA to recipients on formula
- Receives and process corrections and challenges
- 1-800-410-8808



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**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 by Secretary.
- Sec. 406. GAO audits.
- Sec. 407. Reports to Congress.
- Sec. 408. Public availability of information.




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**TITLE V--TERMINATION OF ASSISTANCE FOR INDIAN TRIBES UNDER INCORPORATED PROGRAMS**

- Sec. 501. Repeal of provisions relating to Indian housing assistance under United States Housing Act of 1937.
- Sec. 502. Termination of Indian housing assistance under United States Housing Act of 1937.
- Sec. 503. Termination of new commitments for rental assistance.
- Sec. 504. Termination of Youthbuild program assistance.
- Sec. 505. Termination of HOME program assistance.
- Sec. 506. Termination of housing assistance for the homeless.
- Sec. 507. Savings provision.
- Sec. 508. Effective date.
- Sec. 509. Effect on HOME Investment Partnerships Act.




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**TITLE VI--FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES**

- Sec. 601. Authority and requirements.
- Sec. 602. Security and repayment.
- Sec. 603. Payment of interest.
- Sec. 604. Training and information.
- Sec. 605. Limitations on amount of guarantees.
- Sec. 606. Effective date.
- Sec. 606. Demonstration program for guaranteed loans to finance tribal community and economic development activities.




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### TITLE VII--OTHER HOUSING ASSISTANCE FOR NATIVE AMERICANS

- Sec. 701. Loan guarantees for Indian housing.
- Sec. 702. 50-year leasehold interest in trust or restricted lands for housing purposes.
- Sec. 703. Training and technical assistance.
- Sec. 704. Public and Assisted Housing Drug Elimination Act of 1990.
- Sec. 705. Effective date.




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### NAHASDA REGULATIONS-24 CFR Part 1000




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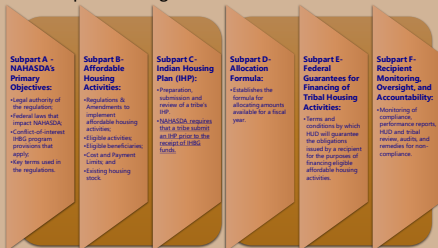
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### 24 CFR Part 1000 – Native American Housing Activities 6 Subparts of Regulation




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ELECTRONIC CODE OF FEDERAL REGULATIONS e-CFR data is current as of March 13, 2020, Title 24 → Subtitle B → Chapter IX → Part 1000 Title 24: Housing and Urban Development

Replaces 24 CFR 950 Final Published 3/12/98

Amended:  
3/17/98  
1/20/99  
9/28/01  
6/24/03  
6/17/04  
1/27/05  
4/20/07  
10/18/07  
4/1/08  
1/2/13

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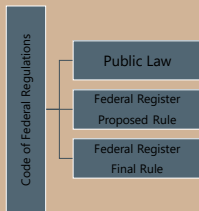
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**Federal regulations result from the public law to the proposed rule, the final rule, and codification in the CFR**



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### CFR Numbering System

The CFR has a uniform numbering system.

- ❖ Most of the 50 titles conform to the system
- ❖ The section is the basic unit of the CFR
- ❖ Cite the CFR by title and section: 12 CFR 303.1
- ❖ Text is divided into descending levels of units

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### Six Levels of Paragraphs

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

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### What is the difference between statutes, regulations, and HUD guidance

It's important to understand the difference between statutes, regulations, and HUD guidance, as these terms will be used throughout your involvement with ONAP. These terms are often confusing for new grantees. Statutes, regulations, HUD Notices and guidance bulletins are different from one another. Statutes are Federal laws written by Congress. HUD must implement its programs in accordance with statutory requirements. The only way a statute can be changed is by an Act of Congress. Thus, statutory requirements cannot be waived unless the statute specifically gives this power to the administering Federal agency.




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### What is the difference between statutes, regulations, and HUD guidance

Regulations are written to implement statutes. Program regulations provide detail on the intent of the laws and specify the parameters of how the laws should be carried out. They can be waived by a Departmental Secretary, such as the Secretary of HUD, so long as this waiver is not in conflict with the statute.

Regulations are administered by the Federal agency that is designated in the statute to oversee the program. Under NAHASDA, it is HUD, and more specifically ONAP (The Office of Native American Programs) that is the designated Federal agency.




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What is the difference between statutes, regulations, and HUD guidance

HUD Notices are official transmittals to recipients regarding policy issues or procedural topics. The information in HUD Notices may be waived by ONAP's Deputy Assistant Secretary unless it conflicts with the regulations or statute. PIH Notices are specific to the programs and activities performed by PIH. (Office of Public and Indian Housing)  
Guidance Bulletins assist tribes in implementing HUD programs and provide tools for program management. They help clarify various technical topics. Though most guidance bulletins are advisory, some guidance bulletins further explain the regulations or the statute. Guidance bulletins that further explain the regulations can be waived by the Secretary of HUD, however guidance bulletins that further explain the statute cannot be waived.



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What is the difference between statutes, regulations, and HUD guidance

To the extent that guidance bulletins are advisory and designed to help tribes implement their programs, no waiver is needed.  
You can download Guidance Bulletins and PIH Notices from ONAP's website. All PIH Notices include the name and description of the notice, as well as the date it was issued and the date it will expire.

The statute, regulations, notices, and guidance bulletins work together to provide the full picture of each grant recipient's opportunities and responsibilities.



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What is the difference between statutes, regulations, and HUD guidance

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.

Thus, a program administrator must be able to refer to both the statute and the regulations simultaneously to have a complete understanding of how the program must be administered.

For example, if you need to know more about the Indian Community Development Block Grant program, also known as ICDBG, you would refer to the Native American Housing Assistance and Self-Determination Act of 1996, which is the statute. You would also refer to 24 CFR Part 1003 Community Development Block Grant for Indian Tribes and Alaska Native Villages, which is the ICDBG Regulations.



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### What is the difference between statutes, regulations, and HUD guidance

The guidance bulletins and notices can provide you with clarification on the statute and the regulations. For example, if you needed clarification on financial audit requirements for the ICDBG program, you could refer to PIH Notice 2006-20. This Notice provides specific guidance on financial audit requirements for ICDBG and other HUD programs available to Native American grant recipients.



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### 2 CFR 200 UNIFORM ADMINISTRATIVE REQUIREMENTS



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### Uniform Administrative Act (2 CFR Part 200)

To ensure the accountability of all federal funding, the Office of Management and Budget (OMB) establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities.

The regulations implementing NAHASDA (24 CFR § 1000) include a variety of general administrative requirements that must be followed by recipients of the Indian Housing Block Grant funds. Prior to December 26, 2014, the NAHASDA regulations addressing administrative requirements at 24 CFR § 1000.26 cited two former OMB regulatory documents: OMB Circular A-87 (cost principles), and OMB Circular A-102 (Uniform Administrative Requirements codified for HUD programs in 24 CFR § 85).



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## Uniform Administrative Act (2 CFR Part 200)

The OMB has streamlined the Federal government's guidance from eight existing OMB circulars (which includes A-87, A-102, and A-133) into one consolidated set of guidance in the code of Federal regulations (2 CFR 200) and is titled the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards (the 'Uniform Guidance').

This consolidation is aimed at eliminating duplicative or almost duplicative language in order to clarify where policy is substantively different across types of entities, and where it is not.

OMB issued the final rule on December 26, 2013. The final rule became effective for grantees on December 26, 2014. When a recipient accepts IHBG funds, it agrees to comply with these administrative requirements.



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## Uniform Administrative Act (2 CFR Part 200)

- Subpart A** – Acronyms and Definitions
- Subpart B** – General Provisions
- Subpart C** – Pre-Federal Award Requirements & Formula Allocation
- Subpart D** – Post-Federal Award Requirements
- Subpart E** – Cost Principles
- Subpart F** – Audit Requirements



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## 2 CFR 200 Subpart B: General Provisions

The Office of Management & Budget (OMB) previously issued Circular notices for uniform requirements which were then Codified and made effective December 26, 2014. Please see ONAP Program Guidance 2014-12, Consolidation of OMB Circulars.

The purpose of this Subpart is to establish uniform administrative requirements, cost principles and audit requirements for Federal awards to non-Federal entities by Federal awarding agencies;

This Subpart provides basis for systematic and periodic collection and uniform submission by Federal agencies of information on all Federal financial assistance programs to OMB.

This Subpart prescribes the manner in which GSA, OMB and Federal agencies that administer Federal financial assistance programs are to carry out their statutory responsibilities under the Federal Program Information Act.

It also requires the following:

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## 2 CFR 200 Subpart B: General Provisions

### §200.112 Conflict of interest.

The Federal awarding agency must establish conflict of interest policies for Federal awards. The non-Federal entity must disclose in writing any potential conflict of interest to the Federal awarding agency or pass-through entity in accordance with applicable Federal awarding agency policy.

### §200.113 Mandatory disclosures.

The non-Federal entity or applicant for a Federal award must disclose, in a timely manner, in writing to the Federal awarding agency or pass-through entity all violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal award. Non-Federal entities that have received a Federal award including the term and conditions outlined in Appendix XII—Award Term and Condition for Recipient Integrity and Performance Matters are required to report certain civil, criminal, or administrative proceedings to SAM. ~~Failure to make required disclosures can result in any of the remedies described in §200.338 Remedies for non-compliance, including suspension or debarment.~~ (See also 2 CFR part 180, 31 U.S.C. 3321, and 41 U.S.C. 2313.)

[80 FR 43308, July 22, 2015]

**EXCEPTION** – Per 24 CFR 1000.26 (a) (1), 200.113 applies, except that, in lieu of the remedies described in § 200.338, HUD shall be authorized to seek remedies under subpart F.

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## What is SAM

**System for Award Management (SAM)**  
The System for Award Management (SAM) is a Federal Government owned and operated free web site that consolidates the capabilities in Central Contractor Registration (CCR)/Fed Reg, Online Representations and Certifications Applications (ORCA) and the Excluded Parties List System (EPLS).

I dont know what happened, but this eagle is about to ask to speak to a manager.



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## 2CFR 200 Subpart C: Pre-Federal Award Requirements and Contents of Federal Awards

- In accordance with the Federal Grant and Cooperative Agreement Act, Federal award agencies must identify the appropriate instrument for the federal award to the nonfederal entity - For NAHASDA, HUD uses a Grant Agreement to award IHBG funds to Tribes/TDHEs.
- Suspension and Debarment - Nonfederal entities are subject to non-procurement debarment and suspension regulations implementing Executive Orders 12549 and 12689 and 2 CFR Part 180.
- These regulations restrict awards, subawards and contracts with certain parties that are debarred, suspended or otherwise excluded from or ineligible for participation in Federal assistance programs or activities.

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## 2 CFR 200 Subpart D: Post Federal Award Requirements

The non-Federal entity is responsible for complying with all requirements of the Federal award. These include:

§200.302 Financial management.

Investment, Cash Management, Accounting System

§200.303 Internal controls.

§200.313 Equipment, Property Inventory, Control & Disposition System

§200.333 Retention requirements for records, (3 Years)

The financial management system of each non-Federal entity must provide for the following:

§200.334 Requests for transfer of records

§200.335 Methods for collection, transmission and storage of information

§200.336 Access to records

§200.337 Restrictions on public access to records

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## 2 CFR 200 Procurement

.317 – States

.318 – Procurement Standards

.319 – Competition

.320 – Methods of Procurement to Be Followed

.321 – Contracting with small and minority firms, women's business enterprise and labor surplus area firms.

.323 – Contract Cost and Price

.324 – Awarding Agency Review

.325 – Bonding (1000.26(a)(11) provides acceptable methods when inconsistencies exist)

.326 – Contract Provisions

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## The UNIFORM GUIDANCE HISTORY

February 28, 2011, February 1, 2013, December 26, 2014, January 22, 2020

Presidential Memorandum: Administrative Flexibility

Notice of Proposed Guidance (NPG)

Uniform Guidance adopted & implemented by all agencies.

Notice of Proposed Guidance

October 27, 2011  
Creation of COFAR

February 28, 2013  
Advanced Notice of Proposed Guidance (ANPG)

December 26, 2013  
Issuance of Final Guidance (2 CFR 200)

December 7, 2015  
HUD Issues Conforming Amendments & Final Rule

August 13, 2020  
Issuance of Final Guidance (2 CFR 200)

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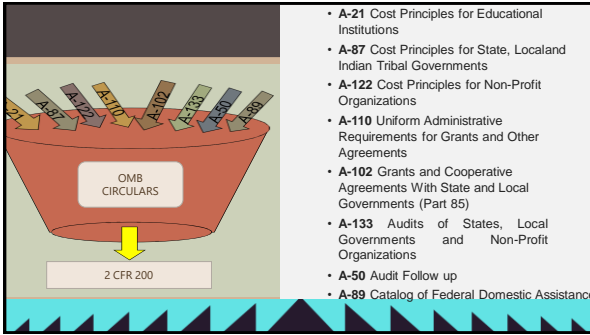
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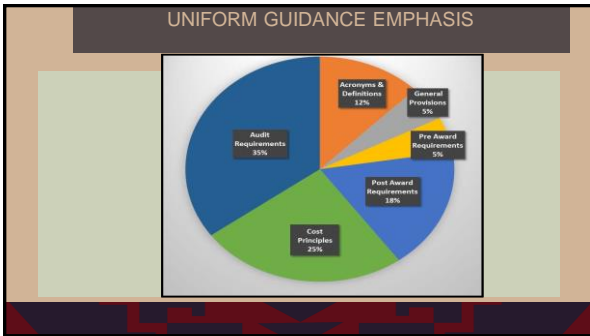
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### Uniform Guidance Sessions

The methods of Procurement are listed in the Super Circular at 2 CFR Part 200.320

HUD has an excellent 9-part series titled "OMB NEW UNIFORM Guidance Sessions" Available to watch using YouTube.

I would recommend it as the uniform guidance is a major piece of the puzzle in assuring your procurement is done properly.

[https://www.hud.gov/program\\_offices/public\\_indian\\_housing/ih/regs/resources](https://www.hud.gov/program_offices/public_indian_housing/ih/regs/resources)

2 CFR PART 200 UNIFORM GUIDANCE WEBCAST SERIES AND RESOURCES

REMEMBER:

When reading the uniform guidance. They are very precise in using the terms "should and must" **Should** means best practices or recommended approaches and **Must** means it is required.

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2021 FEDERAL ACQUISITION OFFICE PUBLIC HEARING POLICY AND RESOURCE GUIDE

**2 CFR PART 200 UNIFORM GUIDANCE WEBCAST SERIES AND RESOURCES**

In December 2014, 2 CFR Part 200 - Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, (commonly referred to as Uniform Guidance, became effective for all Federal agencies and their grantees. This learning regulation replaced, combined, and reorganized eight previous sets of Federal regulations.

Presented by HHS/OIG Office of Justice Acquisition Programs, Series A is a new-part training session and additional resource materials on Implementing the Office of Budget and Management's New Uniform Guidance for the Indian Housing Block Grant and the Indian Community Development Block Grant Programs.

Training Videos	Resource and Tools
<p>Introduction - Deputy Assistant Secretary Heidi Eckerle</p> <p>OMB New Uniform Guidance Session 1</p> <ul style="list-style-type: none"> <li>Training Introduction: Overview and Background of the New Uniform Guidance</li> </ul> <p>OMB New Uniform Guidance Session 2</p> <ul style="list-style-type: none"> <li>Subject A: Acronyms and Definitions</li> <li>Subject B: General Provisions</li> </ul> <p>OMB New Uniform Guidance Session 3 - Subject C: The Federal Award Provisions</p> <p>OMB New Uniform Guidance Session 4 - Subject D: Post-Federal Award Standards for Financial and Program Management</p> <p>OMB New Uniform Guidance Session 5 - Subject D: Post-Federal Award Procurement</p> <p>OMB New Uniform Guidance Session 6 - Subject D: Post-Federal Award Performance and Financial Monitoring, Reporting, Management, Supervisory, Records, Retention and Noncompetition</p> <p>OMB New Uniform Guidance Session 7 - Subject D: Cost Principles</p>	<ul style="list-style-type: none"> <li>HHS/OIG Exemptions</li> <li>2 CFR 200 Uniform Guidance HHS Exemptions Redline</li> <li>2 CFR 200 Uniform Guidance K-DBI Exemptions Redline</li> <li>Uniform Guidance Crosswalk HHS</li> <li>Uniform Guidance Crosswalk K-DBI</li> <li>Conforming Amendments for HUD Programs</li> <li>Background and Implementation Materials</li> <li>Task Index</li> <li>Summary Chart: Assessing OMB Uniform Guidance Changes</li> <li>Self Assessment Tool - Administrative Systems</li> <li>Internal Control Questionnaire and Assessment Tool</li> <li>Sample Financial Management Policy</li> <li>Sample Procurement Policy</li> </ul>

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## General Statement

**EXCEPTION** — Per 24 CFR 1000.26 (a) (10), §200.317 "Procurement by states" does not apply

**(j) De minimis procurement. A recipient shall not be required to comply with 2 CFR 200.318 through 200.326 with respect to any procurement, using a grant provided under NAHASDA, of goods and services with a value of less than \$5,000.**

**EXCEPTION** — Per 24 CFR 1000.26 (a) (11), Sections § 200.318 through 200.326 apply, as modified in this paragraph:

**i. Utilizing Federal supply sources in procurement.** In accordance with Section 101(j) of NAHASDA, recipients may use Federal supply sources made available by the General Services Administration pursuant to 40 U.S.C. 501.




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## 200.317-326 PROCUREMENT STANDARDS

### §200.318 General procurement standards

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State, local, and tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this part.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c)(1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. **The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.**

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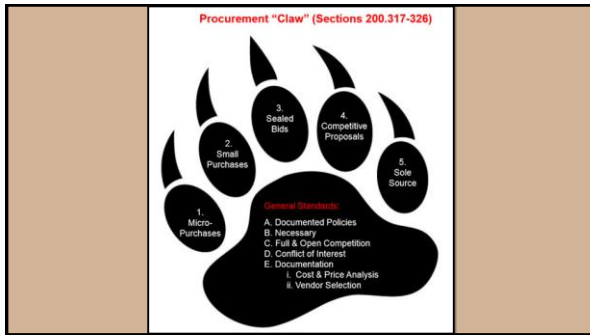
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### 200.317-326 PROCUREMENT STANDARDS

**§200.320 Methods of procurement to be followed.**

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed the micro-purchase threshold (§200.67 Micro-purchase). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

**EXCEPTION per 24 CFR 1000.26 (a) 11 (i) De minimus procurement. A recipient shall not be required to comply with 2 CFR 200.318 through 200.326 with respect to any procurement, using a grant provided under NAHASDA, of goods and services with a value of less than \$5,000.**

Procurement by small purchase procedures. 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. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

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### 200.317-326 PROCUREMENT STANDARDS

Methods Of Procurement:

- **Micro-purchases** – if price is considered reasonable, no competitive solicitation required if price does not exceed:
  - \$2,000 for procurement subject to Davis-Bacon Act
  - \$10,000 for all other procurement using federal funds (or less if stated in Policy 11/26/2019)
- **Small purchases** – not more than Simplified Acquisition Threshold, currently \$250,000
- **Sealed bids** (formal advertising)
- **Competitive proposals** (Request For Proposals) RFP
- **Non-competitive proposals: Single Sole/Source** Emergency or Only 1 bid received. **change – must request in writing if** seeking permission from Awarding Agency/HUD Approval

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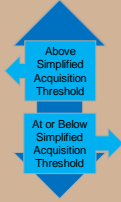
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### § 200.323: Contract cost and price



- Cost or Price Analysis is **REQUIRED** (**cost includes contract amount plus change orders**).
- Cost or Price Analysis is **NOT REQUIRED** (however price must be reasonable, and estimate is necessary to determine if procurement falls into this category).

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### INDIAN PREFERENCE REQUIREMENTS



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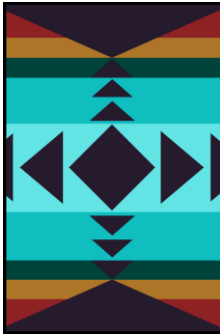
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**The Indian Self-Determination and Education Assistance Act**

The Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93-638) authorized the Secretary of the Interior, the Secretary of Health, Education, and Welfare, and some other government agencies to enter into contracts with, and make grants directly to, federally recognized Indian tribes. The tribes would have authority for how they administered the funds, which gave them greater control over their welfare.

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**Section 7(b) of The Indian Self-Determination and Education Assistance Act**



Preference in the award of subcontracts and subgrants in connection with the administration of such contracts or grants shall be given to Indian organizations and to Indian-owned economic enterprises as defined in Section 3 of the Indian Financing Act of 1974.

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**Indian Preference Final Rule**

The Final Rule amended 24 CFR Sections 1000.48, 1000.50, and 1000.52 to provide for tribal preference in employment and contracting.

Program Guidance 2013-07 (R) dated July 11, 2013, provides additional information on administering these revisions.




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### Tribal Action

- ❖ Tribe passes adopts law, code, or regulations regarding Tribal Preference.
- ❖ IHA adopts policies (personnel, procurement, etc.) regarding preference.
- ❖ Such law or policy may provide preferential treatment
  - Over other Indians that are not members of the tribe in employment and **Contracting**.
  - In reductions in workforce and layoffs.

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### Implementing Indian Preference

Certify policies and procedures (\$1000.52)  
 Preference clauses must be incorporated into contracts  
 Include Indian Preference reference in notices and advertisements




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### Importance of Indian Preference

Provides special opportunities for Indian contractors in selection  
 Mandates additional preference that contractors must offer Indian laborers, subcontractors, and suppliers  
 Economic opportunities for Indians, tribes, recipients, and your communities  
 NOT required to hire an Indian individual / firm

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### Preference in Solicitation Process



Required by Federal (and often tribal) law  
Clarify preference standards in your procurement policy  
Clarify preference standards from the outset

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### Where Indian Preference Is Applied

In selection of contractors or vendors  
In the contractor's selection of subcontractors and suppliers  
During employment and training by contractors



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### Qualifying Bidders, Proposers, Vendors



**Specifically determine** if the individuals and entities are qualified to receive Indian preference.  
**Do not rely** on determinations and certifications made by others.

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### Who is Eligible for Indian Preference?

- Members of federally recognized tribes
- Federally recognized tribes
- Entities at least 51% owned AND controlled by such members or tribes

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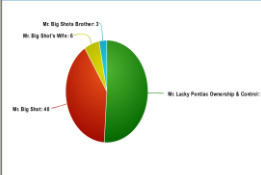
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### 51% Ownership AND 51% Control

Control includes voting rights, management, decision making, and allocation of profits.

Entity owned by a tribe, or a tribal member must show evidence of 51% ownership AND 51% control.



Entity	Ownership & Control
Mr. Big Shot	45%
Mr. Big Shot's Wife	3%
Mr. Big Shot's Brother	2%
Mr. Lucky Prentiss	50%

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### Preference Must Be Requested



- Advise all bidders, proposers, and vendors Indian preference is required in contract awards
- Parties seeking preference must request preference
- When feasible, provide interested parties with an Indian Preference Qualification Application

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### Various Ways to Determine Eligibility

There is a variety of approaches based on the size, regularity, and nature of the procurement

The more thorough the process, the better

On large procurements, make the determination prior to the submission of the bid or proposal (pre-qualify firms)

Shall include a determination that bidder is a responsible contractor




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### When Feasible...

- Use Indian Preference Qualification Application and require supporting documentation
- Establish panel of at least three staff or Board members to evaluate and decide eligibility
- Make independent verification and inquiry




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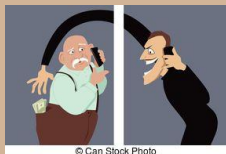
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### Common "Fronting" Practices



© Can Stock Photo

Disguise how little profit tribe or member receives

Indian tribe or member appears on paper as 51% owner, but management/control are with non-Indian

Less than truthful in explaining resources that each owner brings to entity

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### Document, Document, Document

- Carefully record decision in writing
- Make a brief decision in writing
- Be prepared to provide further explanation to anyone you disqualify
- Explain to any disqualified party that they may still submit a bid or proposal




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### Reserve the Right to Reconsider

- Reserve the right to disqualify** anyone (even if you have already qualified them) right up until the award of the contract in case you become aware of new information and/or the entity's structure changes
- Add contract provisions** for termination if the entity loses its Indian ownership or control during the contract period

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### Applying Indian Preference

- 24 CFR 1000.52(a)
- TDHE certifies that they have policy that will afford Indian preference that is consistent with ISDEA 25 USC 450e(b) (The Indian Self-Determination and Education Assistance Act )
- OR solicit bids from Indian owned & controlled entities only
- OR use two-stage method (more...)

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### The Two-Stage Method

- 1 – Solicit **statements of intent** from Indian owned & controlled entities
- 2 – If two or more are received from qualified entities, then solicit bids/proposals from Indian owned & controlled entities only
  - Otherwise, solicit bids/proposals from all entities using your established method of applying Indian preference

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### Applying Indian Preference

- If any method of Indian preference results in only one bid or proposal being received, then
- Re-advertise using any approved method of Indian preference under (a), OR
- Re-advertise to all entities using X-factor or other points for preference, OR
- Ask HUD-ONAP for approval (remember, you must justify in writing)

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### Using the X-Factor

Attachment A  
Using the X-Factor for Indian Preference (Optional)

The following is an optional method that may be utilized in implementing the Native Preference requirements of 24 CFR 98.613. Under this method, each offeror must calculate and disclose in the lowest responsive bid from qualified Indian-owned concerns, or other eligible entities, the percentage of the total bid price of the responsive project to which being solicited, it has bid or plans to bid. The highest bid for the total price of the lowest responsive bid from any qualified Indian-owned concerns is the awarding bid.

<small>When the lowest responsive responsibility bid is:</small>	<small>X - Award to:</small>
<small>Less than \$250,000</small>	<small>10% of bid total, or \$25,000</small>
<small>In excess of \$250,000, but less than \$500,000</small>	<small>10% of bid total, or \$25,000</small>
<small>In excess of \$500,000, but less than \$1,000,000</small>	<small>10% of bid total, or \$25,000</small>
<small>In excess of \$1,000,000, but less than \$2,000,000</small>	<small>10% of bid total, or \$25,000</small>
<small>In excess of \$2,000,000, but less than \$5,000,000</small>	<small>10% of bid total, or \$25,000</small>
<small>In excess of \$5,000,000, but less than \$10,000,000</small>	<small>10% of bid total, or \$25,000</small>
<small>In excess of \$10,000,000, but less than \$25,000,000</small>	<small>10% of bid total, or \$25,000</small>
<small>In excess of \$25,000,000, but less than \$50,000,000</small>	<small>10% of bid total, or \$25,000</small>

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**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.



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**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

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**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.

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### REQUIRED MONITORING & REPORTS



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### 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.



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### 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).

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### 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.




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### 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/RF), 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.




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### 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




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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



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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



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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 - IDCs
- ❖ Financial and Fiscal Management: Appendix 6 - Program Income
- ❖ Financial and Fiscal Management: Appendix 7 - Investments



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### GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

- ◆ Financial and Fiscal Management Appendix 8 - Insurance
- ◆ Title VI Monitoring Plan
- ◆ Tribal HUD-VASH Monitoring Plan



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### 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).



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### Poll Question # 2



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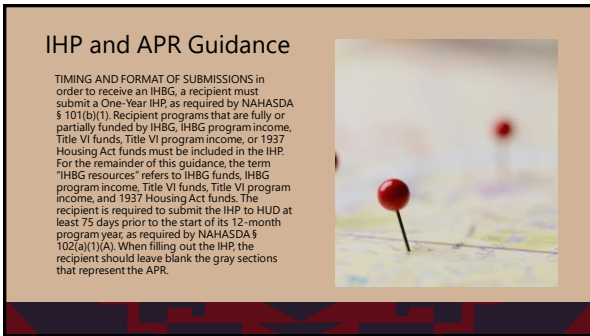
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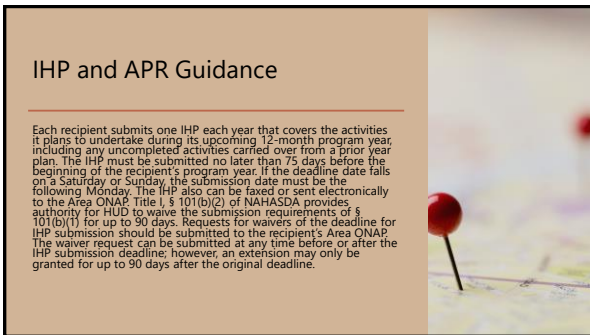
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### IHP and APR Guidance+

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). Examples for FFYs 2022 are provided next




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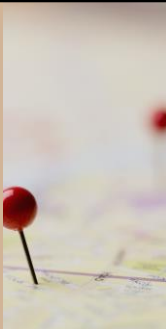
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### IHP and APR Guidance

FFY 2022	Recipient PY	IHP Due Date (75 calendar days prior to start of PY)
Oct. 1, 2021 – Sept. 30, 2022	October 1 – September 30	July 18, 2021
	January 1 – December 31	October 18, 2021
	April 1 – March 31	January 16, 2022
	July 1 – June 30	April 17, 2022




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### 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.




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## 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.



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## 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.



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## 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.



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### 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

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### 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.

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### IHP and APR Guidance

FFY 2019	Recipient PY	APR Due Date (90 calendar days after the end of PY)
Oct. 1, 2018 – Sept. 30, 2019	October 1 – September 30	December 29, 2019
	January 1 – December 31	March 31, 2020
	April 1 – March 31	June 29, 2020
	July 1 – June 30	September 28, 2020

The due date of the APR will depend on the recipient's chosen PY. Examples for FFY 2019 are provided.




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## IHP and APR Guidance



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.

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## AUDIT REQUIREMENTS |

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## 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.



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### 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)



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### 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.



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### FEDERAL FINANCIAL REPORT SF-425



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## FEDERAL FINANCIAL REPORT SF-425

**Federal Financial Report (FFR), also known as Standard Form (SF) form 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 4<sup>th</sup> quarterly report is due 90 days after the end of the 4<sup>th</sup> quarter.




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### 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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## FEDERAL FINANCIAL REPORT SF-425

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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### Friendly E-Mail Reminder

**\*\* Please DO NOT reply to this email, contact your local Program Office if you have any questions \*\***

U.S. Dept. of Housing and Urban Development  
Line of Credit Control System (LCCS)  
re: Indian Housing Block Grant

Dear Any Tribal Indian NA:

The Indian Housing Block Grant (IHBG) Program requires that the Federal Financial Report, form SF-425, be submitted to the area Office of Native American Programs (ONAP) in accordance with 2 CFR 200.327. The report is due on OCTOBER 30, 2021, unless it is the final report of your program year, and then it is due 90 days after the end of your fiscal year.

Failure to submit form SF-425 by OCTOBER 30, 2021, may cause ONAP to proceed with actions in accordance with 24 CFR 1000 Subpart F on the grants listed below until the required form is received and the area ONAP enters the receipt into LCCS.

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### MIIGWECH

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




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QUESTIONS




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THANK YOU!  
&  
IF YOU SHOULD  
EVER NEED  
ANYTHING ELSE!



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