

POLICY CLASS HANDOUTS

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INDIAN PREFERENCE



No. 2013-07 (R)
July 11, 2013

RECIPIENT GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: All Tribal Government Leaders and Tribally Designated Housing Entities

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

TOPIC: Indian and Tribal Preferences in Employment and Contracting in IHBG

Purpose: The purpose of this guidance is to provide tribes and tribally designated housing entities (TDHEs) with updated information on implementing regulatory changes relating to tribal preference in employment and contracting in the IHBG program. The guidance also addresses the distinction between Indian preference and tribal preference, and addresses requirements under Section 3 of the Housing and Urban Development Act of 1968 relating to economic opportunities for low- and very low-income persons.

Background: Section 101(k) of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), authorizes tribal preferences in employment and contracting when using IHBG funds. The NAHASDA final rule, published on December 3, 2012, amended 24 CFR Sections 1000.48, 1000.50, and 1000.52 to provide for tribal preference in employment and contracting. This guidance provides tribes and TDHEs with additional information on administering these revisions.

Indian Preference: IHBG regulations require tribes and TDHEs to comply with Section 7(b) of the Indian Self-Determination and Education Assistance Act (U.S.C. 450e(b)) and, to the greatest extent feasible, give preference in the award of contracts for projects funded under the IHBG program to Indian organizations and Indian-owned economic enterprises. The law requires Indian preference in training and employment and in the award of contracts and subcontracts.

Tribal Preference: When an Indian tribe has adopted a tribal preference law, regulation, or ordinance governing preferences in employment and contracting, that tribal preference law will govern any preferences in employment and contracting under the IHBG program. Such laws may, for instance, provide tribal members with preferential treatment over other Indians that are not members of the tribe in employment and contracting carried out under an IHBG grant. Tribal preference laws may also specify any preferences in reductions in workforce and layoffs.

Tribes and TDHEs that adopt a tribal preference law must comply with that tribal law in lieu of Indian preference requirements that would otherwise apply under Section 7(b) of the Indian Self-Determination and Education Assistance Act.

If a TDHE is the IHBG recipient, it must comply with the tribal preference laws of the beneficiary tribe. If the TDHE is authorized to issue regulations or ordinances under tribal law, any regulations or ordinances issued by the TDHE that provide for tribal preferences in employment and contracting will govern under the IHBG program.

Applicability of Other Requirements:

- a. Small Purchase Procurement:** Procurements that are less than the simplified acquisition threshold, recently increased to \$150,000, but equal to or greater than \$5,000, are considered small purchases under 24 CFR §85.36(d)(1). If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources. Recipients carrying out small purchase procurement must still comply with Indian preference or tribal preference requirements that are applicable.
- b. De Minimis Exception:** Procurements with a value less than \$5,000, known as "De Minimis procurement" or "Micro-Purchasing," are not subject to Indian preference requirements pursuant to 24 CFR §§1000.48(c) and 1000.52(d). Recipients are also exempt from complying with the general procurement requirements in 24 CFR §85.36 when carrying out De Minimis procurement. See the PIH Notice on *Micro-Purchasing* for additional information.
- c. Federal Supply Sources:** In accordance with Section 101(j) of NAHASDA, recipients may use federal supply sources made available by the General Services Administration (GSA), pursuant to 40 U.S.C. 501. Recipients must still comply with any Indian preference or tribal preference requirements that may be applicable when procuring goods and services through GSA's supply sources. See Program Guidance 2010-09 for additional information.
- d. Section 3:** Generally, if an IHBG recipient has projects or activities that exceed \$200,000 or more in HUD financial assistance, the recipient is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, (12 U.S.C. 1701u), and HUD's implementing regulations at 24 CFR Part 135. Section 3 regulations require recipients to provide certain preferences in job training, employment, and contracting to low-income individuals.

HUD will be launching a new online Section 3 reporting system (60002) for the 2013 reporting period. The new system will resolve some of the technical issues encountered with the current system, will reduce user errors, and will decrease recipient burden. A series of trainings on the new 60002 reporting system will be offered in the coming weeks, and will be posted on the Section 3 webpage at www.hud.gov/section3. This site will also provide assistance if you are having technical difficulties.

The current Section 3 reporting system at:

<http://www5.hud.gov:63001/apps/po/e/srs/Public/form.cfm> **will no longer be available after July 1, 2013.** Additional guidance will be posted on the above webpage after July 1, 2013 for agencies that are unable to meet the reporting requirements before the system terminates.

If you have any questions or concerns, please send an email to: section3@hud.gov. HUD's Section 3 office will make every effort to respond to you within 2 business days.

Recipients must submit a completed Section 3 Summary Report (HUD-60002) describing employment, training, and contracting opportunities provided to low-, and very low-income persons, as required by 24 CFR Section 135.90. The Section 3 Summary Report (HUD-60002) is required to be submitted to HUD's Office of Fair Housing and Equal Opportunity at the same time the recipient submits its Annual Performance Report (APR) to the Area Office of Native American Programs (ONAP).

Exemption: Recipients that are subject to and complying with tribal employment and contract preference laws adopted in accordance with Section 101(k) of NAHASDA are deemed to be in compliance with the requirements of Section 3. Therefore, such recipients do not have to establish preferences for applicants claiming Section 3 status when hiring or procuring goods or services in order to meet the requirements of Section 3. These recipients also are not required to submit the annual HUD-60002 form.

Indian Preference Procurement Requirements: As stated above, in the absence of tribal employment and contracting preference laws, a recipient must, to the greatest extent feasible, give preference and opportunities for training and employment in connection with the administration of NAHASDA grants in accordance with the Indian preference requirements of Section 7(b) of the Indian Self-Determination and Education Assistance Act. Recipients may comply with Indian preference requirements by:

- Certifying to HUD that the policies and procedures adopted by the recipient will provide preference in procurement activities. (An Indian preference policy that was previously approved by HUD for a recipient will meet the requirements of this section);
- For procurement by sealed bids, advertising for bids or proposals limited to qualified Indian organizations and Indian-owned enterprises; or
- Using a two-stage preference procedure as follows:

Stage 1. Invite or otherwise solicit Indian-owned economic enterprises to submit a statement of intent to respond to a bid announcement or request for proposals limited to Indian-owned firms.

Stage 2. If responses are received from more than one Indian enterprise found to be qualified, advertise for bids or proposals limited to Indian organizations and Indian-owned economic enterprises.

All preferences must be publicly announced in the advertisement and bidding or proposal solicitation documents and the bidding and proposal documents. If fewer than two responsive, qualified organizations or enterprises submit a statement of intent, a bid, or a proposal to perform the contract at a reasonable cost, then the recipient must:

- (i) Re-advertise the contract, limiting the solicitation to qualified Indian organizations and Indian-owned enterprises; or
- (ii) Re-advertise the contract without limiting the advertisement for bids or proposals to Indian organizations and Indian-owned economic enterprises; or
- (iii) If only one approvable bid or proposal is received, the tribe or TDHE should request Area ONAP review and approval of the proposed contract and related procurement documents in order to award the contract to the single bidder or offeror.

A recipient may require information of prospective contractors seeking to qualify as Indian organizations or Indian-owned economic enterprises. Examples of such information may include:

- (i) evidence showing fully the extent of Indian ownership and interest; (ii) evidence of structure, management, and financing affecting the Indian character of the enterprise, including major subcontracts and purchase agreements; materials or equipment supply arrangements; management salary or profit-sharing arrangements and evidence showing the effect of these on the extent of Indian ownership and interest; and (iii) evidence sufficient to demonstrate to the satisfaction of the recipient that the prospective contractor has the technical, administrative, and financial capability to perform contract work of the size and type involved.

Recipients must incorporate the following, commonly referred to as the Section 7(b) clause, in each contract awarded in connection with a funded project:

- (i) The work to be performed under this contract is on a project subject to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)). Section 7(b) requires that, to the greatest extent feasible:

- (A) Preferences and opportunities for training and employment shall be given to Indians; and

- (B) Preferences in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises.

- (ii) The parties to this contract shall comply with the provisions of Section 7(b) of the Indian Self-Determination and Education Assistance Act.

- (iii) In connection with this contract, the contractor shall, to the greatest extent feasible, give preference in the award of any subcontracts to Indian organizations and Indian-owned economic enterprises, and preferences and opportunities for training and employment to Indians.

(iv) The contractor shall include this Section 7(b) clause in every subcontract in connection with the project; shall require subcontractors at each level to include this Section 7(b) clause in every subcontract they execute in connection with the project; and shall, at the direction of the recipient, take appropriate action pursuant to the subcontract upon a finding by the recipient or HUD that the subcontractor has violated the Section 7(b) clause.

If you have questions or need further assistance please contact your Area ONAP.

NAHASDA POLICY REQUIREMENTS



No. 2002-11
June 24, 2002

PROGRAM GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: All Tribal Government Leaders and Tribally Designated Housing Entities

FROM: Ted Key, Acting Deputy Assistant Secretary, PN

TOPIC: Required Policies and Statements Under NAHASDA

PURPOSE: The purpose of this guidance is to assist tribes and tribally designated housing entities (TDHEs) by identifying the policies, standards or statements that are required under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). In addition, the audit conducted by the Office of Inspector General on the implementation of NAHASDA states that additional guidance on required policies would be helpful to grant recipients.

POLICIES REQUIRED UNDER NAHASDA

Sections 203 and 207 of NAHASDA require that grant recipients adopt written policies in the following areas:

1. Rents and homebuyer payments policy. A policy regarding rents and homebuyer payments charged for dwelling units assisted with NAHASDA funds, including the methods by which rents and homebuyer payments are determined (Section 203(a) (1)). This policy would also address the tribe/TDHEs requirements for collection of payments.
2. Eligibility, admission, and occupancy policies. Policies addressing the eligibility, admission and occupancy of families for housing assisted with NAHASDA funds (Section 203(d)). Following are subjects that should be addressed in each policy.
 - Eligibility – Address the three type of eligible participants, including low-income Indian families, non low-income Indian families, and non-Indian families.
 - Admission – Ensure fair treatment of all those who apply for housing assistance. The policy should address all programs managed, and provisions for preferences, if any. The policy should also address how conflicting requirements for mixed financing projects will be addressed.

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- For example, funding provided by other federal programs may prohibit discrimination based on race in accordance with the Fair Housing Act. When these funds are combined with NAHASDA funds, which are exempt from Fair Housing requirements, a conflict occurs. A separate Notice will be issued by ONAP that more specifically addresses this issue.
- Occupancy – Requirements for continued occupancy and grounds for termination of a housing lease or sales contract.
3. Management and maintenance policies. Policies addressing the management and maintenance of housing assisted with NAHASDA funds (Section 203(e)). Although not specifically specified by statute or regulation, management policies could include policies such as Personnel, Grievance, Capitalization, Disposition, etc.
 4. Tenant and homebuyer selection policy. This policy must include criteria which:
 - Are consistent with the purpose of providing housing for low-income families;
 - Are reasonably related to program eligibility and the ability of the applicant to perform the obligations of the lease; and
 - Provide for:
 - a) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forward in the Indian Housing Plan for the tribe that is the grant beneficiary of such grant amounts; and
 - b) the prompt notification in writing to any rejected applicant of the rejection and the grounds for the rejection.

In addition to the statutorily required policies listed above, other applicable federal laws and regulations require the following standards, statements or policies.

5. Travel. The regulations at 24 CFR 1000.26 states that recipients shall comply with the requirements and standards of OMB Circular No. A-87, “Principles for Determining Costs Applicable to Grants and Contracts with State, Local and Federally recognized Indian Tribal Governments.” Section 41 of Attachment B in Circular A-87 indicates that travel is an authorized cost subject to certain requirements. The circular requires that grantees must use Federal travel standards in the absence of a local governmental unit travel policy.
6. Procurement. The regulations at §1000.26 requires compliance with Section 85.36, Procurement, of Part 85, Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments. The language at §85.36 (b) (1), Procurement Standards, requires grantees and sub grantees to use their own procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal laws and standards identified in this section. Section 85.36 (b) (3) also requires that grantees and sub grantees maintain a written code of standards of conduct governing the performance of employees engaged in the award and administration of contracts.
7. Indian Preference. This may be incorporated into the procurement policy, or may be a separate policy. IHBG recipients are subject to section 7(b) of the Indian Self-

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Determination and Education Assistance Act and section 3 of the Indian Financing Act of 1974, in accordance with §1000.48. Section 1000.52 (a) (1) requires recipients to have policies that are consistent with the sections cited above. In addition, § 1000.54 on Indian Preference complaint procedures requires Tribal policies that meet or exceed the requirements listed under this citation.

8. Real property acquisition and relocation. IHBG recipients are subject to real property acquisition and relocation policies at § 1000.14 and 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs. The regulations at § 24.103 (a) and (d) respectively, require grantees to develop minimum standards for appraisals, as well as criteria for determining the minimum qualifications of appraisers.
9. Drug Free Workplace. One of the certifications required before a recipient's IHBG is determined to be "In Compliance" is the Certification for a Drug-Free Workplace. This certification is required by the regulations at 24 CFR 24.600. The required form for certification, form HUD-50070, requires recipients to certify that it has: 1) published a statement notifying employees of the drug free workplace requirements, and 2) provided each employee engaged in the performance of work under IHBG a copy of the written statement.
10. Cash Management. Part 85.20 (7) requires all grant recipients to establish cash management procedures. Cash management is the process of managing the cash flow to optimize the use of funds. NAHASDA recipients are referred to §85.20 and 85.21 for more information on cash management requirements. Information on cash management procedures for 1937 Housing Act program funds is also available at Part 85 and in Notice PIH 96-33, reinstated by Notice PIH 2001-7. NAHASDA recipients may wish to refer to the Notice for specific information.
11. Section 3. Recipients are required to comply with Section 3 of the Housing and Urban Development Act of 1968. Section 3 addresses job training, employment, and contracting opportunities for low-income individuals. This may be addressed in your personnel and procurement policies. This requirement is found at §1000.42.

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

- Investment and Internal Control. Recipients who seek approval to invest IHBG funds must comply with Notice PIH 2001-21, Administrative Requirements for Investing Indian Housing Block Grants. This Notice requires recipients to have an Internal Control Policy and an Investment Policy. In addition, investment policies and procedures are required by PIH 96-33 (reinstated by Notice PIH 2001-7), for 1937 Housing Act investments from the following programs: Low Rent, Turnkey III, and Mutual Help.
- Housing Standards. NAHASDA regulations regarding Revisions to Cost Limits for Native American Housing at §1000.158 (published on September 28, 2001), require that

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grant recipients either “adopt written standards for its affordable housing programs that reflect the requirements of §1000.156”, or comply with the Total Development Cost (TDC) limits published periodically by HUD. More information regarding these requirements can be found in Notice PIH 2001-42, Total Development Costs (TDC) for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA).

If you have any questions regarding policies and procedures, please call your local Area Office of Native American Programs.

TYPES OF FAMILIES



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

Special Attention of:

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

Notice PIH 2014-02

Issued: January 24, 2014

Expires: Effective until amended,
revoked or superseded

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

The following information should be considered when making this determination.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Attachments

ATTACHMENT A

Tracking Percent Authority

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

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

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

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

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

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

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

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

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

ATTACHMENT B

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

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

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

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

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

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

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

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

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

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

CALCULATING INCOME FOR PURPOSES OF ELIGIBILITY

PROGRAM GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: All Tribal Government Leaders and Tribally Designated Housing Entities

R.J.B.

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

TOPIC: Calculating Annual Income for Purposes of Eligibility under NAHASDA

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

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

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

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

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

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

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

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

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

Per Capita Payments and Recent Trust Case Settlements:

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

Cobell Settlement:

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

Other Tribal Trust Cases:

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

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

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

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

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

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

Attachments

AFFORDABLE HOUSING ACTIVITIES




No. 2010-03
May 07, 2010

PROGRAM GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: All Tribal Government Leaders and Tribally Designated Housing Entities

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

TOPIC: Affordable Housing Activities and Administrative Expenses

Purpose: This guidance updates Native American Housing Assistance and Self-Determination Act (NAHASDA) Guidance 2009-02, NAHASDA Affordable Housing Activities and Administrative Expenses.

Guidance: The document is intended to provide assistance to tribes and tribally designated housing entities (TDHE) when determining eligible affordable housing activities and eligible administrative expenses using Indian Housing Block Grant (IHBG) funds. Please note that this is not a complete list of eligible activities under NAHASDA.

Inquires: Should you have any questions regarding this guidance, please contact your Area Office of Native American Programs.

NAHASDA AFFORDABLE HOUSING

Section 202. Eligible Affordable Housing Activities

Affordable housing activities under this title [title II of NAHASDA] are activities, in accordance with the requirements of this title, to develop, operate, maintain, or support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing, through the following activities:

- Affordable housing is housing that meets the requirements of title II of NAHASDA:
 - Housing units developed under the United States Housing Act of 1937 (low rent, Mutual Help and Turnkey housing units) are considered to be and must be maintained as affordable housing for purposes of NAHASDA
 - Housing units developed under NAHASDA are required to meet NAHASDA requirements
 - Other housing units that are not assisted under NAHASDA, but which meet the requirements of title II of NAHASDA, qualify as affordable housing
- “Housing” includes
 - Rental housing that may be single-family units, multifamily units, Single Room Occupancy units, attached units such as duplex, triplex
 - Homeownership housing
 - Group homes for persons with special needs such as the elderly/disabled
 - Congregate housing
 - Transitional housing
 - Halfway housing
 - Domestic violence shelters
 - Homeless emergency shelters

(1) Indian Housing Assistance -- The provision of modernization or operating assistance for housing previously developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

Eligible activities include, but are not limited to:

- Modernization of 1937 Act Housing
- Operating assistance for 1937 Act Housing
 - Maintenance
 - Rent and participants’ utility subsidies

(2) Development -- The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development and rehabilitation of utilities, necessary infrastructure, and utility services, conversion, demolition, financing, administration and planning, improvement to achieve greater energy efficiency, mold remediation, and other related activities.

Eligible activities include, but are not limited to:

- Acquisition of affordable housing

- financing acquisition of affordable housing by homebuyers
 - down payment assistance
 - closing costs assistance
 - direct lending
 - interest subsidies or other financial assistance
- New construction of affordable housing
- Reconstruction of affordable housing
- Moderate rehabilitation of affordable housing, including but not limited to:
 - lead-based paint hazards elimination or reduction
 - improvements to provide physical accessibility for disabled persons
 - energy-related improvements
- Substantial rehabilitation of affordable housing, including but not limited to:
 - lead-based paint hazards elimination or reduction
 - improvements to provide physical accessibility for disabled persons
 - energy-related improvements
- Conversion of non-residential building into affordable housing
- Improvement to achieve greater energy efficiency
- Activities related to the affordable housing, including but not limited to:
 - site improvements
 - recreational area and playgrounds for use by residents of affordable housing
 - on-site streets and sidewalks
 - development and rehabilitation of utilities and utility services for affordable housing units
 - acquisition of real property
 - demolition
 - relocation
 - environmental review of the affordable housing project
 - administration and planning of the affordable housing project
 - architectural and engineering plans

(3) Housing Services -- The provision of housing-related services for affordable housing, such as housing counseling in connection with rental or homeownership assistance, establishment and support of resident organizations and resident management corporations, energy auditing, activities related to the provision of self-sufficiency and other services, and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in other housing activities assisted pursuant to this section.

Eligible activities include, but are not limited to:

- Housing counseling in connection with affordable rental or homeownership housing
- Establishment and support of resident organizations in affordable housing
- Establishment of resident management corporations in affordable housing
- Energy auditing of affordable housing
- Activities related to the provision of self-sufficiency

- child care costs – subsidies to residents of affordable housing or operating costs of a facility [but not construction or rehabilitation of a facility] for residents of affordable housing
- transportation costs – subsidies to residents of affordable housing or rental of car, van, or bus for residents of affordable housing to attend training
- job placement and job training for residents of affordable housing
- assistance to residents of affordable housing in obtaining other federal, state and local assistance
- Homeless prevention activities, which are short-term subsidies to defray rent and utility bills that families have received
- Security deposits and/or first month's rent to permit family to move into an apartment
- Payments to prevent foreclosure on a home
- Tenant-based rental assistance payments, including:
 - college housing vouchers
- Project-based rental assistance payments
- The development and delivery of training courses related to the administration of affordable housing activities and programs in compliance with NAHASDA and its associated regulations
- Youth activities for residents of affordable housing that reduce or eliminate the use of drugs
 - salaries and expenses for staff of youth sports program
 - educational programs relating to drug abuse
 - Boys and Girls Clubs
 - sports and recreation equipment
 - travel for youth for the purpose of participating in sporting events
 - does not include any entertainment travel expenses such as travel to watch sporting events that youth are not participating in

(4) Housing Management Services -- The provision of management services for affordable housing, including preparation of work specifications, the costs of operation and maintenance of units developed with funds provided under this Act, and management of affordable housing projects.

Eligible activities include, but are not limited to:

- preparation of work specifications for affordable housing
- loan processing for affordable housing
- inspections for affordable housing
- tenant selection for affordable housing
- management of tenant-based and project-based rental assistance
- mediation programs for landlord-tenant disputes for affordable housing
- hiring of grants writers for affordable housing applications
- operating assistance for NAHASDA-assisted units to include maintenance and utilities

(5) Crime Prevention and Safety Activities -- The provision of safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime.

Eligible activities include, but are not limited to:

- Physical improvements for affordable housing to enhance security such as fences, speed bumps, monitors, locks, additional lighting
- Employment of security personnel for affordable housing
 - law enforcement services are eligible only for affordable housing residents. This is a direct cost to the program authorized under NAHASDA, in accordance with 2 CFR 225. A tribe/TDHE must document that costs are only for affordable housing residents.
 - equipment for law enforcement activities

(6) Model Activities -- Housing activities under model programs that are designed to carry out the purposes of this Act and are specifically approved by the Secretary as appropriate for such purpose.

Eligible activities include, but are not limited to:

- Construction of an office building for the recipient's administration of NAHASDA activities, including the rehabilitation of or additions to existing office spaces
- Construction of warehouse, maintenance and storage space for housing materials for housing assisted under NAHASDA, including the rehabilitation of or additions to existing structure
- Construction of day care center, including the rehabilitation of existing facility to be used for day care, to the extent that the facility will be used by residents of affordable housing
- Construction of a community building or center, including the rehabilitation of an existing facility, to the extent it will be used for affordable housing activities and by residents of affordable housing
- Construction of college housing to the extent the facility will be used by eligible families
- Construction of an administrative facility and training center

Each model housing activity must be approved in accordance with the procedures in 24 CFR Part 1000, Subpart B.

Section 101(h). Administrative and Planning Expenses -- The Secretary shall, by regulation, authorize each recipient to use a percentage of any grant amounts received under this Act for comprehensive housing and community development planning activities and for any reasonable administrative and planning expenses of the recipient relating to carrying out this Act and activities assisted with such amounts, which may include costs for salaries of individuals engaged in administering and managing affordable housing activities assisted with grant amounts provided under this Act and expenses of preparing an Indian housing plan under section 102.

Eligible administrative and planning expenses of the IHBG program include:

- Costs of overall program and/or administrative management, including
- Salaries and benefits of staff administering IHBG program
- Costs of coordination, monitoring, and evaluation
- Costs of preparing the Indian Housing Plan, including data collection
- Costs of preparing the Annual Performance Report

- Challenge to and collection of data for purposes of challenging the formula
- Costs of comprehensive housing and community development planning activities
- Staff and overhead costs directly related to carrying out affordable housing activities can be costs of the affordable housing activity or administration or planning at the discretion of the recipient
- The recipient can use up to 20 percent of its annual grant for administration and planning, and must identify the percentage of grant funds which will be used in the Indian Housing Plan
- The recipient may request HUD's approval to use more than 20 percent of its grant for administration and planning. HUD must consider any cost of preparing the Indian Housing Plan, challenges to and collection of data, the recipient's grant amount, approved cost allocation plans, and any other relevant information with special consideration given to the circumstances of recipients receiving minimal funding.

CONFLICT OF INTEREST



No. 2002-13
July 25, 2002

PROGRAM GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

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

FROM: Ted Key, Acting Deputy Assistant Secretary, PN

TOPIC: Conflict of Interest in IHBG Housing Admissions

Purpose: The purpose of this Guidance is to help IHBG recipients manage those situations where conflicts of interest arise within housing programs governed by the Native American Housing Assistance and Self-Determination Act (NAHASDA) and to ensure fair and equitable treatment for all eligible participants of those programs.

References: NAHASDA Sections: 201(b), 203(d), 207(b) and 408; 24 CFR 85.36(a)(3); 24 CFR 1000.30, 1000.32, 1000.34 and 1000.36

Background: On August 2, 2001, the Department of Housing and Urban Development's (HUD) Office of Inspector General (OIG) published its report of a nationwide audit of the implementation of NAHASDA. Finding Number 6 of that audit found, in part, that among the housing entities reviewed there were undisclosed conflicts of interest and preferential treatment in the admission to their housing programs. Over half of the housing entities audited had no process to ensure adherence to the conflict of interest requirements or that admissions were made to eligible families and that all members of the tribe were treated fairly.

Application of Requirements: The conflict of interest provisions apply to anyone who participates in the IHBG recipient's decision-making process or who gains inside information with regard to the IHBG assisted activities. Such individuals would be, but are not necessarily limited to: housing staff, housing or tribal board members, members of their immediate families, and such individuals business associates.

PROGRAM GUIDANCE 2002-13 (RECIP)

The requirements prohibit any such individuals from benefiting from their position personally, financially or through the receipt of special benefits other than payment of their salary and/or appropriate administrative expenses. This does not prevent housing staff, board members, their family members and/or business associates from receiving housing benefits for which they qualify as low-income individuals. (See **Exceptions to the Requirements** below.)

Applying the Conflict of Interest Requirements in Admission: In order to effectively comply with the conflict of interest requirements, recipients should have in place a set of procedures for determining when a conflict of interest exists and for reporting the conflict to HUD and disclosing it to the public as required by the regulations. Those procedures should include:

- a method of determining whether or not there is a potential conflict of interest with an applicant (e.g. does the housing application ask applicants to disclose any personal, family or business relationships with the housing entities decision makers? Does the housing entity maintain a list of persons having immediate family or business ties to its decision makers?); and
- administrative steps for reporting a potential conflict of interest to the Area Office of Native American Programs (ONAP) and disclosing to the public the conflict of interest, the nature of the assistance to be provided the individual and the specific basis for which the selection of the individual was made.

Exceptions to the Requirements: Exceptions may be made to the conflict of interest provisions. HUD approval must be obtained through the recipient's local Area ONAP before providing benefits to any individual as an exception to §1000.30(b). Exceptions will be considered on a case-by-case basis and when making the exception can be shown to further the primary objective of NAHASDA [See Section 201(a) of NAHASDA] and the effective and efficient implementation of the recipient's program, activity, or project. Before any exception may be granted, a public disclosure of the conflict must also be made and a determination that the exception would not violate tribal or any applicable state laws on conflict of interest. All records relating to exceptions made to the conflict of interest provisions must be maintain for at least three years after the exception has been granted.

Low-income individuals to whom the conflict of interest provisions would normally apply (e.g. housing staff and board members), but who qualify for assistance under the recipient's written policies for eligibility, admission and occupancy do not fall under the category of an "exception" and ONAP approval is not required to provide them with the assistance for which they qualify [See §1000.30(c)]. However, the recipient must make a public disclosure of the nature of the assistance to be provided such individuals and the specific basis for the selection of the person. The recipient must also provide its Area ONAP with a copy of the disclosure before the assistance is provided to the person.

Actions to be Taken: All IHBG recipients should be sure that they have written and adopted all policies required by NAHASDA (i.e. eligibility, selection, admission, occupancy, rents charged, management and maintenance). These policies must be in accordance with NAHASDA and program regulations and enforced by a set of procedures that ensure that those policies are being adhered to in both the actions of the staff and the decisions of the Board. They should also be reviewed to ensure that they do not contain provisions that inherently allow conflicts of interest. If the housing entity

PROGRAM GUIDANCE 2002-13 (RECIP)

does not have the necessary policies, systems, and control procedures to comply with NAHASDA requirements, they should be written and adopted immediately. All policies should be made public and copies should be available to the public upon request.

Assistance is available from ONAP staff to recipients that would like help in preparing or reviewing their policies and procedures. The ONAP Training Institute also provides workshops at sites throughout the country. For technical assistance, contact your Area ONAP or check www.codetalk.fed.us for scheduled workshops.

Recipients should identify any conflict of interest for participants previously admitted under NAHASDA that have not been properly reported. The necessary action should immediately be taken to make these conflicts of interest public and report them to the recipient's Area ONAP.

HUD Approval: If the person receiving assistance is of low-income and they qualify for eligibility, admission and occupancy, only public disclosure and HUD notification is required [See §1000.30(c)]. However, as stated above, HUD approval for an exemption is required when there is a potential conflict of interest that would be in violation of §1000.30(b). An example of a situation requiring HUD approval for an exemption to the conflict of interest provision would be housing assistance to a TDHE Board member whose income is between 80% and 100% of median income.

Review: A recipient's compliance with conflict of interest requirements should be included in the tribe and/or TDHE's, self-monitoring program. HUD will also review conflict of interest policies, procedures, and performance during its regular monitoring of a recipient compliance with program requirements.

**Native American Housing & Self-Determination Act (NAHASDA)
Notice of Potential Conflict of Interest**

Per the Department of Housing and Urban Development (HUD) NAHASDA regulations at 24 CFR §§1000.30 – 1000.36, the _____ and Aleutian Housing Authority (AHA) must publicly disclose when an individual directly affiliated with the organization has qualified and been selected to receive assistance through the NAHASDA program.

A Potential Conflict of Interest is being disclosed due to immediate family members of employees and council members of _____ and AHA have applied for and met the requirements for participating in the _____ Program in _____, Alaska. Participants will be provided assistance for _____.

The following applicants have met all requirements for participation:

Applicant:	Relationship to Board Member or AHA:
_____	_____

Specific Basis for the selection:

- Alaska Native or American Indian
- Low-income as determined by HUD
- Primary residence
- _____

Please be advised that all public comments must be postmarked within 7 calendar days of the initial date of this posting, as indicated below. All conflict of interest comments must be in a sealed envelope, addressed to: Aleutian Housing Authority, "Conflict of Interest Comment", 520 E 32nd Avenue, Anchorage, AK 99503

Comments that are received will be reviewed at the next regularly scheduled AHA Board meeting. The Board will not consider any comments received after the end of the comment period.

On this day _____ of _____, 2012, at this time of _____

This Notice was posted at: _____

One this day _____ of _____, 2012, at this time of _____

This Notice was taken down by: _____

ADMISSIONS AND OCCUPANCY RESOURCES

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COEUR D' ALENE TRIBAL HOUSING AUTHORITY

MORTGAGE FINANCING ASSISTANCE

FINAL POLICY

(CDTHA MFA)

November 2006

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I. General

CDTHA - Mortgage Financing Assistance: Enables families who are low- to moderate-income and meet other eligibility criteria to finance a home to be used as the principal place of residence through a first or second mortgage provided by **CDTHA or a private lender**. The family must meet all the lender's requirements associated with obtaining a mortgage (i.e., creditworthiness, total debt (including house payment) can not exceed 40% or other specified percentage of gross income, etc.). **CDTHA** is to provide financing assistance in accordance with its approved FY IHP. Depending on the availability of funds as identified in the approved IHP **and the applicant=s affordability analysis based on household income**, any of the following types of assistance may be available. The specific categories of assistance and the funds available will be identified in each submission of the IHP.

**Down payment Assistance
Second Mortgage**

**Closing Cost Assistance
Appraisal Assistance**

**First Mortgage
Homebuyer Education**

II. Eligible Recipients

CDTHA MFA funds can be used to assist homebuyers who meet **all** of the following minimum eligibility criteria described in the following table.

<u>CATEGORY</u>	<u>ELIGIBILITY CRITERIA</u>
Tribal Affiliation	Enrolled Coeur d' Alene Tribe
Property Location	On the Coeur d' Alene Reservation
First Time Homebuyer	! had no ownership in a residence during the 3 year period prior to the date of application to the CDTHA for MFA ! owned a principal residence not permanently affixed to a permanent foundation, or owned property not in compliance with building codes, which cannot be brought up to code, for less than the cost of constructing a permanent structure.
Income ****	Must meet at a minimum: HUD National Low-income standards and not exceed 80% of median income. Moderate income applicants may be eligible without HUD approval when a percentage of IHP funds (not to exceed 10% of the total fiscal year IHP allocation) are designated for moderate income families specifically for the CDTHA MFA program. Consideration of moderate income families beyond the abovementioned 10% limitation and all other above income families can only be considered under an IHP specified model activity approved by HUD.
Unit Condition	Must be in standard condition or rehabilitated to standard condition with financing.
Counseling	Must agree to participate in housing counseling
Insurance	Must be willing to pay for home owner=s insurance
Residence	Must use home as permanent residence (at least 9 months per year)
Debt/Credit	Must have no outstanding obligations to the CDTHA and must meet HUD 184 creditworthiness criteria.
Ratios	Repayment terms must be within lender=s qualifying ratios or as determined by the CDTHA

Financial assistance is for low-income families with incomes up to 80% of median income in accordance with the HUD national **median** income guidelines **as amended annually by HUD**:

Example for FY 2006 Funds

Size of Family*	Maximum Very Low Income (50% of Median)	Low Income (80% of Median Income)	Moderate Income
1	\$20,900	\$20,901 - \$33,400	\$33,401-\$41,700
2	\$23,850	\$23,851 - \$34,800	\$36,801-\$46,000
3	\$24,500	\$24,501 - \$39,200	\$41,401-\$51,750
4	\$27,200	\$27,200 - \$43,500	\$46,001-\$57,500
5	\$29,400	\$29,401 - \$47,000	\$49,701-\$62,100
6	\$31,550	\$31,551 - \$50,500	\$53,351-\$66,700
7	\$33,750	\$33,751 - \$54,000	\$57,051-\$71,300
8 or more	\$35,900	\$35,901 - \$57,450	\$60,701-\$75,900

*Number of persons in the family

Calc-30%	Calc-50%	Calc-80%	CalcSet	Size%
\$12,516.00	\$20,860.00	\$33,376.00	41720	70
\$14,304.00	\$23,840.00	\$38,144.00	47680	80
\$16,092.00	\$26,820.00	\$42,912.00	53640	90
\$17,880.00	\$29,800.00	\$47,680.00	59600	100
\$19,310.40	\$32,184.00	\$51,494.40	64368	108
\$20,740.80	\$34,568.00	\$55,308.80	69136	116
\$22,171.20	\$36,952.00	\$59,123.20	73904	124
\$23,601.60	\$39,336.00	\$62,937.60	78672	132
\$25,032.00	\$41,720.00	\$66,752.00	83440	140

III. Selection Criteria

Selection of applicants who meet all of the eligibility requirements identified above will be based on the date of application and date of mortgage readiness for enrolled Coeur d' Alene applicants with a Coeur d' Alene family who wishes to purchase their CDTHA MH or SH home or a new home in accordance with the applicable policy or lease agreement and HUD Section 184 underwriting guidelines:

IV. Eligible Property Type

Any single family property, to be occupied as the principal residence of the owner, including:

- A one family property
- A condominium unit
- New (double-wide minimum) Manufactured/Modular home

V. Property Value

The appraised value and purchase price of the assisted property may not exceed the Rural Development 203(b) mortgage limit for the area for the type of property being assisted (single family, condominium, etc.) as amended by the federal government (Exhibit A).

VI. Amount of CDTHA MFA

The MFA funds available to an applicant is contingent upon the applicant's affordability analysis indicating the first mortgage an applicant can secure based on income, the amount of CDTHA funds available as specified in the IHP, and the maximum limits set for each category of assistance.

VII. Property Standards

Each home purchased with MFA assistance must meet at a minimum the federal Section 8 Rental Assistance Program **Housing Quality Standards (HQS)** minimum requirements or, when FHA financing is involved, the Minimum Property Standards as verified by an inspection performed by a qualified person. Newly constructed housing must also meet the Model Energy Code published by the Council of American Building Officials and the Uniform Building Code.

VIII. Eligible Costs

CDTHA MFA funds may be used to provide assistance to qualified homebuyers in one or a combination of the following categories contingent upon the availability of funds and the limitations set forth in the approved IHP.

Downpayment Closing Cost Assistance	Environmental Review
Acquisition - 2nd Mortgage	Cultural Resource Survey
New Construction - 2nd Mortgage	Appraisal Assistance

- a. The maximum amount of down payment and/or closing costs assistance will be based on need but not to exceed \$5,000 for a low-income family and not more than \$3,500 for a moderate-income family. The property must meet the requirements of the CDTHA.
- b. Mortgage buy-down assistance will be available to low-income and moderate-income families when funds become available. All assistance will be in the form of a subordinate mortgage consistent with the requirements of the specific program. Amounts will be based on affordability. Assistance can not be used to reduce debt as a means of qualifying the applicant.
- c. One-time costs for attorney assistance/review will be provided upon successful closing of the loan. Payment for costs will be made directly to the attorney upon receipt of an invoice after closing. CDTHA will pay up to \$300.00.
- d. One-time costs for appraisal assistance will be provided in the form of a reimbursement

upon successful closing of the loan. CDTHA will pay up to \$400.00.

- e. One-time costs for inspection assistance will be provided in the form of a reimbursement upon successful closing of the loan. CDTHA will pay up to \$250 for a licensed inspector.
- f. Where the home search requires an additional appraisal, inspection, attorney review, etc., evidence of payment to the contractor for the additional services must be presented to the CDTHA prior to closing or to the disbursement of funds.
- g. Existing tenants who purchase another home are not eligible for deferment of the assistance until all vacated charges are zeroed out with the CDTHA. They will initially sign a promissory note for the down payment and closing costs assistance plus interests amortized for a term not to exceed five years. Once the CDTHA determines there are no charges to the tenant, the promissory note will be modified to a conditional grant in accordance with the CDTHA policy. If there are charges the principal will be adjusted accordingly consistent with CDTHA policy.

IX. Financing

CDTHA MFA Program will be provided on the basis of terms which include without exception **recapture provisions** in the event:

- a. Owner ceases to occupy the property as his principal residence, or
- b. Owner sells the property to a subsequent homebuyer, or
- c. CDTHA determines that any of the representations made by the owner as set forth in the application for the assistance were not true or correct when made.

Options for repayment of home purchase assistance using CDTHA MFA funds includes but is not limited to

- ! repayment on a monthly basis with a low interest rate, repayment after other prior loans are paid in full, repayment upon transfer of ownership of the home, or
- ! forgiveness of the principal amount of the loan or grant over a period of time.

The type of option for repayment will be based on the applicants affordability analysis, income, the type of assistance being requested. In all cases involving moderate income families, terms for repayment or a deferral terms will be in accordance with the March, 1998 NAHASDA Final Rule.

The CDTHA MFA Program also requires that the CDTHA funds either be recaptured from the initial homebuyer at the time of sale of the property, or restrictions must be imposed on who may qualify to be a subsequent purchaser of the property. Subsequent homebuyers must also be low income and the sale provisions must provide a fair return on investment to the owner and be affordable to the subsequent homebuyer. CDTHA reserves the right to make the final determination whether the provisions of proposed home purchase programs adequately meet the NAHASDA regulatory

requirements.

In the event that funds are awarded as deferred loan or conditional grant, the amount of the funds subject to recapture will be reduced by 1/30 for each year that the owner both owns the property and resides in the property as owner=s principal place of residence and makes any payments due on prior loans on the property. Owner shall not be required to repay more than the proceeds (after deducting closing costs as approved by CDTHA) from the sale of the property less the repayment of any prior loans secured by the property. If owner owns the property and the property has been owner's principal residence for at least thirty years, no funds need be repaid. If the property is sold to a subsequent owner whose income meets the restrictions of the original MFA, the MFA grant may be assumed by the subsequent owner provided CDTHA has given its prior written approval.

X. Minimum Period of Repayment, Recapture or Resale Provisions

The period for repayment or recapture of the MFA funds depends on the amount of funds invested in the home purchase:

Per Unit MFA Investment	Minimum Recapture Period	Secured by:	Financing Terms
<\$5,000	5 years	Subordinate mortgage and/or Assignment of trust/lease income, land, promissory note as determined by the Executive Director	Contingent upon Affordability, income
\$5,000 - \$10,000	10 years	Subordinate mortgage and/or Assignment of trust/lease income, land, promissory note	Contingent upon Affordability, income
\$10,000 - \$15,000	15 years	Subordinate mortgage and/or Assignment of trust/lease income, land, promissory note	Contingent upon Affordability, income
\$15,000 - \$25,000	20 years	Subordinate mortgage and/or Assignment of trust/lease income, land, promissory note	Contingent upon Affordability, income
\$25,000 - \$40,000	30 years	Subordinate mortgage and/or Assignment of trust/lease income, land, promissory note	Contingent upon Affordability, income

XI. Leveraging

The evaluation rating process also favors those applications which successfully utilize leverage with other funds. Any non-match eligible source of funds which will pay for project development costs or provide permanent financing for the project is considered leverage. Some examples include:

- Cash
- Owner's Investment/Equity
- Other Loans and Grants
- CDBG or Other Federal Funds
- Value of land or real property donated (or reduced) or provided at less than appraised value
- Cost of infrastructure improvements

XII. Monitoring Requirements

Monitoring of mortgage financing programs is limited to verification that the homebuyer and the property being purchased meet the MFA eligibility requirements and that the homebuyer maintains the property as the owner's principal residence for the term of the MFA assistance. Monitoring of the residency requirement and any repayment/recapture provisions shall take place as part of the loan servicing process.

XIII. Application Procedures

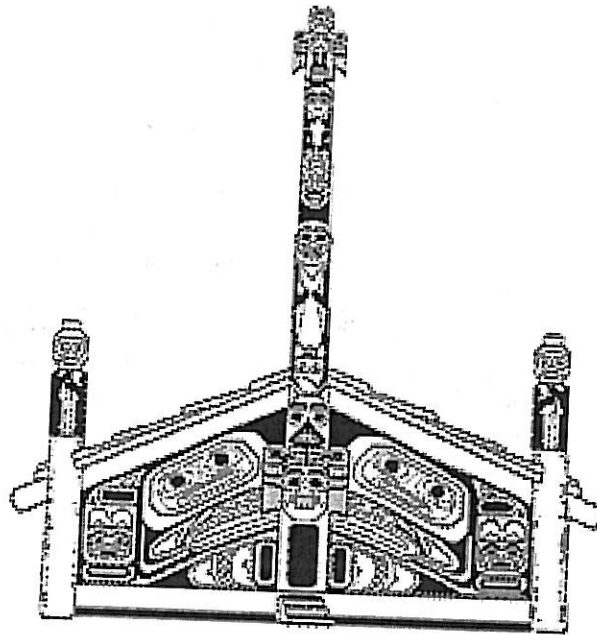
Application procedures are to be developed and implemented by the CDTHA Executive Director. All application information is to be completed, processed, and verified utilizing forms developed by the Executive Director. Intake, processing, and verification procedures must be consistent with standard financing and underwriting practices. Additionally, applications for CDTHA MFA Programs must indicate the income levels and any other special characteristics of the targeted population.

Involvement in the CDTHA MFA Program will require the CDTHA to apply practices and documentation that require an understanding of underwriting procedures and quality control measures. Underwriting procedures will be developed and implemented by the CDTHA Executive Director.

IXV. Waiver Authority

The Executive Director has the authority to waive this policy as it relates to the definition of first time homebuyer.

Ketchikan Indian Community
Housing Management Policy
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1. General Provisions

1.1 Primary Objectives

- a. to assist and promote affordable housing activities to develop, maintain, and operate affordable housing in safe and healthy environments on Indian reservations and in other Indian areas for occupancy by low-income Indian families;
- b. to ensure better access to private mortgage markets for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members;
- c. to coordinate activities to provide housing for Indian tribes and their members with Federal, State, and local activities to further economic and community development for Indian tribes and their members;
- d. to plan for and integrate infrastructure resources for Indian tribes with housing development for tribes; and
- e. to promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities.

1.2 Purpose of Policy

- a. To provide guidelines enabling the KIC staff to administer the programs consistently and fairly;
- b. To provide training and orientation for newly hired staff;
- c. To provide answers to program questions beyond the scope of the Federal Regulations; and
- d. To educate Housing Department clients and the public of the basis for Housing Department decisions.

1.3 Scope of Policy

This policy pertains to the following programs in accordance with:

- a. The Home Buy-Down Program, by which assistance is provided to families to obtain loans from private lenders to purchase homes;
- b. The Home Repair Program, by which a family is provided funds to repair their privately-owned home or rented home;
- c. Elder Housing Program, by which housing assistance is provided to elders 62 years of age or older for establishing residency in the KICHA Elder Complex;

- d. Elder Home Repair Program, by which AI/AN elders 62 years of age or older are provided funds to repair their privately-owned home or rented home; and
- e. Affordable Month-to-Month Rental Program, by which housing assistance is provided for establishing residency in the KICHA rental housing units.

1.4 Policy Adoption

The Housing Management Policy is adopted by, and may only be amended by, the KIC Tribal Council.

1.5 Policy Interpretation

If any provision of this Housing Management Policy conflicts with any federal regulation and/or statute governing the administration of funding for a specific program, the regulation or statute shall prevail. If any provision of this policy conflicts with any Agreement or contract between a family and the KIC, or between any other service provider and the KIC, the Agreement or contract shall prevail.

2. Eligibility

Note: Any KIC Council Member or Housing Management staff person who is a relative of any applicant shall be excused from any decision-making role in the selection process. In addition, the Housing Director and/or the Operations Manager will review all selection determinations.

2.1 Conflict of Interest

- a. Conflict of interest provisions apply to anyone who participates in the Ketchikan Indian Community Housing (KICHA) decision-making process or who gains inside information with regard to assisted activities. Such individuals are KICHA management or administrative staff, members of the Ketchikan Indian Community Tribal Council, relevant tribal directors or their staff, or an immediate relative or business associate of any of the individuals listed above and who are selected to receive assistance through any of the KICHA Housing Programs. For the purpose of this policy, an immediate relative is any child, spouse, sibling, parent-in-law, son-in-law, daughter-in-law, grandparent, grandchild, mother, father, or other regular household member.
- b. References include the Department of Housing and Urban Development (HUD) NAHASDA regulations contained in section 201(b), 203(d), 207(b) and 408, 24 CFR 1000.30-1000.36. Accordingly, the housing authority must publicly disclose when a conflict of interest exists and report the conflict to HUD or appropriate agency and disclose it to the public as required by regulation.
- c. The Ketchikan Indian Community shall require all applications for service or to provide service to disclose any personal, family or business relationships with the Housing Authority/Tribe or staff. If a conflict is

determined to potentially exist, then KICHA shall make public disclosure of the nature of the assistance to be provided and the specific basis for the selection of that person. The disclosure shall be in the form of a Statement of Potential Conflict of Interest Form to be posted in a location proximately accessible to the public. The Ketchikan Indian Community Housing Authority shall provide HUD with a copy of the disclosure before assistance is provided to that person. If any such person receiving assistance is also not considered eligible for the program assistance than HUD approval will be acquired prior to proceeding with the assistance.

- d. Specifically, Ketchikan Indian Community shall post the statement of Potential Conflict of Interest notice in a place accessible to the public within the Ketchikan Indian Community Housing Authority/Tribe office or within a relevant field or Tribal office. Public comments must be received at the KICHA office within ten (10) calendar days of the initial date of the posting of the form. When calculating the specific number of days, the day of the beginning action (initial date of posting) and the day of the ending action (final posting date) shall be counted. All conflict of interest comments must be sealed in an envelope addressed as: "KICHA Conflict of Interest Comment." Comments that are received will be reviewed by the Housing Director and the Housing Committee at the next regularly scheduled committee meeting. The Ketchikan Indian Community Housing Authority will not consider any comments received after the end of this ten (10) day comment period.

2.2 Family Composition

Housing assistance is provided to eligible families. A family can consist of any of the following:

- a. single persons who are otherwise eligible;
- b. an elderly family whose head or spouse meets the following definition:
 - (1) 62 years of age or older; or
 - (2) is a disabled or handicapped person.
- c. two or more persons who will live regularly together in the same home, and whose income and resources are available to meet the family's needs, with the following clarifications:
 - (1) There can also be other unrelated persons living in the household, such as foster children; if it is determined the home will not be overcrowded.
 - (2) Persons residing with a family to permit the employment of a sole wage earner, or solely because the person is essential to the care of a family member, shall not be considered a family member when determining eligibility.

- d. the remaining member of a Tenant family;
- e. a person displaced by governmental action, or a person whose dwelling has been extensively damaged or destroyed as a result of a disaster declared or otherwise formally recognized under Federal disaster relief laws.
- f. the family must contain at least one member who is legally able to sign an Agreement with the KIC (either 18 years of age or older or an emancipated minor).

2.3 Indian Families (IHBG-funded Programs)

2.3.1 Definition

Indian families are defined as families who have one or more family members (minors or adults) who are members of a federally recognized tribe.

2.3.2 Eligibility

Generally speaking, only Indian families are eligible for housing funded through the Indian Housing Block Grant (IHBG) program. Non-Indian applicants may be eligible provided that the Tribe has determined that the presence of the family is essential to the well-being of Indian families, and that the need for housing for the family cannot reasonably be met except under this program.

2.4 Income Limitations

KICHA is mandated to serve the housing needs of low-income families. Therefore, to be eligible the family's annual income must meet the requirements set out as follows:

2.4.1 Maximum income

Except as provided below, the family's annual income, as defined, cannot exceed the applicable income limits for admission established by the Federal Regulations. The highest income limit for all areas served by the KIC shall be used for all families applying for KIC programs.

2.4.2 Exception to maximum income limit (IHBG-funded Programs Only)

KIC may, without ONAP approval, use IHBG funds to assist an over-income family if:

- a. there is a need for housing that cannot reasonably be met without using IHBG funds, and
- b. assisting the family would not result in more than 10% of the IHBG being used to assist over-income families, and
- c. the over-income family's income does not exceed 100% of the median income per KIC's adopted income limits.

2.4.3 Pro-rating assistance for over income families (IHBG-funded Programs Only)

Families who are over-income as described above cannot receive the same assistance as low-income families. Therefore, housing payments must be prorated by dividing the income of the over-income family by the income of a low-income family of the same size (according to the income limit schedule), and multiplying the result times the payment the low-income family would be paying.

2.4.4 Minimum income

Families must have sufficient income to make monthly housing payments, utility payments, and perform maintenance of the home. Except as provided below, to be eligible the family's income must equal or exceed the minimum income requirements as established in KIC's adopted income limits.

2.4.5 Exception to minimum income requirement

An exception to the minimum income requirement may be made upon approval by the Housing Director if the family can provide documentation that the family is not fully dependent upon their income to meet their needs because of the availability of subsistence food sources and/or similar factors. KIC will place a value on these additional sources that will be added to the family's income before determining eligibility.

2.4.6 Ongoing source of income

In addition to meeting maximum income limits, applicants must verify that their source of income is reliable and will be ongoing.

2.4.7 Estimating income

If it is not feasible to anticipate a level of income over a 12-month period, the income anticipated for a shorter period may be annualized, subject to a re-determination at the end of the shorter period.

2.4.8 Definition of "income"

Any of the following definitions can be used to determine income for either eligibility or payment-determination purposes. The definition shall be used that is most advantageous to the family.

- a. Section 8 Definition. "Annual Income" as defined for HUD's Section 8 programs in 24 CFR part 5, subpart F, (except when determining the income of a homebuyer for an owner-occupied rehabilitation project, the value of the homeowner's principal residence may be excluded from the calculation of Net family assets); or
- b. Census Definition. Annual Income as reported under the Census long-form for the most recent available decennial Census. This definition includes:
 - (1) wages, salaries, tips, commissions, etc.
 - (2) self-employment income;

- (3) farm self-employment income;
 - (4) interest, dividends, net rental income, or income from estates or trusts;
 - (5) Social Security or railroad retirement;
 - (6) supplemental security income, aid to families with dependent children; or other public assistance or public welfare programs;
 - (7) retirement, survivor, or disability pensions;
 - (8) any other source of income received regularly, including Veterans (VA) payments, unemployment compensation, and alimony; or
- c. IRS Definition. Adjusted gross income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal Income Tax purposes.

2.5 Suitability Criteria for Admission

To be eligible for any housing program, applicants must be able to comply with program requirements. A family will not be admitted whose conduct in present or prior housing is likely to diminish the health, safety, welfare, or quiet enjoyment of other tenants, or is likely to adversely affect the project environment, the physical condition of the home or neighborhood, or the Housing Department's financial ability to operate the program and enforce tenant obligations without undue burden. Past habits and practices with respect to housing occupancy will be assessed to determine eligibility. Disqualifying factors include:

2.5.1 Outstanding debts

No family will be admitted who has an outstanding debt with any publicly funded or subsidized landlord or authority, or to any utility company that would prohibit the family from obtaining utility services. To be considered for eligibility the family must repay the debt in full or have a current repayment agreement with the landlord. (Debts to private landlords will be considered also, but do not automatically preclude eligibility).

2.5.2 Fraud

No family will be admitted whose head of household or spouse has committed fraud as a participant or applicant in any housing program administered by the Housing Department, or other publicly funded housing program.

2.5.3 Drug-related criminal activity

No family will be admitted who has a member with a history of engaging in drug-related criminal activity as defined in the Glossary.

Only violations committed within the previous two years will be counted.

2.5.4 History of violence



No family will be admitted who has a member who has a history of engaging in violent criminal activity as defined in the Glossary. Only violations committed within the previous two years will be counted, except for violations related to firearms, sexual misconduct, or misconduct with minors.

2.5.5 Principle place of residence

The family must agree that the home to be provided by the KICHA shall be their principle place of residence. Ownership of a second home will make the family ineligible unless the home is used for one of the following purposes:

- a. the second home is located in a different community and is necessary for the family's livelihood. All income associated with the rental of this home must be included in determining both eligibility and monthly payments;
- b. the second home is used for cultural purposes, such as subsistence activities.

2.6 Factors and Information to Be Assessed

Eligibility will be determined by reviewing such factors as previous occupancy with the KICHA, landlord references, inspection reports, information from neighbors and persons with relevant knowledge of habits and practices, credit reports, and criminal background checks.

2.6.1 Unfavorable Information

If unfavorable information is received, KIC will consider the time, nature, and extent of the past occurrence and the reasonable probability of future unfavorable performance. Such factors as the length of time since the last occurrence of such activities, the seriousness of the conduct, and the record of rehabilitation efforts on behalf of the family members will be taken into consideration.

- a. In determining eligibility the following factors also shall apply:
 - (1) a home ownership participant who has given up his/her home shall be ineligible for two (2) years;
 - (2) any participant abandoning his/her home shall be ineligible for two (2) years;
 - (3) any participants evicted for non-payment shall not be eligible until arrears are paid in full.

- b. No family will be denied admission solely because of an association with an unsuitable person who will not reside in the unit.

2.7 Notification of Determination

All families will be notified of the KIC's eligibility determination according to the application procedures described in this policy.

3. Application Process

This section sets out procedures for obtaining and verifying information from applicant families for purposes of determining whether they meet the conditions of eligibility for participation.

3.1 Application

3.1.1 Open process

An applicant can apply for all programs administered by the KICHA. Unless the wait list is closed, applications will be accepted from all families seeking participation in the programs. Applicants who are currently being assisted through a KICHA program may be required to terminate their participation in an existing program before they can be assisted in another program.

3.1.2 Applicant responsibilities

The application constitutes the basic record of each family applying for participation. Therefore, each applicant will be required to supply the information requested on the application form and sign the application, attesting to the information provided. Applicants placed on the wait list are required to respond to any update requests as a condition of remaining on the wait list and as a condition of admission.

3.1.3 Application file

The application will be date-stamped when received which establishes the order in which it will be listed on the wait list. The applications, together with all other material relating to the family's eligibility, preference ranking, and similar documents, is maintained in an active file classified as "Applicants Apparently Eligible Pending Verification".

3.2 Eligibility Determination

The Housing Department makes reasonable efforts to determine the suitability of a family for admission. Review of family eligibility may include, but is not limited to, assessment of previous occupancy with the Housing Department, references from previous landlords, tenants, or persons with relevant knowledge, credit reports, and criminal background checks. Unless immediate housing can be provided, no verification of information will be done during the initial application phase. Applicants are therefore determined "apparently eligible" based on the information provided in the application. However, not more than sixty (60) days prior to move-in, all eligibility criteria will be verified and documented upon which basis the final eligibility determination shall be made.

Preliminary

3.2.1 Family determined eligible

If an applicant is determined eligible but the Housing Department has no openings, the family will be determined “apparently eligible” and placed on the appropriate wait list. Written notice of the placement and the approximate date that an opening may occur, if such date can be reasonably determined, will be provided to the family.

3.2.2 Determination and notice of ineligibility

If during the application phase or subsequent verification process the KICHA determines that the applicant is ineligible, the applicant will be given prompt written notice of the determination. The notice shall state the reasons for ineligibility. The notice shall inform the applicant of any other programs for which the applicant may be eligible and advise the applicant of the right to request an informal hearing according to the KIC Grievance Policy.

3.2.3 Records to be maintained – ineligible applicants

The application, together with sufficient information as to the reasons for the determination, is maintained in a file of “Ineligible Applications”. The KICHA shall retain for three (3) years the original application, notification letter, any applicant response, and any record of informal hearing and final disposition.

3.2.4 Other applicant rights

The procedures set forth in this section do not preclude any applicant from exercising rights, which may be available to the applicant under applicable nondiscrimination laws.

3.3 Wait List

A wait list for each program will be maintained by preference and date and time of application, sorted by bedroom or family size, whichever is appropriate for the program. All program wait lists will be maintained independent of each other.

3.3.1 Purging the wait list

KICHA may periodically update the pool of active applications for any program by requiring all persons on the wait list to respond to a mailing requesting affirmative response and update by the applicant. Failure of an applicant to respond as requested will result in their application being removed from the wait list.

3.3.2 Suspending the taking of new applications

If the number of families on any wait list is such that there is no reasonable prospect that additional applicants could be assisted within the next year, the Department may suspend the taking of additional applications in any category affected. However, the Housing Department may not refuse to accept an application from an otherwise eligible applicant who claims a preference unless it is determined that:

- a. there is already an adequate pool of applicants on the wait list who are likely to qualify for a preference; and,

- b. based upon the anticipated turnover of housing units, it is unlikely that the applicant in question will be offered a housing unit before the other applicants on the list.

3.4 Security Deposit

All families participating in any KICHA Affordable Housing Program shall be required to pay a security deposit on or before entering into a rental agreement. The amount of the security deposit shall be specified in the rental agreement.

4. Selection Process

4.1 General Provisions

In the event of an opening in the KICHA Housing Program, selection of families proceeds in such a manner as to:

- a. give preference in the selection of certain applicant families as specified in this policy;
- b. preclude admission of applicants whose habits and practices reasonably may be expected to have a detrimental effect on the participants or the project environment by established records of any of the following:
 - (1) non-payment of rightful obligations,
 - (2) imperil to health, safety, or morals of neighbors,
 - (3) destruction of property,
 - (4) disregard for rules of occupancy and rights of others.

4.2 Order of Selection

Vacancies are filled in the order the family appears on the wait list for the program in which the opening occurs.

4.3 Selection from Wait List

The vacancy will be filled by selecting applicants from the wait list as described in this section.

4.3.1 Order of selection - general guidelines

- a. Elderly families, as defined, will receive preference for housing units designated for the elderly, if any;
- b. Families with one or more persons with a disability will receive a preference for housing units with special accessibility features, if any; (note: the need for a modified unit will be based on the information provided in the application. The KICHA will not

determine the need for a modified unit based on visual contact. Verification of the need for a modified unit will be required.)

- c. Discrimination is prohibited;
- d. Families are to be selected in the order as they appear on the wait list, as determined from a preference point system; and
- e. Families must be selected from the top of the preference list;

4.3.2 Order of selection

As described above, families will be selected from the wait list by the preference point system established by the KICHA.

4.3.3 Assigning Preferences

For various programs, the KICHA may assign special preferences to all applicants for whom the KICHA has decided a special preference is warranted. For example, preference may be granted to elderly families for the Home Repair Program. In each instance, each applicant will be given a preference ranking and will be placed on the appropriate wait list according to their ranking. Families with the same ranking will be selected according to date and time of application.

4.3.4 Two-step qualification process

If a preference is to be considered for a particular housing program, to qualify for a selection preference an applicant follows a two-step process:

- a. Certification: Applicants claim a preference when they apply for assistance and certify that they qualify for one or more of the preferences. This certification will generally be accepted unless KICHA verifies that the applicant is not qualified.
- b. Final verification: Before any Agreement is executed, the applicant shall provide information needed for KICHA to verify the applicant's preference qualification, based upon the applicant's current status. The applicant's current status determines admission, without regard to the applicant's previous qualifications or eligibility. KICHA may require applicants to re-verify their status at any time prior to granting assistance, if a substantial time has elapsed or KICHA has reasonable grounds to believe that the applicant no longer qualifies for preference.

4.4 Non-discrimination

With the exception of the Indian preference requirements, all families will be selected without regard to race, color, creed, religion, national origin, gender, handicap, disability or family status. No person will be excluded from participation in, or denied the benefits of, the program because of membership in a class or group, such as unmarried mothers or recipients of public assistance.

4.5 Assignment of Units – Rental Housing

To avoid overcrowding, KICHA matches family size to the bedroom size of homes in accordance with the following occupancy standards. Such standards may be waived when necessary to achieve or maintain full occupancy, or to respect the local cultural practices and traditions.

4.5.1 Occupancy standards

Bedrooms	Minimum Persons	Maximum Persons
1	1	3
2	2	5
3	3	7
4	4	9
5	5	11

4.5.2 Extenuating circumstances

- a. If there are no homes in the KICHA inventory of a size for which the family qualifies, the family will be eligible for next size unit available. For example, if the KICHA only has three and four-bedroom units, a two-person (two-bedroom) family will be eligible for a three-bedroom home.
- b. Families with medical reasons can be provided an extra bedroom.
- c. Possible growth of young families will be considered in assigning homes.
- d. Families who have a history of housing foster children will be given a larger home.

4.5.3 Notification of Families

After the Department determines that a home is available and makes the initial selection in accordance with this policy, the family selected shall be notified promptly of the vacancy and the approximate date the home will be ready for occupancy. The family will also be given a period of time, not to exceed thirty days, to provide all information necessary to complete the application and admission process.

4.5.4 Failure to respond or participate

If the selected family does not respond to the Department's notification of a vacancy or does not provide the necessary information within the required time, the applicant will be removed from the wait list and the KICHA shall proceed to select the next eligible family.

4.5.5 Rejection of offer

Applicants who reject two offers of selection will be removed from the wait list, except that the following circumstances will not count as

rejections:

- a. the applicant is unable to accept assistance at the time of the offer and presents clear substantiating evidence, for example, a doctor verification that the applicant is physically unable to relocate at the time required;
- b. accepting the offer would result in verified undue hardship to the applicant, such as temporary or seasonal employment, participation in education, and similar situations.

5. Certification Process

To assure that all families meet the eligibility requirements for continued participation in certain programs, and that such families are paying the appropriate required monthly payments, family composition and income are to be periodically reexamined and re-determined for certain programs in accordance with this policy. Families are required to provide full cooperation in this process.

5.1 Initial Certification

Prior to receiving assistance, all families must certify their income and family status through an initial certification process.

5.1.1 Verification

The head of household and spouse are required to execute a Release of Information form which authorizes any depository or private source of income, or any Federal, State, local or Tribal agency to furnish or release to KICHA such information is determined to be necessary. The use or disclosure of information obtained from a family or from another source pursuant to this release shall be limited to purposes directly connected with the administration of the program for which the family has applied. Applicants and tenants shall be required to furnish proof of their statements to reasonably assure occurrence.



All income shall be verified at the time of admission or annual re-examination.

5.1.2 Determination of Payments

For those programs requiring a monthly payment, the family's monthly payment shall be 30% of monthly adjusted income, as defined, plus tax.

5.2 Annual Reexamination

Reexaminations for all families participating in the housing programs are conducted at least once every twelve (12) months.

5.2.1 Scheduling

Annual reexaminations are normally scheduled 30-60 days before the anniversary date of the agreement. When the reexamination is due, the family will be notified by letter of the date and time of the appointment.

The family will be requested to provide information necessary for recertification prior to the time of the appointment.


5.2.2 Adjustments

After eligibility and income have been determined, any adjustments in the monthly payment required by this section shall be made.

5.2.3 Interim reexamination

Determinations of eligibility and changes in the required monthly payment may be made between annual reviews, if warranted, pursuant to this section.

5.2.4 Income presumed if family fails to provide information

 If a family's monthly payment cannot be determined due to failure to recertify eligibility or supply information in a timely manner, the payment will be automatically calculated based on the maximum income limits for a family of that size and shall be effective on the recertification date.

5.3 Special Reexaminations

If at the time of admission to the program or reexamination it is not possible to estimate adjusted income for the next twelve (12) month period with reasonable accuracy because of unemployment and no anticipated prospects of employment, or conditions of employment or receipt of income is so unstable as to render inaccurate the usual and normal standards for determination, a special reexamination may be scheduled for a specified time depending upon the KICHA's estimate of the time required for the family circumstances to stabilize.


5.3.1 Continuance of special reexamination process

If at the time of special reexamination it is still not possible to make a reasonable estimate of adjusted income, special reexaminations may continue to be scheduled and conducted up until it is possible to make a reasonable estimate of family income.

5.3.2 Projecting income

If at the time of admission to the program, reexamination, or special reexamination, it is not possible to reasonably estimate adjusted income for the next twelve (12) month period, the family's rate of income, based on the income which the family is expected to receive from the date of the current examination to the date of the next examination shall be projected for a twelve-month period even though it is anticipated that income may fluctuate substantially, and even though another annual or special reexamination is scheduled. The monthly payment remains in effect until the next annual review or interim re-determination.

5.3.3 Zero or indeterminate income

 If at the time of admission or annual review a family reports no or indeterminate income, the lack of income shall be appropriately documented. The family shall be required to re-verify their income situation on a monthly basis until such time as an accurate determination of

income can be documented. If it is felt the family is not cooperating, the KICHA may use the income reported on the prior year's tax return.

5.4 Interim Reexamination

5.4.1 Reporting changes

In addition to submitting information required at the time of annual or special reexamination, families shall report to the department the following changes in family circumstances, within ten (10) days:

- a. changes affecting family composition: loss or addition of any family member through marriage, death, divorce, birth, adoption, or any other circumstances,
- b. changes affecting income: increases or decreases in income as a result of changes in family composition, employment, benefits, or any other reason.

5.4.2 Procedure

Upon receipt of a report of a change in family composition or income, KICHA shall perform an interim re-determination of adjusted income as appropriate, and the monthly payment will be adjusted as follows:

- a. increases in required monthly payments between periodic reexaminations are effective the first day of the second calendar month following the month in which the changed circumstance occurred;
- b. decreases in required monthly payments between periodic reexaminations are effective the first day of the month following the month during which the changed circumstance was verified.

5.5 Adjustments Due to Errors

In the case of error or mistake, KIC will adjust the Required Monthly Payments in a manner designed to discourage misrepresentation and to encourage diligent family and KICHA action.

5.5.1 Retroactive adjustments

Adjustments to required monthly payments shall be retroactive to the first day of the rent period affected when there is:

- a. an error due to mistake or misrepresentation by the family, where the corrected determination results in increased rent;
- b. a good faith error which, when corrected, results in decreased rent.

5.5.2 Prospective adjustment

An adjustment in monthly payment shall be effective the first day of the second month following the date an error is found if the error was not the fault of the family and the corrected determination results in increased rent.

5.5.3 Department errors

KIC will not calculate retroactive increases if an income change was reported in a timely manner with sufficient verification provided and the Department failed to make the appropriate adjustment. The term "error" does not include an estimate or projection of adjusted income due to fluctuations or lack of information which is made in accordance with this policy, but which turns out to be inaccurate.

5.6 Procedure for Reexamination**5.6.1 Tenant Worksheet**

The head of household shall complete a *Personal Declaration Form* and any additional forms required prior to the reexamination, and shall provide the information required for KICHA to determine family composition and annual income.

5.6.2 Notice of Changes

At least thirty (30) days prior to the anniversary date of the agreement or the effective date of any changes in monthly payments, the family will be notified in writing concerning their eligibility status and any changes in monthly payments and any amounts owing as a result of mistake or inaction on the part of the family.

5.6.3 False information

Upon determination by the Department that data supplied by the family is false, misleading, or contains a material omission, the Department may terminate the agreement or adjust the required monthly payment retroactively.

5.7 Failure to Report Income Changes

If it is found at the time of reexamination or otherwise that the family failed to report changes in family circumstances as they occurred and that such changes would have required the family to pay a higher monthly payment, the Department shall collect the increased payment, including any accrued late charges, retroactive to the first of the month in which the changes occurred. Unless the Housing Director approves a payment agreement, as specified below, the amount shall be due and payable thirty (30) days from the date of the notice to the family specifying the amount owed.

5.8 Failure to Report with Extenuating Circumstances

The KICHA may allow a family who has failed to report income changes, to enter into a payment agreement under the following circumstances:

- a. the failure to report income changes was not an intentional misrepresentation of income;
- b. the family does not have the funds available to repay the debt;
- c. the debt is greater than the family's gross monthly income.

6. Leasing Process

An agreement must be entered into between KIC and tenant. The agreements shall be kept current and reflect the obligations of the participant family and KICHA.

6.1 Execution of the Agreement

The head of household, considered renter throughout this policy, and the authorized KICHA representative shall execute the agreement prior to taking possession of the housing unit. A copy of the agreement shall be given to the participant family and the original shall be filed in the permanent record folder established for the family.

6.2 Participant Family Change

If for any reason the original signer ceases to be an occupant, KICHA will require execution of a new agreement with the remaining occupant. Income re-verification will also be required.

6.3 Amendments to Agreement

If the KICHA desires to change, amend or waive any provision of the agreement with respect to any individual or group of homebuyers or tenants, an appropriate addendum or amendment shall be prepared, signed by the head of household and KICHA's representative, and attached to and made part of the agreement.

6.4 Termination of Agreement

Termination of the agreement shall be in accordance with the terms of the agreement and applicable law. For terminations due to nonpayment or financial ineligibility, KICHA has established specific procedures in Section 8. The general termination procedure for breach of the agreement for other reasons is stated below.

6.4.1 Notice of breach

When a breach of the agreement has been identified, KICHA shall discuss the noncompliance with the tenant as well as providing the family with written notification identifying the breach, and giving the tenant an opportunity to identify any extenuating circumstances, and an opportunity to enter into a plan of action to correct the breach. If requested by the tenant, a plan of action shall be agreed upon specifying how the tenant will come into compliance, as well as any actions by KICHA that may be appropriate and a deadline for the plan's completion. The plan of action will be signed by the KICHA representative and the tenant.

6.4.2 Notice of termination

If the tenant fails to enter into a plan of action, or fails or refuses to comply with the plan of action, KICHA will issue a Notice of Termination, as provided in Section 8. The notice shall state the reasons for the termination, and will provide the family with an opportunity to file a grievance according to the Department's grievance policy. KICHA may require the tenant to attend a mandatory conference to discuss the noncompliance with the plan of action.

6.4.3 Notice to vacate

If the agreement terminates as a result of the family's failure to cure the noncompliance after a *Notice of Termination*, KICHA will issue a *Notice to Vacate*.

6.5 Incurable Breaches of Agreement

Certain breaches of the agreement are of a nature so serious and damaging to the project environment that KICHA is not required to offer a plan of action to the tenant prior to termination. These include, but are not limited to, the following:

- a. felonious criminal activity, such as drug-related criminal activity and crimes involving the abuse of minors;
- b. violent criminal activity, such as assault, use or threats of physical or deadly force; use, discharge, or assaultive display of weapons in and around the development; or threats of violence against KIC personnel.

KICHA's maintenance of insurance to cover the kinds of risk areas described above shall in no way limit its right to take reasonable action to protect the project environment, neighboring families, and KIC property.

6.6 "One Strike and You're Out"

Although the KICHA generally provides families with several opportunities to correct behaviors and actions that are in violation of their tenancies, all individuals have the right to live in peace and be free from fear, intimidation, and violence in KICHA housing. This is why the KIC Housing Authority has adopted a "One Strike and You're Out" policy towards problem tenants and their families. Under this policy:

- a. Any serious criminal offense that threatens the well-being of the community or illegal drug-related activity committed by any member of the tenant's household may result in the tenant's eviction.
- b. Alcohol abuse will be subject to the same action if KICHA determines that such abuse interferes with the health, safety, or right to peaceful enjoyment of the premises by other tenants.
- c. Arrest and conviction are not necessary to trigger eviction. Evictions are civil, not criminal matters. KICHA does not have to meet the criminal standard of "proof beyond a reasonable doubt" in eviction proceedings. This

does not mean that tenants can be evicted only on the basis of a suspicion that they have engaged in prohibited activity.

- d. If the KICHA settles an eviction case on the condition that a disruptive household member moves away, the individual thereafter will be considered a trespasser at the housing project and the entire household will be subject to eviction if the individual moves back in or visits without approval the KICHA.
- e. Lease terminations and evictions will be preceded by notice and an opportunity for a hearing. Prior to the hearing, the KICHA must provide the tenant with a chance to examine any relevant documents, records, or regulations directly related to the termination or eviction. This includes all criminal records that are the basis for termination or eviction.

6.7 Payment of Required Monthly Payments

All monthly payments shall be made according to the procedures stated in the KICHA Collection Policy in Section 8.

6.8 Principal Residency Requirement

Throughout the term of the agreement, tenants and homebuyers must use the home as their principal place of residence. Ownership or use of another residence is prohibited, unless it is a secondary home necessary for the family's livelihood or for cultural preservation, and it is not another KICHA home. Any income derived from or as a result of the use of the home must be reported and included in annual income.

6.8.1 Prior notice and approval of absences

It is very important that the housing units not be left vacant for extended periods of time. Vacant units are prone to damage through vandalism and/or weather. In addition, as described above, the family must use the housing unit as their principle place of residence. Therefore, it shall be a violation of the program to leave a housing unit vacant for an extended period of time without obtaining prior approval from the KICHA. An "extended period of time" shall be defined as exceeding thirty consecutive days. All absences exceeding thirty days, including an absence combined with occupancy by persons who are not authorized family members, requires prior written approval from the KICHA. "Authorized Family Member" means:

- a. the family, as listed on the schedule to the agreement;
- b. children born to or adopted by members of such family after the date of the agreement, and foster children;
- c. persons providing live-in care of a member of the family; and
- d. aged or widowed parents of the head of household or spouse.

6.8.2 Abandonment

A family's absence from the home for a period exceeding thirty (30) days without prior notice to and approval from KICHA or a family's absence which exceeds seven days, but is shorter than 30 days, combined with failure to pay and failure to take appropriate steps to safeguard the home, may be deemed abandonment by KICHA - justifying immediate termination and repossession without court action.

6.9 Abandoned Property

Personal property removed from an abandoned unit will be stored for a period of not less than 30 days. Immediately upon storage of the property, the family will be notified by certified letter. If the letter is returned, or no mailing address is available, a notice will be placed in the local newspaper. If the property is not claimed during the thirty-day storage period, it will be disposed of at the discretion of the KICHA.

6.10 Pets

Under special circumstances pets may be allowed in certain housing units. For example, seeing-eye dogs or limited pet ownership may be allowable in elderly complexes. However, under no circumstances will ferrets or other pets that are determined hazardous to either the property or other residents be permitted.

7. Inspections

KIC shall conduct inspections of each unit in accordance with KICHA Inspection Standards. All families are required under the agreements to participate in pre-occupancy, post occupancy, periodic, pre-move out and final move out inspections.

7.1 Special Inspections

KICHA has the right to make inspections of the unit with prior notification to the homebuyer or tenant if KICHA is informed that the interior and exterior of the unit may not be maintained in a decent, safe, and/or sanitary condition. Prior notification will be in written form notifying the Family with at least 24 hours' notice. No notice will be required in the event of an emergency situation that may result in serious damage to the unit or that may jeopardize the safety of the family.

7.2 Move-in Inspection.

Prior to or at the move in, the family and a representative of KICHA will conduct a move-in inspection. This inspection is performed to document the condition of the unit. The move-in inspection will be used to document the family's file and will be used for future reference, should the family or KICHA terminate the agreement.

7.3 Annual Inspections.

The family and/or his/her representative along with a KICHA representative will conduct an annual inspection of the unit. The interior and exterior inspection will be conducted to ensure that the unit is being maintained in decent, safe, and sanitary condition. The inspection also will provide KICHA with an insight for referral of the family to KICHA's staff when a maintenance plan of action is required to correct identified deficiencies.

7.4 Move-Out Inspection.

The move-out inspection documents the condition of the unit at the time KICHA regains possession of the unit and will be conducted using the standards in the KICHA Inspection Standards. Any items needing repair/replacement or cleaning will be documented for the file. Any maintenance and replacement costs incurred by the KIC to prepare the unit for the next occupant will be charged to the family.

8. Collections

The proper operation of the Homeownership and Rental Programs depends on the money generated by family payments. KICHA's policy is to take diligent action to collect past-due payments in a manner consistent with the goals of the program and the individual circumstances of each family. As used in this policy, the terms "homebuyers", "tenants" and "families" refer to the person(s) who signed the agreement.

8.1 Amount of Required Monthly Payment and Security Deposit

8.1.1 Monthly Payment

Each family will be informed of the amount of payment required, and the method used to determine what he/she will pay. The KICHA will ensure the family is aware of the obligation to make payments in accordance with the agreement. Payments will be made to the Ketchikan Indian Community monthly (on the first of the month), semi-annually or annually depending on the family's source and frequency of income and the depending on the terms of the agreement with the KIC.

8.1.2 Definition of Income for determining rent

Adjusted income means total family (annual) income less the following:

- a. \$480.00 deduction for each minor, full time student, or dependent adult who is dependent upon the family for support;
- b. Dependent care deduction – reasonable amounts paid when deemed necessary for head of household or spouse to be employed or for education:
 - (1) not to exceed employment income;
 - (2) reimbursement by outside agencies for dependent care is not excluded;
- c. Families may be allowed a deduction for excessive travel expenses for employment or for education, not to exceed \$25.00 per week;
- d. Handicapped assistance expense – deduction allowed if it is necessary to help head of household or spouse be employed;
- e. Medical expenses – deduction allowed is amount exceeds 3% of annual income (elder families only);
- f. \$400.00 deduction for elderly households.

8.2 Inability to Make Full Payment Due to Hardship

Although payments are calculated to be affordable, financial hardships can arise, such as death of a family member or loss of a job, where the family despite best efforts is unable to make full payment on the due date.

8.2.1 Conditions

KICHA's policy is to reasonably accommodate families suffering financial hardship, provided that the hardship is of a temporary nature, the family complies fully with all other requirements of the agreement, and the family communicates the problem to the KICHA in a timely manner.

8.2.2 Family to provide notice of problem

Families with a legitimate and justifiable inability to make the required payment on the due date must contact KICHA:

- a. to explain the circumstances,
- b. to request and describe the financial extension needed, and
- c. to make arrangements for entering into a written payment agreement, if the extension is needed for longer than 30 days. Partial monthly payments are generally required for payment agreements.

8.3 Partial Payment

Where financial hardship is suffered, families are required to make voluntary partial payments rather than pay nothing. Partial payments show the family's continued commitment to the agreement. Where partial payments are being made, KICHA will temporarily delay termination action if the family's payment history is good, it appears that the past-due balance will be repaid in the near future, and the family is complying with all other requirements of the agreement. If the inability to make full payments is expected to exceed 30 days, the family must promptly sign a written payment agreement, which states the reason for the extension or partial payment and specifies the date or dates on which payments will be made.

8.4 Payment Agreements

To maximize a family's compliance, achieve the goals of the housing program, and avoid evictions, families with delinquencies or a pattern of late or inconsistent payments must enter into a written plan of action. The plan of action is generally documented in a payment agreement, which specifies the plan for paying the family's debt. The following policies shall be followed:

8.4.1 Short term basis only

Payment agreements are made available to families in recognition of unavoidable or unexpected financial problems, and are intended to be of a temporary and short-term nature. Unless otherwise authorized by signature of the Housing Director or designee, the term of the payment agreement shall not exceed twelve months.

8.4.2 Requirements of payment agreement

The Payment Agreement shall provide:

- a. Minimum monthly payments shall be 1/12th of the amount owed, or \$25.00, whichever is greater. The minimum monthly payment amount may be reduced, in the Department's discretion, so that the monthly payment plus the family's total payment does not exceed 50% of the family's gross monthly income.
- b. The monthly payment shall be set at an amount which will result in the most prompt possible repayment and may be higher if the Department determines that the homebuyer or tenant can afford a higher payment. In no event shall a payment agreement exceed three years.
- c. Payment agreements shall be due and payable in the same manner as required monthly payments.

8.4.3 Signed document

The head of household must execute a payment agreement, and where the agreement requires financial commitments from other authorized occupants or family members, those occupants are also required to sign.

8.4.4 Application of payments

Payments made by a family with a payment agreement shall be made in the following order:

- a. current required monthly payment
- b. unpaid required monthly payments or other charges, which are past due and not included in a current payment agreement.
- c. repayment agreement

8.4.5 Breach of payment Agreement

Breach of the payment agreement authorizes termination of the payment agreement at the election of the Department upon notice to the family. Failure of the family to make two consecutive payments under the payment agreement will result in automatic termination of the payment agreement, without notice to the family. Breach of a payment agreement also authorizes termination of the homebuyer or rental agreement.

8.4.6 Reinstatement of payment Agreement

The Department may reinstate a terminated payment agreement upon appropriate payment and assurances from the homebuyer, in which case the termination shall not count against the family under the table provided below. After termination of a payment agreement, the Department may require the family to enter into a new payment agreement.

8.4.7 Restrictions where payment agreements have failed

For families who breached their last payment agreement, a substantial lump sum payment is required before a new payment agreement will be accepted. The minimum lump sum payment is a percentage of the balance due, determined by the following table:

Breached Agreements	Down Payment Required
1	25%
2	50%
3	75%
4	100%

Families who have breached four payment agreements during the term of their homebuyer or rental agreement must pay their balance in full and are not permitted to enter into another payment agreement. A lump sum payment will be required to correct the balance owed. Only the Housing Director, for good cause shown, may waive this restriction.

8.5 Permanent Loss of Eligibility

Permanent inability to meet the financial requirements of the homeownership, rental, or any other housing program, including the homeownership obligation to timely provide maintenance and replacements, results in termination from the program.

8.6 Collection of Delinquencies

KICHA applies the following guidelines in enforcing the financial obligations of the Homeownership and Affordable Housing Program in collecting delinquent payments:

8.6.1 Payment due dates

Payments are due on the first day of each month and are late on the 11th day of each month. On the 11th day of the month families who have missed their payment and who have not signed an approved payment agreement covering the breach shall be sent a *Reminder Notice*. The *Reminder Notice* shall state that the KICHA intends to terminate the agreement if the family does not respond within ten days of the date of the *Reminder Notice*.

8.6.2 Issuance of notice of delinquency

If after five days (the 16th of the month) the family has still not cured the breach or agreed to a written plan of action, KICHA is authorized to send a *Notice of Delinquency*, which shall state:

- a. any requirement by KIC that the family execute a payment agreement;
- b. the homebuyer's opportunity to receive counseling assistance to assist in resolving the payment problem; and

- c. the amount owed.

8.6.3 Response to notice of delinquency

The family must respond to the *Notice of Delinquency* in accordance with the notice, by making payment acceptable to KICHA, executing an approved payment agreement, or fully securing the debt by wage deduction agreement or other valid method.

8.6.4 Notice of termination

If after an additional 30 days (the 15th day of the second month after the delinquency arose) the family fails to respond to the *Notice of Delinquency*, KICHA is authorized to send or serve *Notice of Termination*. Generally, an advisory copy of the notice will be sent to the Tribal Council, but such advisory notice is not required for the notice to be effective. Unless the family cures the breach, the agreement will terminate in accordance with the notice, which shall provide not less than 30 days for the family to respond to and cure the breach. The *Notice of Termination* will convey the following information:

- a. the reason for termination;
- b. that the family has 30 days, during which the family will be allowed to respond to the Department, in writing or in person, regarding the reason for termination;
- c. that, if responding in person, the family is allowed to be represented or accompanied by a person of his/her choice;
- d. that the Department may advise the local governing body concerning the termination;
- e. that if, 30 days of the date of the *Notice of Termination*, the family presents to the KICHA assurances or evidence satisfactory to the KICHA, the Department may rescind the *Notice of Termination*; and
- f. that unless there is a rescission per above the lease term and agreement will terminate on the 30th day after the date of the *Notice of Termination*.

8.7 Termination and Notice to Quit

If the agreement terminates as a result of the family's failure to cure the breach and respond to the notice within the time allowed, KICHA is authorized to send final *Notice to Quit*. The *Notice to Quit* shall direct the household to vacate the home by a specific time and date, and shall notify the family that the Department may file a civil action in court to obtain eviction.

8.8 Referral to Legal Counsel

If the family fails to vacate the premises after termination of the agreement, the file will be referred to the KICHA's attorney for appropriate action.

8.9 Collection of Legal Expenses Incurred in Enforcement

To the maximum extent feasible, it is KIC's policy to recover legal expenses arising from noncompliance from the household which committed the breach. It is also KICHA's goal to resolve disputes before legal action or expense is required. KIC recognizes that some homebuyers may seek to cure a breach only after attorney expenses or court costs have already been incurred. To achieve its goals, KICHA may condition any reinstatement upon the family sharing the KIC's legal expenses, as follows:

- a. family cures the breach and seeks reinstatement before legal costs are incurred, no sharing of legal expense required.
- b. family cures the breach and seeks reinstatement after the file is referred to the attorney, family shall be responsible for 100% of attorney expenses incurred in preparing the file for court action.
- c. family cures the breach and seeks reinstatement after court action is filed, family shall be responsible for 100% of attorney fees and 100% of KIC's service and filing costs, including any travel costs required for service of process.
- d. If the family offers to cure after the early stages of the lawsuit, KICHA reserves its right to seek the maximum attorney's fees and costs allowed by court rules.

8.10 Reservation of KIC Rights

This policy shall not limit KIC's right to:

- a. require additional assurances, reimbursement or payment from the family as a condition of any reinstatement, settlement, or settlement documentation;
- b. require security for the debt owed or agreed to be paid by the family;
- c. reject the family's attempted cure or request to cure; or
- d. seek judicial relief.

8.11 Collection after Move-out

Following a voluntary move-out, abandonment, or eviction, KICHA will make reasonable efforts to collect all past due payments, miscellaneous accounts, and any debts arising from damages or non-maintenance from former participant families and responsible residents. Collection action may include Small Claims Actions, other legal proceedings, referral to a collection agency, and judgment execution, including garnishments, as determined by the Department to be consistent with sound financial management.

8.12 Small Claims Action

At any time a debt is owed, whether before or after move-out, KICHA may file Small Claims Action against responsible parties in order to collect debts owed to the KICHA. The Housing Director may designate a representative for purposes of filing Small Claims Actions on behalf of the KICHA.

9. Temporary or Permanent Relocation

Note: References include:

- a. 49 CFR Part 24 (“the Relocation Regulations”) – Uniform Relocation Assistance and Real Property Acquisition Regulations for Federal and Federally Assisted Programs.
- b. 24 CFR Part 1000 (“the HUD Relocation Regulations”) – Implementation of the Native American Housing Assistance and Self-Determination Act as amended. HUD Handbook 1378 (“the Handbook”) – Tenant Assistance Relocation and Real Property Acquisition.
- c. Collectively, the Relocation Regulations, the HUD Relocation Regulations and the Handbook are referred to herein as the Uniform Relocation Laws or “URL.”

9.1 Project Planning

9.1.1 Rehabilitation Projects

The Ketchikan Indian Community shall take all reasonable steps to minimize relocation as a result of a rehabilitation project. If necessary to accomplish this goal, KICHA will consider the feasibility of carrying out the project in stages.

- a. The KICHA will take the steps necessary to ensure cooperation and coordination among government agencies, utility providers, and affected persons (the partnership process).
- b. During the partnership process, the KICHA will consult with the residents of a house to be rehabilitated. Resident comments will be solicited and receive serious consideration. Resident participation is necessary for accurate budgeting.
- c. During the planning stage of the rehabilitation project, the KICHA will review staffing, training, and any special problems associated with the relocation caused by the project and develop a plan to address any deficiencies. In order to accurately budget for temporary and permanent relocation, the KICHA will complete a survey to determine the following information:
 - (1) number of households to be relocated;
 - (2) income of participants and rents/utilities paid;

- (3) family characteristics;
- (4) impact of relocation on any elderly or handicapped family members;
- (5) availability of suitable temporary and permanent relocation dwellings; and
- (6) need or providing advisory services to the housing participants.
- (7) availability of comparable replacement dwelling before displacement

9.1.2 Displacement

No Displaced Person shall be required to move from his or her dwelling until

- a. ninety days after all notices required by the Relocation Regulations have been given to the person by the Tribe, and
- b. at least one comparable replacement dwelling (defined at 49 C.F.R. § 24.2 (a)(6)) has been made available to the person. When possible, three or more comparable replacement dwellings shall be made available. A comparable replacement dwelling will be considered to have been made available to a person if:
 - (1) the person is informed of its location; and
 - (2) the person has sufficient time to negotiate and enter into a Purchase Agreement or lease of the property; and
 - (3) subject to reasonable safeguards, the person is assured of receiving the relocation assistance and acquisition payment to which the person is entitled in sufficient time to complete the purchase or lease of the property.

9.1.3 Emergency relocation of displaced persons

- a. Circumstances permitting a waiver. The Federal Tribe funding the project may grant a waiver of the policy in Section III.B, above, in any case where it is demonstrated that a person must move because of:
 - (1) a major disaster as defined in Section 102(c) of the Disaster Relief Act of 1974 (42 U.S.C. 5121); or
 - (2) a presidential declared national emergency; or another
 - (3) emergency which requires immediately vacating the real property, such as when continued occupancy of the

displacement dwelling constitutes a substantial danger to the health or safety of the occupants or the public.

- b. Basic conditions of an emergency move. Whenever a person is required to relocate for a temporary period because of an emergency as described in this section, the Tribe shall:
- (1) take whatever steps are necessary to assure that a temporary replacement dwelling is made available to the displaced person; and
 - (2) pay the actual reasonable out-of-pocket moving expenses and any reasonable increase in rent and utility costs incurred in connection with the temporary relocation; and
 - (3) make available to the displaced person, as soon as feasible, at least one comparable replacement dwelling. (For purposes of filing a claim and meeting the eligibility requirements for a relocation payment, the date of displacement is the date the person moves from the Temporary Replacement Dwelling.)

9.2 Project Implementation

9.2.1 Implementation in modernization projects

- a. First Notice. At the time the Ketchikan Indian Community determines to allocate funds for modernization, an initial notice, substantially in the form of Exhibit A, attached hereto, will be issued not less than 120 days before temporary relocation may be required, to all affected housing participants. At a minimum, the notice will include the following items:
- (1) statement advising the family they will not be displaced;
 - (2) a caution for the family not to move at this time;
 - (3) a statement that if the family moves at this time, relocation benefits are relinquished;
 - (4) assurance that the family will be able to re-occupy the same house or a replacement house in the same location, if it is a Mutual Help unit or the same or a comparable replacement dwelling, as defined in 49 C.F.R. §24.2(a)(6), in the same project, if the unit being rehabilitated is a low rent unit;
 - (5) assurance that the family will be informed of any occurrences or events that will impact the rehabilitation; and
 - (6) assurance that the housing payment will not increase as a result of the modernization of the unit.

- b. Second Notice. Not less than ninety days before the targeted start date of the rehabilitation, a final notice, substantially in the form of Exhibit B, attached hereto, will be issued. The final notice will contain a schedule of eligible costs and the following information:
 - (1) date and approximate duration of the temporary relocation;
 - (2) address of a suitable, decent, safe and sanitary dwelling to be made available for the temporary period;
 - (3) assurance of returning to the same project (or same house if a Mutual Help unit); and
 - (4) identity of contact person for counseling purposes.

9.2.2 Permanent relocation in connection with acquisition of real property

Whenever displacement results from the Tribe's acquisition of real property with federal financial assistance, the right to relocation benefits for occupants then in possession of the property to be acquired, whether as owners or tenants, arises upon the initiation of negotiations for the acquisition of the property.

- a. **"Initiation of negotiations"** means the delivery of the initial written offer by the Tribe to the owner or the owner's representative to purchase the real property for the project.
- b. **Notice of intent to acquire or notice eligibility for relocation assistance.** As soon as is feasible after the initiation of negotiations, the Tribe shall provide all occupants entitled to relocation benefits with a notice that complies with 49 C.F.R. §24.203(d).
- c. Once the property is acquired, the Tribe shall give the occupants notice as required by 49 C.F.R. §24.302(a), substantially in the form of Exhibit A.
- d. Finally, no lawful occupant of the acquired property shall be required to move in less than ninety days after he or she has received a notice from the Tribe that complies with 49 C.F.R. §24.302(c)(3).

9.3 Schedule of Eligible Costs

9.3.1 Actual reasonable moving and related expenses (49 CFR 24.301)

- a. Any displaced person is entitled to payment of their actual moving and related expenses, which are supported by bills for labor and equipment or contained in two or more estimates prepared by commercial movers or one estimate prepared by a qualified Tribe staff member, including expenses for:

- (1) transportation of the relocating family and personal property. Transportation costs for a distance beyond 50 miles are not eligible, unless the KICHA determines that relocation beyond 50 miles is justified;
- (2) packing, crating, unpacking and uncrating of the personal property;
- (3) storage costs of personal property for the duration of the temporary period not to exceed 12 months, unless the KICHA determines that a longer period is necessary;
- (4) disconnecting, dismantling, removing, reassembling, and reinstalling relocated household appliances and other personal property;
- (5) utility hook-ups and deposits, including re-installation of telephone and cable television service if the owner/tenant had the services prior to the temporary relocation move at both the temporary replacement dwelling and at the original home when the rehabilitation work is completed;
- (6) insurance for the replacement value of the property in connection with the move and necessary storage;
- (7) the replacement value of property lost, stolen, or damaged in the process of moving (not through the fault or negligence of the displaced person, his/her agent, or employee) where insurance covering such loss, theft or damage is not reasonably available.
- (8) credit checks.
- (9) other moving-related expenses that are not listed as ineligible under Sec. 24.301(h), as the KICHA determines to be reasonable and necessary.

9.3.2 Fixed Allowance Moving Expenses

Alternatively, a displaced tenant may receive without documenting actual expenses the fixed allowance for moving expenses provided in 49 C.F.R. §24.302.

9.3.3. Replacement Housing Payment

A tenant or owner-occupant displaced from a dwelling is entitled to a payment not to exceed \$5,250 for rental assistance or down payment assistance, if the person has lawfully occupied the acquired property for at least ninety (90) days prior to initiation of negotiations and has rented or purchased and occupied a decent, safe and sanitary replacement dwelling within 1 year after the tenant moves for the acquired property. An owner-

occupant is eligible on the later of the date he or she receives a final payment for the acquired property or the date he or she moves from the acquired dwelling. The Tribe may extend this time for good cause.

- a. **Rental Assistance.** Subject to the \$5,250 limit, a tenant shall receive 42 times the difference between the monthly rent and average monthly utility cost of the replacement dwelling and the lesser of his or her current monthly rent and average monthly utility cost or 30% of the displaced person's average monthly gross household income, if the income is classified as "low income" by the HUD Annual Survey of Income Limits for Public Housing and Section 8 Programs.
- b. **Down Payment Assistance.** A person who purchases a replacement dwelling may receive down payment assistance in the amount he or she would have received as rental assistance under subsection 1, above.
- c. **180-day Owner-Occupants.** A person who has actually owned and occupied an acquired property for not less than 180 days immediately prior to the initiation of negotiations and who purchases and occupies a replacement dwelling within 1 year after he or she receives final payment for the acquired property shall receive a replacement housing payment not to exceed \$22,500 as provided in 49 C.F.R. §24.401.

9.3.4 Meal Vouchers

For families not required to move but unable to use food preparation facilities (kitchen) due to renovation work, meal vouchers will be provided until the facilities are restored for use. The amount of the voucher will be determined based on provisions in the KIC Travel and Per Diem Policy for meals and incidentals. The amount of the voucher will consider the size of the family.

9.3.5 No Duplication of Payments.

No person shall receive any payment under this part if that person receives a payment under federal, state or local law which is determined by the Tribe to have the same purpose and effect as such payment under this part.

9.4 Waving Rights

All claims for a relocation payment shall be filed with the Tribe no later than 18 months after the date of displacement. If a displaced person fails to file a timely claim after receiving the notices and relocation assistance as required by the Relocation Regulations, he or she shall be ineligible for assistance, unless, for good cause shown, KICHA extends or waives the requirement to file a timely claim.

9.5 Grievances and Appeals

9.5.1 Filing a Grievance

A participant may file a grievance in any case in which the person believes that the Tribe has failed to properly consider the person's application for assistance under this policy or the Relocation Regulations. Such assistance may include, but is not limited to, the person's eligibility for, or the amount of, a payment required under 49 C.F.R. § 24.106 or § 24.107, or a relocation payment required under this policy. Such a grievance must be filed within 60 days of the date of occurrence. On a case-by-case basis, upon request of the participant, for good cause, the Ketchikan Indian Community may extend the time limit for filing a grievance or the time for conducting a hearing, not to exceed 30 days. KIC shall process a grievance regardless of its form.

9.5.2 Legal Council

The participant may be represented by legal counsel or other representative, at his or her own expense, in any hearing or grievance proceedings. A hearing will be conducted no later than 14 days after receipt of a written appeal. A participant (and legal counsel or other representative, if applicable) has the right to review and copy any records pertaining to the relocation activities subject to reasonable limits imposed by KIC to preserve the confidentiality of the documents. Documents excluded from this section would be materials that the Ketchikan Indian Community has determined may not be disclosed for reasons of confidentiality.

9.5.3 Right to a Hearing

The hearing shall be conducted by the Housing Director, unless he or she has been directly involved in the action subject to appeal, in which case the Housing Director shall appoint a hearing officer who has experience in the administration of federal programs, was not involved in the action being appealed and who can act impartially in hearing the appeal.

9.5.4 Entitlement to Submit Supporting Documents

At or prior to the scheduled hearing, the participant or his or her representative shall be entitled to submit any information in the form of documents, declarations, or testimony to support the appeal. Not more than 14 days after the conclusion of the hearing, a written determination will be issued.

9.6 Recordkeeping Requirements

9.6.1 Records

The Tribe shall maintain adequate records of its acquisition and displacement activities in sufficient detail to demonstrate compliance with this policy and the Relocation Regulations. These records shall be retained for at least 3 years after each owner of a property and each person displaced from the property receives the final payment to which he or she is entitled.

9.6.2 Confidentiality of Records

Records maintained by the Tribe in accordance with this policy are confidential and shall not be disclosed except as necessary in the administration of this policy.

9.6.3 Reports

The Tribe shall submit a report of its real property acquisition and displacement activities if required by HUD. A report will not be required more frequently than every 3 years, or as the Uniform Act provides, unless HUD shows good cause. The report shall be prepared and submitted using the format contained in Appendix B to the Relocation Regulations.

10. Requirements for Home Buy-Down Program

This program provides a deferred loan to KIC and bank-qualified first-time home buyers for down-payment assistance for the purchase of a single-family home in standard condition. The purpose of this loan is to enable first-time homebuyers to secure financing for a home loan who otherwise would not qualify due to the lack of sufficient down payment funds.

10.1 Eligibility Requirements

Down payment assistance loans may be awarded and applied toward the purchase of a primary residence under the following conditions:

- a. In addition to eligibility requirements described in this policy, applicants for the Home Buy-Down Program must be first-time homebuyers. Applicant families must demonstrate that, contingent upon receiving assistance from the Tribe, they qualify for a home loan from a lending institution, or that contingent upon receiving assistance from the Tribe they will be able to enter into a sales contract with a seller for the purchase of a home.
- b. Applicants will be pre-screened to determine their ability to qualify for financing at the time their application comes to the top of the wait list and prior to approval of any award. Applicants will be given 90 days, from the date they are notified of their selection, to provide this assurance from the lending institution or seller. If the applicant fails to meet the 90-day deadline, their application will be removed from the wait list.

10.2 Property Eligibility Requirements

- a. The property must be legally zoned for residential use.
- b. The dwelling must be a site-built home (or other approved technology), a modular home, as defined, or a manufactured home.
- c. If the dwelling is a new manufactured home, it must have a minimum of 840 square feet of living space and meet all state and local construction and placement specifications for the area in which it will be located.
- d. If the dwelling is a pre-owned manufactured home it must be no more than 10 years old and meet the above requirements.

- e. All homes must be in standard condition and meet inspection requirements of the lender. In the case of a land sale contract, the home and property must meet the inspection requirements. See item "G" of the Terms and Conditions below.
- f. Ineligible properties include, but are not limited to vacant land and rental or commercial property.
- g. Manufactured homes may be:
 - (1) placed on land which is owned by the recipient; or
 - (2) purchased as a package with land; or
 - (3) placed on land with a long-term lease; or
 - (4) placed in a mobile/manufactured home park with a long-term lease.
- h. The home to be purchased must be of a "moderate design", which means that the home to be acquired must be comparable with respect to size, cost and amenities to other homes in the area with the same number of bedrooms that are offered to sale to buyers at or below the area median income.

10.3 Terms and Conditions

- a. The maximum amount shall be \$30,000. To avoid the cost of management and insurance, assistance amounts of less than or equal to \$10,000 shall be in the form of a grant.
- b. The recipient is encouraged to contribute the maximum amount available towards earnest money, closing costs, down payment or other purchase costs such as appraisals or inspections.
- c. For assistance amounts greater than \$10,000 the assistance shall be in the form of a deferred loan secured by a 2nd mortgage. Under this agreement, after the fifth year, KICHA will begin forgiving 20% of the loan at the end of each year the family remains in the home, so that the 2nd mortgage is fully forgiven after a total of 10 years. During this 10-year period the recipient must agree to maintain homeowner's insurance on the dwelling, naming the KICHA as a loss payee for up to the amount of the down payment assistance. Insurance certificates must be provided to the Department.
- e. The grant/loan must be used within a specified period of time of approval for program participation (purchase commitment within 3 months), or it will be forfeited to the next applicant on the wait list and the original recipient will have the option to be removed from or placed at the end of the wait list. In the event a purchase commitment cannot be entered into

within the three month period, a time extension may be granted at the discretion of the KICHA, based upon the circumstances.

- f. The grant/loan monies will be released to the title company or appropriate third party at the time of closing.
- g. If the property transaction is a private land sale contract, the following additional conditions apply:
 - (1) the property must receive a total home inspection, at the applicant's expense, by a qualified independent certified property inspector;
 - (2) the home must be determined to be a "Home in Standard Condition"; and
 - (3) the recipient must establish an escrow account for monthly payment established for each program under this policy.

10.4 Sublease of a Home Buy Down Property

10.4.1 General requirements

Homebuyers are allowed to sublease their homes, but must follow the policies outlined below prior to the KICHA's approval of the sublease request. The homebuyer will be provided a copy of sublease procedures and is responsible for understanding and complying with the policies governing the subleases of the homes.

10.4.2 Justification

To be eligible for subleasing, a homebuyer must be vacating the home for one of the following reasons:

- a. special educational opportunity that is not available in the Homebuyer's area for the head of household or spouse.
- b. extraordinary circumstances that would cause a temporary move to be of significant benefit to the family, such as medical reasons or temporary duty in the military.
- c. economic reasons such as unemployment or out-of-town job opportunities.

10.5 Non-compliance with Agreement

If a homebuyer is in non-compliance with the agreement, his/her request for permission to sublease the unit will be not considered for approval, except:

- (a) When the homebuyer evidences compliance with a plan of action to cure his/her breach of the agreement; or

- (b) In the event the KICHA determines that an emergency exists which warrants such consideration and the Homebuyer executes a Plan of Action with the KICHA to cure the breach.

10.6 Term of the Sublease.

The sublease must be temporary in nature and for a definite period of not less than 90 days and not more than 12 months. In cases exceeding 12 months, the homebuyer must request and receive approval to extend the sublease prior to 60 days of the end of the current sublease term. The homebuyer while not residing in the unit may be in a temporary residence; thus, the home is still their principal place of residence.

10.6.1 Sublease Request and Agreement

- a. A homebuyer must submit a written request to the KICHA for approval of the sublease at least 30 days prior to the date such sublease is intended to begin.
- b. In addition to the terms and conditions of the *Sublease Agreement* (as specified by the KICHA), the homebuyer shall be responsible for all the obligations and responsibilities of a landlord in a sublease under Alaska's Landlord and Tenant Law.
- c. After execution by the homebuyer and sublessee, a copy of the *Sublease Agreement* must be submitted to the KICHA within 10 days of execution.

10.6.2 Required Monthly Payment

- a. The required monthly payment will continue to be based on the homebuyer's family income in accordance with the agreement, although the homebuyer is not residing in the unit.
- b. The homebuyer remains obligated to ensure that the required monthly payments are made in a timely manner. Failure by the homebuyer to make required monthly payments in accordance with the KICHA's Collection Policy may result in termination of the agreement.
- c. Sublessee payments can be made either to the family or to the KICHA (preferred).

10.6.3 Other homebuyer obligations

The KICHA's approval of the sublease waives the homebuyer's obligation to reside in the unit for a specified period; however, it does not waive any other provisions of the agreement, such as:

- a. Obligation to maintain the unit in a decent, safe, and sanitary manner. Should the unit be determined uninhabitable by fire or other damage, the homebuyer shall immediately notify the KICHA.

Although the homebuyer is absent from the unit during the sublease term, this does not relieve the homebuyer from this obligation; therefore, the homebuyer should communicate with the sublessee on this responsibility.

- b. Obligation to ensure that the KICHA has the right to inspect the premises with at least five-day notification to sublessee. The annual inspections will continue to be completed annually. The KICHA shall send a copy of the inspection report to the homebuyer and the Sublessee. If a plan of action is warranted to correct any identified deficiencies, the homebuyer will execute the plan and correction of the deficiencies will be the responsibility of the homebuyer.
- c. Obligation to ensure that the utilities are being maintained. Failure by the Homebuyer to maintain the utilities that may adversely affect the condition of the premises will result in the KICHA taking required actions to restore these utilities and charge the cost to the Homebuyer.

10.6.4 Termination of the Sublease

- a. The KICHA has the authority to terminate the Agreement if the Homebuyer fails to comply with its terms and conditions. If an act which, if committed by the Homebuyer, would be grounds for termination of the Agreement, is committed instead by the Sublessee, it also shall be grounds for terminating the Homebuyer's Agreement if not corrected by the Homebuyer immediately and to the satisfaction of KICHA. This correction could include, by way of example, termination of the sublease and repair of any damages for which the Sublessee is responsible.
- b. The sublease shall provide that, in the event the KICHA terminates the Agreement due to the homebuyer's failure to comply with the Agreement, the sublease or applicable law, the KICHA shall be entitled to terminate the sublease on behalf of the homebuyer upon proper notice to the Sublessee by the KICHA or the homebuyer.
- c. The homebuyer can terminate the sublease agreement by providing a 30-day written notification to the sublessee, which shall also state the reason for the termination. The homebuyer shall be required to notify the KICHA of the termination and provide to the KICHA with a copy of the termination notice.
- d. The sublessee can terminate the sublease agreement by a written 30-day notice to the Homebuyer. The Homebuyer shall be required to notify the KICHA of this action within 14 days of the notice.
- e. In the event the sublease is terminated by the homebuyer and the homebuyer wishes to sublease the unit to a new sublessee, the

homebuyer must follow the same sublease request procedures for a subsequent sublease agreement in obtaining KICHA approval.

10.7 Business Use of Home

The homebuyer or tenant may operate a small business in the dwelling unit, subject to approval from KICHA if the family provides written assurances of the conditions stated below. Permission may be rescinded upon violation of these conditions:

- a. The dwelling unit will remain the family's principal residence.
- b. The business activity will not disrupt the basic residential nature of the housing site and neighborhood.
- c. The business will not require permanent structural changes to the dwelling unit that could adversely affect a future family's use of the dwelling unit.
- d. The family has a current business license and liability insurance, as applicable.
- f. The activity does not violate zoning codes, project covenants, and/or homeowner association rules.

10.8 Structural Modifications (Homeownership only)

A Homebuyer may not make any structural changes in or additions to the dwelling unit unless the KICHA has determined that such change will not:

- a. impair the value of the home, the surrounding homes, or the project as a whole;
- b. affect the use of the home for residential purposes; or
- c. violate any federal, state or local building code requirements as to construction and/or design.

10.8.1 Homebuyer expense

Any changes made in accordance with this section shall be at the homebuyer's expense, and in the event of termination of the agreement, the homebuyer shall not be entitled to any compensation for such alterations, additions, or improvements, which automatically become the property of the Housing Department. The homebuyer must verify available resources to complete the proposed project. Homebuyer shall be authorized to use up to \$5,000 of their equity funds, over the life of their tenancy, for modernization of their home.

10.8.2 No liens

The homebuyer shall not permit any liens or liabilities to encumber the unit, including mechanics or suppliers liens. In the event homebuyer breaches this requirement, KICHA may take any reasonable action to protect itself, the home and the land from encumbrances and liability.

10.8.3 Procedure

A homebuyer who wishes to make any structural changes in or additions to the home must provide a written request with plans and/or specifications to the Department for written approval prior to beginning any modifications. The homebuyer shall specify the time anticipated to make the improvement, and shall make all diligent efforts to complete the work within the time specified. Failure to complete the work, if it results in damage to or devaluation of the home, may constitute grounds for termination of the agreement.

11. Requirements for Emergency/Elder Repair Program**11.1 Assistance Limitations**

Assistance under the KICHA Emergency/Elder Repair Program will be limited to eliminating the following substandard housing conditions:

- a. Condition of Structure. The condition of the structure is such as to create serious safety or health hazards by reason of structural deficiencies or of continuous dampness or exposure brought about by neglect or dilapidation.
- b. Water Supply. Lack of potable running water within the dwelling unit.
- c. Sewage System. No connection between plumbing fixtures and adequate sewage disposal system.
- d. Toilet Facilities. No flush toilet in the dwelling unit, or if present, is unfit for use.
- e. Bath Facilities. No bathtub or shower in the dwelling unit, or if present, is unfit for use.
- f. Kitchen Facilities. Lack of permanent, safe and reasonably efficient kitchen facilities within the dwelling unit, including a sink with running water and provisions for a cooking stove.
- g. Lighting Facilities. Dwelling unit not wired, or inadequately wired, for electric lighting.
- h. Heating Facilities. Inadequate or unsafe heating facilities.

11.2 Correction of Deficiencies

Participating families will be responsible for securing the services of licensed, bonded contractors and materials. Families must adhere to the requirements of the KIC Procurement Policy including, but not limited to, securing sufficient quotes to ensure competition, and following Indian preference requirements. Upon completion of the work (or at various stages of completion), payment will be made jointly to the family and the contractor and/or supplier.

11.3 Property Eligibility Requirements

- a. The property must be located on land within the Ketchikan Gateway Borough.
- b. The property must be zoned for residential use.
- c. The owner must provide proof of ownership of the property to be repaired.
- d. The property must be the principal, primary residence of the family.
- e. The property must be suitable for rehabilitation, which means that substandard conditions (as defined in this policy) are not beyond the capability of this program to correct. For a property to be eligible, it must be projected that upon expenditure of the maximum amount of funds (combined with any funds to be provided by the family), the dwelling unit will no longer be considered substandard.

12. Requirements for the Elder Housing Program

The purpose of the Ketchikan Indian Community Elder Housing Program is to provide affordable elder-appropriate housing for qualified families to live independently.

12.1 Selection

In addition to being eligible, applicants for KICHA Housing Program properties must be determined to be suitable, which is defined as:

- a. The ability to pay rent in accordance with the KICHA policy;
- b. The ability to maintain a rental unit and its premises in accordance with the KICHA housing programs policies and lease provisions and generally accepted standards of cleanliness and housekeeping;
- c. The ability to live harmoniously with other residents and neighbors and maintain conduct which is not likely to:
 - (1) interfere with other residents and neighbors in such a way as to materially diminish their enjoyment of the premises by adversely affecting their health, safety, or welfare, or
 - (2) adversely affect the physical environment of the community, or
 - (3) adversely affect the health, safety, or welfare of KIC Housing staff or employees of other service providers; and
 - (4) the ability to refrain from or engage in criminal activity including illegal drug-related activity either on or off Housing Authority/tribal premises; and

- (5) the ability to comply with necessary and reasonable rules and program requirements of the KICHA Housing Programs.
- d. Any participants previously evicted for non-payment shall not be eligible until arrears are paid in full.

12.1.1 Filling vacancies

In selecting applicants to fill vacancies, the Ketchikan Indian Community Housing Authority will use the preference point system as shown:

- a. Ketchikan Indian Community tribal member (15 pts);
- b. applicants age , 62+ (15 pts);
- c. disability/handicap preference for units specially equipped (20 pts);
- d. veteran or serviceman of the U.S. Military(10 pts) ;
- e. rental history, such as (10 pts):
 - (1) non-payment of rightful obligations;
 - (2) imperil to health, safety, or morals of neighbors;
 - (3) destruction of property;
 - (4) disregard for rules of occupancy and rights of others;
- f. ability to pay rent (15 pts);
- g. overcrowding (5 pts);
- h. current substandard housing conditions (10 pts).

12.1.2 Refusal to provide verification

The applicants file shall be denied if the applicant refuses to provide verification, fully disclose all information relevant to the eligibility and suitability determination, or falsifies information for the purpose of obtaining housing with the KIC housing program.

12.1.3 Denial

Families determined to be ineligible shall be immediately notified in writing of the reason(s) of ineligibility and, if requested, the applicant shall be granted a private conference regarding his/her eligibility status.

12.1.4 Wait list

- a. Each applicant shall be assigned his appropriate place on a community wide basis in a sequence based upon factors affecting

- preference or priority established by regulation or by the local Ketchikan Indian Community Housing Authority policy.
- b. At the time a unit becomes available, the applicant first on the wait list, determined by preference points, shall be offered a suitable unit at the vacancy location.
 - c. If an applicant rejects a unit offered, he/she shall be moved to the bottom of the eligibility list.
 - d. Reassignment or transfer to another dwelling unit may be made to correct occupancy standards.
 - e. KICHA may conduct a wait list update from time to time by mailing a notice to all applicants on the wait list. Applicants must respond to the letter within 10 business days to express their continued interest or their application will be dropped from the wait list.

12.2 Terms and Conditions

- a. No more than two persons may occupy a unit. Exceptions to this may be made for existing households when circumstances permit. No exceptions to this will be made after initial occupancy. Preference for two bedroom units will be given to two person households.
- b. KICHA requires that each applicant to complete an application for Alaska Pioneers Home and specify a “caregiver” who is responsible for arranging support services and relocation for the applicant should the need arise due to:
 - (1) physical frailty
 - (2) psychological or mental health concerns

12.2.1 Caregiver Agreement

To be eligible to execute a caregiver agreement on behalf of an applicant, an individual must be:

- a. at least 25 years old;
- b. be capable of fulfilling obligations of the caregiver agreement; and
- c. be closely connected to the applicant, the caregiver must be either:
 - (1) be a close relative (parent, former guardian, child, grandchild, or sibling of the applicant); or
 - (2) have a demonstrated involvement with the applicant (at least five years) that supports a claim of obligation for the applicants welfare.

12.3 Discharge from the Program

The Ketchikan Indian Community Elder Housing Program is designed for independent living and does not offer supportive services for residents. Residents in the KICHA Elder Housing Program may be discharged from the program for the following reasons:

- a. Physical frailty. An elderly person who is unable to perform at least three activities of daily living as defined in this section;
- b. Psychological or mental health problems. Issues such as Alzheimer's, dementia, or other mental health problems that threaten the welfare of the occupant, other tenants, or housing staff.

12.3.1 Activities of Daily Living (ADL)

Activities of daily living means eating, dressing, bathing, grooming, and household management activities, as further described below:

- a. Eating – may need assistance with cooking, preparing, or serving food, but must be able to feed self;
- b. Bathing – may need assistance in getting in and out of the shower or tub, but must be able to wash self;
- c. Grooming – may need assistance in washing hair, but must be able to take care of personal appearance.
- d. Dressing – Must be able to dress self, but may need occasional assistance.
- e. Home management activities – may need assistance in doing housework, grocery shopping, laundry, or getting to and from activities such as going to the doctor and shopping, but must be mobile. The mobility requirement does not exclude persons in wheelchairs or those requiring mobility devices

12.3.2 Transfers and Discharges

KIC will not transfer or discharge a resident except when:

- a. the transfer or discharge is necessary to meet the resident's welfare, and the resident's welfare cannot be met in the facility without assisted living services as documented by a physician or qualified social services professional.
- b. the safety of the individual(s) in the facility is endangered as documented by a physician or qualified social services professional.
- c. the health of the individual(s) in the facility would otherwise be endangered as documented by a physician or qualified social services professional.

12.4 Waiver Requests

The Ketchikan Indian Community may grant waivers on a case by case basis for the following policies:

a. Minimum Age

(1) Where it is determined in the best interest of KICHA and the housing tenant or applicant, the KIC Housing Committee may grant individual waivers to the minimum age requirement for:

- (a) Dependent Family Members - Wholly dependent physically challenged (80% or more documented disability) family members.
- (b) Applicants who are near-elderly (55+ years)
- (c) A Home Health Aide - must have passed Alaska Medicare’s Certification Exam

13. Design Standards

As required by 24 CFR 1000.156, affordable housing acquired constructed, rehabilitated or assisted using Indian Housing Block Grant funds must be of “moderate design”. This addendum establishes standards describing how KIC will determine if a housing unit meets this definition.

13.1 Gross Area

a. New Construction. The gross living area of the residence (excluding detached or semi-detached storage areas) shall not exceed the following:

Bedrooms	Maximum Square Feet
2	1,100
3	1,500
4	1,650

b. Acquisition and Rehabilitation Activities. The gross living area of homes acquired or rehabilitated using IHBG funds, either directly by the KIC or indirectly through the use of down payment or home repair assistance provided to families, shall approximate the size of other homes occupied by other low-income families living in the general vicinity of the home being acquired or rehabilitated.

13.2 Total Cost

The total cost to provide the housing from all sources shall not exceed 110% of the total development cost for the area as published by HUD, plus any additional amounts as allowed under the IHBG program.

13.3 Environmental Concerns and Mitigations

A moderate design will allow for environmental concerns and mitigations as described in 24 CFR Part 58 and 24 CFR 10000.18. Specific areas to be addressed include the following:

- a. Historic preservation
- b. Coastal zone management
- c. Endangered species
- d. Air quality
- e. Noise
- f. Floodplains and wetlands
- g. Sole source aquifers
- h. Wild and scenic rivers
- i. Farmlands protection
- j. Explosive and flammable operations

13.4 Climate

A moderate design shall take into consideration and allow for the climatic conditions of the region where the housing is located. Special consideration shall be given to the design and construction of the exterior components as they relate to the climate of the region, including but not limited to site (grading, access, etc.), mechanicals (water lines, tanks, electrical service, heating systems, etc.), building envelope (roof, vents, siding, doors, windows, insulation, etc.) and foundations.

13.5 Comparable Housing

As required by 24 CFR 1000.56, a moderate design is defined as housing that is of a size and with amenities consistent with unassisted housing offered for sale in the tribe's general geographic area to buyers who are at or below the area median income. To meet this criteria, KICHA will periodically review the recent sales of homes within the region to ensure that housing constructed, rehabilitated, acquired or assisted using IHBG funds is comparable. Homes that do not meet the minimum standards described in Section 9 of this policy will not be considered for comparison purposes.

13.6 Local Codes, Ordinances and Standards

A moderate design must meet or exceed all applicable local building codes, ordinances and standards. Homes that fail to meet these standards will not be considered for comparability. Designs that exceed minimum standards will be considered unreasonable if the estimated cost to bring the home above the minimum standards would make the home unaffordable for low-income families.

13.7 Cultural Relevance in Design

A moderate design shall take into consideration and allow for the cultural esthetics of the region where the housing is located. The cost to include cultural considerations within the design will only be considered unreasonable if the estimated cost to include the design modification would make the home unaffordable for low-income families.

13.8 Minimum Design and Construction Features

This section shall describe the minimum design and construction features considered to be reasonable and necessary to provide decent, safe and sanitary housing. The minimum housing standards consist of performance requirements and acceptability criteria for these key aspects of housing quality:

a. Sanitary Facilities

(1) Performance Requirements - The dwelling unit must include sanitary facilities located in the unit. The sanitary facilities must be in proper operating condition, and adequate for personal cleanliness and the disposal of human waste. The sanitary facilities must be usable in privacy.

(2) Acceptability Criteria

(a) The bathroom must be located in a separate private room and have a flush toilet in proper operating condition.

(b) The dwelling unit must have a fixed basin in proper operating condition, with a sink trap and hot and cold running water.

(c) The dwelling unit must have a shower or a tub in proper operating condition with hot and cold running water.

(d) The facilities must utilize an approvable public or private disposal system (including a locally approvable septic system).

b. Food Preparation and Refuse Disposal**(1) Performance Requirement**

(a) The dwelling unit must have suitable space and equipment to store, prepare, and serve foods in a sanitary manner.

(b) There must be adequate facilities and services for the sanitary disposal of food wastes and refuse, including facilities for temporary storage where necessary (e.g., garbage cans).

- (2) Acceptability Criteria
 - (a) The dwelling unit must have an oven and a stove or range, and a refrigerator of appropriate size for the family. All of the equipment must be in proper operating condition. Either the owner or the family may supply the equipment. A microwave oven may be substituted for a Tenant-supplied oven and stove or range. A microwave oven may be substituted for an owner-supplied oven and stove or range if the Tenant agrees and microwave ovens are furnished instead of an oven and stove or range to both subsidized and unsubsidized Tenants in the building or premises.
 - (b) The dwelling unit must have a kitchen sink in proper operating condition, with a sink trap and hot and cold running water. The sink must drain into an approvable public or private system.
 - (c) The dwelling unit must have space for the storage, preparation, and serving of food.
 - (d) There must be facilities and services for the sanitary disposal of food waste and refuse, including temporary storage facilities where necessary (e.g., garbage cans).
- c. Space and Security
 - (1) Performance Requirements - The dwelling unit must provide adequate space and security for the family.
 - (2) Acceptability Criteria
 - (a) At a minimum, the dwelling unit must have a living room, a kitchen area, and a bathroom.
 - (b) The dwelling unit must have at least one bedroom or living/sleeping room for each two persons. Children of opposite sex, other than very young children, may not be required to occupy the same bedroom or living/sleeping room.
 - (c) Dwelling unit windows that are accessible from the outside, such as basement, first floor, and fire escape windows, must be lockable (such as window units with sash pins or sash locks, and combination windows with latches).
 - (d) The exterior doors of the dwelling unit must be lockable. Exterior doors are doors by which someone can enter or exit the dwelling unit.

d. Thermal Environment

- (1) Performance Requirements - The dwelling unit must have and be capable of maintaining a thermal environment healthy for the human body.
- (2) Acceptability Criteria
 - (a) There must be a safe system for heating the dwelling unit (and a safe cooling system, where present). The system must be in proper operating condition. The system must be able to provide adequate heat (and cooling, if applicable), either directly or indirectly, to each room, in order to assure a healthy living environment appropriate to the climate.
 - (b) The dwelling unit must not contain unvented room heaters that burn gas, oil, or kerosene. Electric heaters are acceptable.

e. Illumination and Electricity

- (1) Performance Requirements - Each room must have adequate natural or artificial illumination to permit normal indoor activities and to support the health and safety of occupants. The dwelling unit must have sufficient electrical sources so occupants can use essential electrical appliances. The electrical fixtures and wiring must ensure safety from fire.
- (2) Acceptability Criteria
 - (a) There must be at least one window in the living room and in each sleeping room.
 - (b) The kitchen area and the bathroom must have a permanent ceiling or wall light fixture in proper operating condition. The kitchen area must also have at least one electrical outlet in proper operating condition.
 - (c) The living room and each bedroom must have at least two electrical outlets in proper operating condition. Permanent overhead or wall-mounted light fixtures may count as one of the required electrical outlets.

f. Structure and Materials

- (1) Performance Requirements - The dwelling unit must be structurally sound. The structure must not present any threat to the health and safety of the occupants and must protect the occupants from the environment.

- (2) Acceptability Criteria
 - (a) Ceilings, walls, and floors must not have any serious defects such as severe bulging or leaning, large holes, loose surface materials, severe buckling, missing parts, or other serious damage.
 - (b) The roof must be structurally sound and weather tight.
 - (c) The exterior wall structure and surface must not have any serious defects such as serious leaning, buckling, sagging, large holes, or defects that may result in air infiltration or vermin infestation.
 - (d) The condition and equipment of interior and exterior stairs, halls, porches, walkways, etc., must not present a danger of tripping and falling. For example, broken or missing steps or loose boards are unacceptable.

- g. Interior Air Quality
 - (1) Performance Requirements - The dwelling unit must be free of pollutants in the air at levels that threaten the health of the occupants.
 - (2) Acceptability Criteria
 - (a) The dwelling unit must be free from dangerous levels of air pollution from carbon monoxide, sewer gas, fuel gas, dust, and other harmful pollutants.
 - (b) There must be adequate air circulation in the dwelling unit.
 - (c) Bathroom areas must have one openable window or other adequate exhaust ventilation.
 - (d) Any room used for sleeping must have at least one window. If the window is designed to be openable, the window must work.

- h. Water Supply
 - (1) Performance Requirements - The water supply must be free from contamination.
 - (2) Acceptability Criteria - The dwelling unit must be served by an approvable public or private water supply that is sanitary and free from contamination.

- i. Lead-based Paint - The property will comply with the lead-based paint poisoning prevention requirements as described in 24 CFR 1000.40.
- j. Access - The dwelling unit must be able to be used and maintained without unauthorized use of other private properties. The building must provide a second door as an alternative means of exit in case of fire.
- k. Site and Neighborhood
 - (1) Performance Requirements - The site and neighborhood must be reasonably free from disturbing noises and reverberations and other dangers to the health, safety, and general welfare of the occupants.
 - (2) Acceptability Criteria - The site and neighborhood may not be subject to serious adverse environmental conditions, natural or manmade, such as dangerous walks or steps; instability; flooding, poor drainage, septic tank back-ups or sewage hazards; mudslides; abnormal air pollution, smoke or dust; excessive noise, vibration or vehicular traffic; excessive accumulations of trash; vermin or rodent infestation; or fire hazards.
- l. Sanitary Condition
 - (1) Performance Requirement - The dwelling unit and its equipment must be in sanitary condition.
 - (2) Acceptability Criteria - The dwelling unit and its equipment must be free of vermin and rodent infestation.
- m. Smoke Detectors - Each dwelling unit must have at least one battery-operated or hard-wired smoke detector, in proper operating condition, on each level of the dwelling unit, including basements but excepting crawl spaces and unfinished attics. Smoke detectors must be installed in accordance with and meet the requirements of the National Fire Protection Association Standard NFPA 74 (or its successor standards). If the dwelling unit is occupied by any hearing-impaired person, smoke detectors must have an alarm system, designed for hearing-impaired persons as specified in NFPA 74 (or successor standards).

13.9 Accessibility Standards

A moderate design shall incorporate Uniform Federal Accessibility Standards as required under the funding program, or as required by the local community. Designs that exceed minimum standards will be considered unreasonable if the estimated cost to bring the home above the minimum standards would make the home unaffordable for low-income families.

14. Maintenance and Materials Management

14.1 General

The KICHA has certain maintenance responsibilities to the tenants and homebuyers. Likewise, the tenant or homebuyers have certain responsibilities to the KICHA in maintaining specific parts of the property being used. If the tenant or homebuyer fails to meet his/her obligation, the KICHA shall perform the necessary maintenance activities and charge the occupant accordingly.

A good maintenance program requires that tenants and homebuyers work cooperatively with KICHA to keep all property in a decent, safe, and sanitary condition. The Tribal Council may also have an important role in providing community services to the housing project, including maintaining roads and streets, snow removal, culverts, etc.

14.2 Maintenance Program Objectives

To maintain the efficiency of the KICHA programs and maintenance program, our goal is to:

- a. keep the KICHA office and shop a clean and respectable place of business;
- b. keep all dwellings and grounds in a decent, safe, sanitary condition;
- c. correct any conditions that may lead to an injury or accident involving residents or others;
- d. keep KICHA vehicles and equipment in excellent condition;
- d. repair or replace defective items before they affect other parts of the system;
- e. provide special needs for our elderly as they occur, such as ramps, handicap items, etc.

14.3 Work Order Priorities

14.3.1 Maintenance Scheduling Priorities

The KICHA maintenance program is based upon the scheduling of service requests, preventative maintenance, and the performance of routine and non-routine maintenance work. Maintenance work is scheduled in the following priority:

- a. **Emergency Work:** work that must be completed on the same day reported in order to prevent bodily harm to residents or further damage to Authority/Tribal property, for example, broken gas or water lines.
- b. **Urgent Work:** work that should be done as soon as possible after being reported in order to prevent a major change in resident's life-

style with possible negative effects, for example, lack of heat, water, or electricity.

- c. Vacant Unit Maintenance: Work that should be done on vacant units to prepare them for new KICHA residents, for example, painting, fixing locks. All work should be finished before a new family moves in so that a final inspection can take place.
- d. Non-routine Maintenance: Work by the KICHA which is unusually major such as replacing appliances and parts which do not usually recur in the normal lifetime of the item.
- e. Routine Maintenance: Work that should be done regularly by the KICHA such as painting, plastering, furnaces and windows.

14.3.2 Responsibility

The Maintenance Supervisor is responsible for implementing the work order procedure, and scheduling work orders, to include:

- a. the most efficient use of maintenance staff time;
- b. the scheduling of work orders to assure that travel between work order locations is minimized, and that travel back and forth to secure supplies and to execute the work order, is minimized;
- c. that health and safety maintenance has a high priority and is executed in the most responsible manner possible in order to eliminate potential hazards;
- d. accounting for maintenance staff time and the reconciliation of time, attendance and mileage reports;
- e. The spot-checking of time and repairs to assure accuracy and that the qualities of the repairs are representative of the intent of the program;
- f. the documentation of all works and records supporting the maintenance and work order system.

14.4 Emergency Maintenance

- a. The Housing Director and maintenance staff will notify residents about what constitute emergencies either through direct mailing, written notice, or in the case of multi-family housing projects by public posting.
- b. The following conditions are considered to be emergency situations for which service is outside of normal hours:
 - (1) water pipes breaking;

- (2) absolutely no electricity anywhere in the apartment/home;
 - (3) all burners in stove not working; refrigerator not working. (After electrical breakers have been checked and/or reset);
 - (4) serious leaks in roof, walls, windows, etc;
 - (5) all toilets in apartment/home broken;
 - (6) gas leaks;
 - (7) toilets or sink is overflowing (plumbing backup);
 - (8) furnace is out and all attempts to restart have failed.
- c. Between 8:00am and 4:30pm on normal working day, all emergencies should be called into the KICHA Office.
 - d. After hours, weekends, and holidays, all residents should be instructed to call KICHA maintenance for emergency maintenance. This information will be provided to all Tenants.

14.5 Routine Maintenance

Routine maintenance is maintenance needed day-to-day to keep a unit in good condition. The following are examples of routine maintenance, and not limited to:

- a. unplug sewer drains;
- b. repair broken windows, doors, and screens;
- c. replace and repair broken fixtures;
- d. repair broken water heaters, furnaces, and stoves/refrigerators.

14.6 Non-Routine Maintenance

Non-routine maintenance is that maintenance needed when something out of the ordinary goes wrong. The following are examples of non-routine maintenance:

- a. replace a water heater, furnace, and stove/refrigerator;
- b. replace a ceiling damaged by rain or snow;
- c. replace any defective materials due to the manufacturer's fault and not excessive hard use.

14.7 Preventative Maintenance

Preventive maintenance is one way to keep dwellings in a good state of repair that will appreciably extend the useful life of the unit and facilities. This will result in

lower overall operating and upkeep costs in the long run for both the occupant and the KICHA.

Preventive maintenance can be defined as the actions taken to avoid or minimize the need for more costly repairs at some future time. It is performed before the actual problem occurs, thus preventing extra labor and replacement costs.

The Housing Director is responsible for setting up and scheduling the preventive maintenance program. The program should include:

- a. identification of all items to be included;
- b. the schedule for servicing the items based on severity of use;
- c. number of people required to carry out the servicing;
- d. equipment, materials, and supplies needed for servicing each item.

14.8 Low Income Rental Residents

- a. The KICHA is responsible for all routine and non-routine maintenance on rental units owned by the Housing Authority/Tribe.
- b. The tenant is responsible for the normal care and maintenance of their unit and common property, required keeping the unit and grounds decent, safe and sanitary.
- c. The tenant is required to inform the KICHA of any maintenance problems that arise. If the problem is determined to be routine or non-routine maintenance, the KICHA will schedule and pay for the repairs. If the problem is determined to be caused by abuse by the tenant or any person allowed in the unit by the tenant, the tenant is required to make the repairs at his/her own expense. Failure by the tenant to correct the problem will result in the KICHA correcting the problem and billing the tenant for the costs.

14.9 Work Orders

In order to schedule and track work properly, all work requests shall be recorded on a "work order form".

- a. A staff representative should fill out a work order form whenever a request for work comes in to the maintenance shop or office staff, whether by a resident's phone call or a request.
- b. The maintenance supervisor shall have the responsibility for scheduling work daily and weekly according to the "work order forms" in his possession. He will base his scheduling on the maintenance policy for priorities.

- c. Work orders must show the following:
 - (1) date order was taken;
 - (2) complete description (nature of problem);
 - (3) tenant name and phone number;
 - (4) complete address;
 - (5) date work completed;
 - (6) permission to enter;
 - (6) signature of tenant following completion of work - If tenant isn't available, indicate and staff sign;
 - (7) cost of materials and staff acceptance.
- d. Indicate on work order if service is to be charged or at no charge to tenant. Charge service would be for non-routine work that has been caused by tenant's misuse or abuse of KIC Housing Authority/Tribal property.
- e. Work on homeownership units may be done only if participant agrees to pay for materials, labor and mileage.
- f. Normal working hours are from 8:00am to 5:00pm, Monday through Friday. Maintenance staff in each area are responsible for emergency service if service is for health and safety of tenant or KIC Housing Authority property.
- g. All maintenance personnel out in the field are to check in by use of vehicle radio or telephone at specified times of day, in the event an emergency does occur.
- h. All maintenance staff will send in completed work orders with their time sheet every week. Overtime pay will be allowed for service calls or for work previously authorized by KIC Housing Authority Director or designee.
- i. All maintenance staff will do their best to reduce overall costs by anticipating their needs in advance and submitting their needs to the maintenance supervisor and/or purchase agent.
- j. Copies of the work orders will be filled in the tenant's folder with the time sheet. If the cost of materials is to be charged to the tenant and adjustment slip should be included charging the tenant's account receivable.
- k. The KICHA will bill all charges for repair costs to tenants and homebuyers at cost. Charges will be changed periodically as the prices of materials and labor changes. Costs will be adjusted as necessary.

14.10 Materials Management

Materials Management includes the capitalization, inventory, and description of all materials, supplies, equipment, contracts, and services provided to the KICHA, consistent with applicable HUD regulations including Indian housing procurement 24 CFR 905.160, subpart B (attached as Appendix A), procurement standards at 24 CFR 85 (attached as Appendix B), Annual Contributions Contract (ACC) requirements, and other applicable handbooks

This Material Management Policy of the KICHA is intended to supplement, not reiterate applicable regulations. Whenever circumstances may arise for which no provision has been offered in this policy, it shall be the responsibility and authority of the Housing Director, or designee, to resolve the situation or issue consistent with applicable regulations and/or prior practices of the KICHA.

14.11 Authorization

The contracting officer, who shall be the Housing Director or other individual he/she has authorized in writing, will administer all materials management transactions and administration. The Housing Director shall issue operational procedures to be approved by the KICHA Housing Committee that will be a part of this policy by attachment.

The Housing Director or his/her designee shall assure that:

- a. procurement requirements are subject to an annual planning process to assure efficient and economic purchasing;
- b. contracts and modifications are in writing, clearly specifying the desired supplies, services, or construction, and are supported by sufficient documentation regarding the history of the procurement, including as a minimum the method of procurement chosen, the selection of the contract type, the rationale for selecting or rejecting offers, and the basis for the contract price;
- c. for procurement other than small purchases, public notice is given of each upcoming procurement at least 10 days before a solicitation is issued; responses to such notice are honored to the maximum extent practical; a minimum of 30 days for main construction contracts and 15 days for other contracts is provided for preparation and submission of bids or proposals; and notice of contract awards is made available to the public;
- d. solicitation procedures are conducted in full compliance with federal standards stated in 24 CFR 85.36 (Appendix B) and the Indian preference requirements and methods of procurement at 24 CFR 905, subpart B (Appendix A);
- e. an independent cost estimate is prepared before solicitation issuance and is appropriately safeguarded for each procurement above the small purchase limitation, and a cost or price analysis is conducted of the responses received for all procurements;

- f. contract award is made to the responsive and responsible bidder offering the lowest price, consists with Indian preference requirements (for sealed bid contracts) or contract award is made to the offer whose proposal offers the greatest value to the KICHA, considering price, technical, and other factors as specified in the solicitation, including Indian preference (for contract awarded based on competitive proposals); unsuccessful firms are notified within ten days after contract award;
- g. there are sufficient unencumbered funds available to cover the anticipated cost of each procurement before contract award or modification (including change orders), work is inspected before payment, and payment is made promptly for contract work performed and accepted;
- h. procedures for inventory control, storage and protection of goods and supplies, and issuance of, or other disposition of, supplies and equipment are established, and in accordance with HUD Handbook 7485.1 for modernization projects;
- i. the KICHA adheres to the procurement and program requirements of HUD Handbook 7450.1 for Indian Housing development projects and HUD Handbook 7485.1 for modernization projects; and
- j. the Ketchikan Indian Community Housing Authority complies with applicable HUD review requirements as provided in the operational procedures implementing this statement.

* This policy statement and any later changes shall be submitted to the Ketchikan Indian Community Housing Authority Housing Committee for approval. The Housing Committee appoints and delegates procurement authority to the Housing Director or designee and is responsible for ensuring that any procurement policies adopted are appropriate for the Ketchikan Indian Community Housing Authority.

14.12 Small, Minority, and Women Owned Firms Participation

The KICHA shall make efforts to ensure that small, minority, and women owned businesses, and individuals or firms located in or owned in substantial part by persons residing in the area of the KICHA projects are used when possible.

Goals may be established by the KICHA periodically for participation by small, minority, and women owned businesses, and businesses concerns which are located in, or owned in substantial part by persons residing in the area of the project, in the KICHA's prime contracts and subcontracting opportunities.

14.12.1 Definitions

- a. A small business is defined as a business that is independently owned – not dominant in its field of operation and not an affiliate or subsidiary of a business dominant in its field of operation. The size standards in 13 CFR 121 shall be used, unless the KICHA determines that there use is inappropriate.

- b. A minority or women owned business is defined as a small business that is 51% or more owned and actively managed by a minority or women owner.
- c. A business concern located in the area of the project is defined as an individual or firm located within the relevant section 3 covered project area, as determined pursuant to 24 CFR 135.15, listed on HUD's registry of eligible business concern, and meeting the definition of small business above.
- d. A business concern owned in substantial part by persons residing in the area of the project is defined as a business concern which is 51% or more owned by persons residing within the project, owned by persons considered by the U.S. Small Business Administration to be socially or economically disadvantaged, listed on HUD's registry of eligible business concerns, and meeting the definition of small business above.

14.13 Materials Classifications

- a. Non-expendable property or equipment items are defined as those having a useful life of more than one year, or having a value of \$300.00 or more. The cost of such property shall be treated as a capital expenditure with financial controls maintained through appropriate accounts in the general ledger.
- b. Expendable property items are defined as those items having a useful life of less than one year or having a value of less than \$300.00; the cost of which when purchased is not treated as a capital expenditure.
- c. Materials and supplies are defined as items of property which:
 - (1) can be used only; or
 - (2) are spent in use; or
 - (3) have no useful life or become an integral part of other property when put in use.

14.14 Inventories

The Housing Director is charged with the responsibility of caring for and safeguarding KICHA owned property. Written statements concerning lost, stolen, destroyed, or abandoned property shall be required on the annual inventory to be submitted to the KICHA Housing Committee at a close of each fiscal year.

- a. Expendable equipment, materials, furniture, and supplies purchased by the KICHA shall be controlled by the physical inventory method.
 - (1) All expendable equipment, materials, and supplies received shall be inspected and counted by a KICHA employee.

- (2) Care of all expendable equipment, materials and supplies will be taken by all employees to ensure the prevention of misuse, waste, damage, or pilferage.
 - (3) All expendable equipment, maintenance materials, and supplies used by the KICHA must be accounted for through the work order procedure that will identify the project, program, unit, and/or contract for which the equipment, materials, or supplies are expended.
 - (4) All office materials and supplies shall be prorated between programs as per the allocation of expenses for operating budgets.
 - (5) Expendable equipment, materials, and supplies will be physically inventoried at least annually with adjustments and recordings made to accounting records to reflect the actual inventories on hand.
- b. Non-expendable equipment shall be controlled through the use of inventory control cards and accounting records of the purchase or disposition.
- (1) Approved property ledger cards shall be used which will include at least (if applicable) the make, model, serial number, quantity purchased, quantity on hand, purchase price, date of purchase, and vendor.
 - (2) Non-expendable equipment will be physically inventoried at least annually, with adjustments and recordings made to accounting records to reflect the actual inventories on hand.
- c. Differences in inventories between the amounts shown by accounting records and the amounts obtained through a physical count, arising out of errors, other than theft, destruction, or obsolescence, shall be adjusted by means of inventory adjustment records as submitted by the KIC Housing Committee.
- (1) The Housing Director shall evaluate losses from theft, destruction, or obsolescence.
 - (2) A record shall be made of the action authorized by the Committee, both for the account record and for the administrative controls to be used to prevent future occurrences.
- d. Inventory lists shall be retained pending audit.

14.15 Disposition

- a. Personal property shall not be sold or exchanged for less than its fair value. Personal property with an estimated value of \$1000.00 or more, which is to

be sold to other than a public body for a public use, shall be sold at public sale.

- b. The maintenance supervisor shall maintain an active inventory of all useable and non-useable equipment.
- c. Personal property of the KICHA shall not be destroyed, abandoned, or donated without the prior approval of the Committee. The contracting officer shall make every effort to dispose of excess personal property according to approved procedures. However, if the property has no scrape or salvage value and a purchaser cannot be found, a statement shall be prepared by the contracting officer listing the prospective bidders solicited and all other efforts to sell the property, together with recommendations as to the manner of disposition. This statement shall be referred to the Housing Committee for its approval. A copy of the Housing Committee's approval, together with the completed documentation in support of the destruction, abandonment, or donation, shall be retained as a part of the permanent records.

14.16 Housing Committee Certification

- a. The KICHA Housing Committee is responsible for insuring the proper, timely, and efficient execution of the materials management policy and procedures of the KICHA. In this capacity, the Housing Committee shall certify that program requirements are being met, prior to the execution of any contracts in excess of small purchase amounts.
- b. The KICHA Housing Committee shall provide certification to HUD as required in any other instance as provided in applicable regulations and in the best interest of the KICHA.

14.17 Public Access to Procurement Information

Procurement information shall be a matter of public record to the extent provided by applicable Freedom of Information Acts or similar laws.

14.18 Donations and Acquisitions

Any and all donations or acquisitions of property, equipment, materials or supplies properly made to or by the KICHA shall be accounted for as if procured for KICHA use, as per the procedure attached to this policy.

14.19 Complaints

- a. The Housing Director shall establish a system of sanctions for violations of the ethical standards consistent with state, tribal, or local law.
- b. Appeals and Remedies – It is the KICHA's policy to resolve all contractual issues informally at the KICHA level, without litigation. Disputes shall not be referred to HUD until all administrative remedies have been exhausted at the KICHA level. When appropriate, the KICHA may consider the use of

informal discussions between the parties by individuals who did not participate substantially in the matter in dispute, to help resolve the differences. HUD will only review protests in cases of violations of federal law or regulation and failure of the KICHA to review a complaint or protest.

- c. Bid Protests – Any actual or prospective contractor may protest the solicitation or award of a contract for serious violations of the principles of this statement. Any protests against solicitation must be received before the due date for receipt of bids or proposals and any protest against the award of a contract must be received within ten calendar days after contract award or the protest will not be considered. All bid protest shall be in writing, submitted to the contracting officer or designee, who shall issue a written decision on the matter. The contracting officer may at his or her discretion suspend the procurement pending resolution of the protest if warranted by the facts presented.
- d. Contract Claims – All claims by a contractor relating to performance of a contract shall be submitted in writing to the contracting officer or designee for a written decision. The contractor may request a conference on the claim. The contracting officer's decision shall inform the contractor of its appeal rights to a higher level in the KICHA, such as the Housing Director or a designated Housing Committee Member, or a procurement appeals board.
- e. Protests Involving Indian Preference – Complaints arising out of any of the methods of providing for Indian Preference shall be handled in accordance with the procedures in this policy, consistent with 24 CFR 905.165(f).

GLOSSARY OF TERMS

Adjusted Income. For the purposes of calculating payments under the Indian Housing Block Grant Program, the annual income that remains after excluding the following amounts:

1. Youth, Students, and Persons with Disabilities - \$480 for each member of the family residing in the household (other than the head of the household or the spouse of the head of the household) who is under 18 years of age; OR who is:
 - a. 18 years of age or older; and
 - b. a person with disabilities or a full-time student.
2. Elderly - \$400 for an elderly.
3. Medical and Attendant Expenses - The amount by which 3 percent of the annual income of the family is exceeded by the aggregate of:
 - a. medical expenses, in the case of an elderly or disabled family; and
 - b. reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed.
4. Childcare Expenses - Childcare expenses, to the extent necessary to enable another member of the family to be employed or to further his or her education.
5. Earned Income of Minors - The amount of any earned income of any member of the family who is less than 18 years of age.
6. Travel Expenses - Excessive travel expenses, not to exceed \$25 per family per week, for employment- or education-related travel.
7. Child Support Payments – the amount of monthly payments paid as documented by a divorce decree and/or judgment of the court.
8. Other Amounts - Such amounts as may be provided in the Indian Housing Plan for an Indian tribe.

Affordable Housing. The term “affordable housing” means housing that complies with the requirements for affordable housing under Title II of NAHASDA. The term includes (but is not limited to) permanent housing for homeless persons who are persons with disabilities, transitional housing, and single room occupancy housing.

Affordable Housing Activities. Activities in accordance with Section 202 of NAHASDA, to develop or to 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 Department.
2. Development - The acquisition, new construction, reconstruction, or moderate or substantial rehabilitation of affordable housing, which may include real property acquisition, site improvement, development of utilities and utility services, conversion, demolition, financing, administration and planning, and other related 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, and management of affordable housing projects.
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 program that are designed to carry out the purposes of this Act and are specifically approved by the Secretary as appropriate for such purpose.

Anniversary Date of Lease. Day of the year on which the lease was initially executed.

Annual Income. "Annual Income" has one of the following meanings, as determined by the KIC:

1. Section 8 Definition. "Annual Income" as defined for HUD's Section 8 programs in 24 CFR part 5, subpart F, (except when determining the income of a homebuyer for an owner-occupied rehabilitation project, the value of the homeowner's principal residence may be excluded from the calculation of net family assets); or
2. Census Definition. "Annual Income" as reported under the Census long-form for the most recent available decennial Census. This definition includes:
 - a. wages, salaries, tips, commissions, etc.
 - b. self-employment income;

- c. farm self-employment income;
 - d. interest, dividends, net rental income, or income from estates or trusts;
 - e. Social Security or railroad retirement;
 - f. Supplemental Security Income, Aid to Families with Dependent Children; or other public assistance or public welfare programs;
 - g. retirement, survivor, or disability pensions;
 - h. Any other source of income received regularly, including veterans (VA) payments, unemployment compensation, and alimony; or
3. IRS Definition. Adjusted Gross Income as defined for purposes of reporting under Internal Revenue Service (IRS) Form 1040 series for individual federal income tax purposes

Assistant Secretary. The Assistant Secretary for Public and Indian Housing.

Child. A member of the family, other than the head or spouse, who is under eighteen (18) years of age.

Caregiver. A relative or person with a demonstrated involvement with the applicant (at least 5 years) that supports a claim of obligation for the applicants welfare who will communicate on behalf of the client should he/she become incapable of working directly with the KIC Housing Department staff in a timely and effective manner.

Child Care Expense (see “Adjusted Income”). Amounts anticipated to be paid by the family for the care of children under 13 years of age during the period for which Annual Income is computed, but only where such care is necessary to enable a family member to be gainfully employed or to further his or her education and only to the extent such amounts are not reimbursed. The amount deducted shall reflect reasonable charges for child care, and in the case of child care necessary to permit employment, the amount deducted shall not exceed the amount of Income received from such employment.

Dependent. (Note: Do not use this definition when calculating rents or payments. See definition of “Adjusted Income”.) A member of the family household (excluding foster children), other than the head of family or spouse, who is under 18 years of age or is a disabled or handicapped person, or is a full-time student.

Department. An Indian Housing Department, as defined. For the purposes of this Policy, “Department” shall mean the KIC Housing Department.

Department or HUD. The Department of Housing and Urban Development. For the purposes of this policy, references to “HUD” shall refer to “ONAP”, or the Office of Native American Programs.

Designated for the Elderly or Handicapped. Any development, including any building within a mixed-use development, that was designated for occupancy by the elderly or handicapped at

its inception, or, although not so designated, for which the Department gives preference in tenant selection for all units in the development, or for a building in a mixed-use development, to elderly or handicapped families.

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

Displaced Person. Any person (household, business, nonprofit organization, or farm) that moves from real property, or moves his or her personal property from real property, permanently as a direct result of rehabilitation, demolition, or acquisition for a project assisted under NAHASDA. It includes, but is not limited to:

1. a tenant-occupant of a dwelling unit who moves from the building/complex permanently after the submission to HUD of an IHP that is later approved.
2. any person, including a person who moves before the date described in paragraph 1 that the recipient determines was displaced as a direct result of acquisition, rehabilitation, or demolition for the assisted project.
3. a tenant-occupant of a dwelling unit who moves from the building/complex, permanently, after the execution of the Agreement between the recipient and HUD, if the move occurs before the tenant is provided written notice offering him or her the opportunity to lease and occupy a suitable, decent, safe and sanitary dwelling in the same building/complex, under reasonable terms and conditions, upon completion of the project. Such reasonable terms and conditions include a monthly rent and estimated average monthly utility costs that do not exceed the greater of:
 - a. the tenant-occupant's monthly rent and estimated average monthly utility costs before the Agreement; or,
 - b. 30% of gross household income.
4. A tenant-occupant of a dwelling who is required to relocate temporarily, but does not return to the building/complex if either:
 - a. the tenant-occupant is not offered payment for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied unit, any increased housing costs and incidental expenses; or
 - b. other conditions of the temporary relocation are not reasonable.
5. A tenant-occupant of a dwelling who moves from the building/complex after he or she has been required to move to another dwelling unit in the same building/complex in order to carry out the project, if either:

- a. the tenant-occupant is not offered reimbursement for all reasonable out-of-pocket expenses incurred in connection with the move; or
- b. other conditions of the move are not reasonable.

Notwithstanding, the provisions of paragraph 5.a. of this section, a person does not qualify as a "displaced person" (and is not eligible for relocation assistance under the URA or this section), if:

- 1. the person moved into the property after the submission of the IHP to HUD, but, before signing a lease or commencing occupancy, was provided written notice of the project, it's possible impact on the person (e.g., the person may be displaced, temporarily relocated or suffer a rent increase) and the fact that the person would not qualify as a "displaced person" or for any assistance provided under this section as a result of the project;
- 2. the person is ineligible under 49 CFR 24.2(g)(2).
- 3. the recipient determines the person is not displaced as a direct result of acquisition, rehabilitation, or demolition for an assisted project. To exclude a person on this basis, HUD must concur in that determination.

A recipient may at any time ask HUD to determine whether a specific displacement is or would be covered under this section.

Domestic Violence. Actual or threatened physical violence directed against one or more members of a family by a spouse of the member of the household.

Drug-related Criminal Activity. The illegal manufacture, sale, distribution, use, or the possession with intent to manufacture, sell, distribute or use, of a controlled substance (as such term is defined in Section 102 of the Controlled Substances Act).

Dwelling Unit. A Unit, as defined.

Elderly Families and Near-Elderly Families. A family whose head (or his or her spouse), or whose sole member, is an elderly person or a near-elderly person, respectively. Such terms include two or more elderly persons or near-elderly persons living together, and one or more such persons living with one or more persons determined under the Indian Housing Plan for the agency to be essential to their care or well-being.

Elderly Person. A person who is at least 62 years of age.

Family. A family with or without children, an elderly family, a near-elderly family, a disabled family, a single person, as determined by the KIC.

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

Handicapped Assistance Expenses. Reasonable expenses that are anticipated, during the period for which annual income is computed, for attendant care and auxiliary apparatus for a

handicapped or disabled family member, and that are necessary to enable a family member (including handicapped and disabled members) to be employed; provided that, the expenses are neither paid to a member of the family nor reimbursed by an outside source.

Head of Household. That adult member of the family who is actually looked to, and held accountable for, the family's needs.

Homebuyer. The member or members of a low-income family who have executed a homebuyer (lease with an option to purchase) Agreement with the KIC and who have not yet achieved Homeownership.

Homebuyer Agreement. An agreement by which a family intends to achieve homeownership.

Homebuyer Payment. The payment of a family purchasing a home pursuant to a homebuyer agreement.

Homeless Family. A family who is without safe, sanitary and affordable housing even though it may have temporary shelter provided by the community; or a family who is homeless as determined by the KIC.

Homeowner. A former homebuyer who has achieved ownership of his or her home and has been conveyed title to the home.

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

IHBG. Indian Housing Block Grant.

Income. Annual Income, as defined.

IHP. Indian Housing Plan, as defined in Section 102 of NAHASDA.

Income Limits. HUD established Low and Very Low Income Limits that are used to determine if assisted housing program applicants qualify for admission to the programs, and are based on HUD estimates for area median family income.

Indian. Any person who is a member of an Indian tribe, as defined.

Indian area. The area within which an Indian Housing Department is authorized to provide low-income housing.

Indian Area. The area within which an Indian tribe operates affordable housing programs or the area in which a TDHE is authorized by one or more Indian tribes to operate affordable housing programs. Whenever the term 'jurisdiction' is used in NAHASDA it shall mean 'Indian Area' except where specific reference is made to the jurisdiction of a court.

Indian Tribe.

1. In General - A tribe that is a federally recognized tribe or a state-recognized tribe.

2. Federally Recognized Tribe - Any Indian tribe, band nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975.
3. State-Recognized Tribe
 - a. In General - Any tribe, band, nation, pueblo, village or community that has been recognized as an Indian tribe by any state; and for which an Indian Housing Department has, before the effective date stated in Section 107 of NAHASDA, entered into a contract with the Secretary pursuant to the 1937 Act for housing Indian families and has received funding pursuant to such contract within the 5-year period ending upon such effective date.
 - b. Conditions - Notwithstanding above, the allocation formula under Section 302 of NAHASDA shall be determined by a state-recognized tribe under tribal membership eligibility criteria in existence on the date of the enactment of NAHASDA; and nothing in this paragraph shall be construed to confer upon a State-recognized tribe any rights, privileges, responsibilities, or obligations otherwise accorded groups recognized as Indian tribes by the United States for other purposes.

Live-In Aide. A person who resides with an elderly, disabled or handicapped person (or persons) and who (a) is determined by the Department to be essential to the care and well-being of the person; (b) is not obligated for support of the person; and (c) would not be living in the unit except to provide necessary supportive services.

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

Median Income. With respect to an area that is an Indian area, the greater of:

1. the median income for the counties, previous counties, or their equivalent in which the Indian area is located, or
2. the median income for the United States.

Medical Expenses* (see definition of "Adjusted Income"). Those out-of-pocket medical expenses, including medical insurance premiums, that are anticipated during the period for which Annual Income is computed, and that are not covered by insurance.

Monthly Adjusted Income. One-twelfth (1/12) of the Adjusted Income.

Monthly Income. One-twelfth (1/12) of the Annual Income.

NAHASDA. The Native American Housing Assistance and Self-Determination Act of 1966 (25 U.S.C. 4101 et seq.).

Near Elderly Family (see “Elderly Families and Near-Elderly Families). A family whose head or spouse (or sole member) is at least 55 years of age but below the age of 62 years.

Near Elderly Person. A person who is at least 55 years of age and less than 62 years of age.

Net Family Assets. The net cash value, after deducting reasonable costs that would be incurred in disposing of real property, savings, stocks, bonds and other forms of capital investment, excluding interest in Indian Trust land. In determining Net-family Assets, the value of any assets disposed of by an applicant or Tenant for less than fair market value (including disposition in trust but not in foreclosure or bankruptcy sale) during the two (2) years preceding the date of application for the program or reexamination, as applicable, shall be included in excess of the consideration received therefore. In the case of a disposition as part of a separation or divorce settlement, the disposition will not be considered to be for less than fair market value if the applicant or Tenant receives important consideration not measurable in dollar terms.

1937 Act. The United States Housing Act of 1937 (42 U.S.C. 1437 et seq.).

Non-Elderly Family. A family whom head of family and/or spouse is less than 62 years of age and neither handicapped nor disabled.

Nonprofit. With respect to an organization, association, corporation or other entity, that no part of the net earnings of the entity inures to the benefit of any member, founder, contributor or individual.

Office of Native American Programs (ONAP). The office of HUD that has been delegated authority to administer programs under 24 CFR § 1000.

Occupancy Standards. Standards established by the Department governing the allowable size of family occupying a particular size of Dwelling Unit.

Overcrowded Unit. A Unit occupied by more than the number of persons permitted by the Department’s Occupancy Standards.

Person with Disabilities. A person who:

1. has a disability as defined in Section 223 of the Social Security Act;
2. has a development disability as defined in section 102 of the Development Disabilities Assistance and Bill of Rights Act;
3. has a physical, mental or emotional impairment which:
 - a. is expected to be of long-continued and indefinite duration;

- b. substantially impedes his or her ability to live independently; and
 - c. is of such a nature that such ability could be improved by more suitable housing conditions
4. The term “person with disabilities” includes persons who have the disease of acquired immunodeficiency syndrome or any condition arising from the etiologic agent for acquired immunodeficiency syndrome.
 5. Notwithstanding any other provision of law, no individual shall be considered a person with disabilities for purposes of eligibility for housing assisted under this part solely on the basis of any drug or alcohol dependence. The Secretary shall consult with Indian tribes and appropriate federal agencies to implement this paragraph.

Physical, Mental or Emotional Impairment.

1. Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological, musculoskeletal, special sense organs, respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or
2. Any mental or psychological condition, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
3. The term “physical, mental, or emotional impairment” includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, autism, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, Human Immunodeficiency Virus infection, mental retardation, and emotional illness.

Preference. A means of ensuring that housing assistance is directed to those with certain housing needs by providing housing or assistance to applicants in certain categories prior to others on the wait list who applied earlier.

Public Assistance. Welfare or similar payments to families that are made under programs funded by federal, state and/or local governments.

Recipient. An Indian tribe or the entity for one or more Indian tribes that is authorized to receive grant amounts under NAHASDA on behalf of the tribe or tribes.

Secretary. The Secretary of the Department of Housing and Urban Development.

Single Person. A person living alone, or intending to live alone, who does not qualify as an elderly family, a near-elderly family, a displaced person, or as the remaining member of a tenant family.

Spouse. A member of the family household who is not a dependent but who is either the husband or wife of the head of family or has established a stable family relationship with the head of family.

Stable Family Relationship. A family relationship established by evidence that two (2) or more persons have shared residency, income, and resources for a period of not less than one (1) year.

State. Any of the several States of the United States of America, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, and any other territory or possession of the United States and Indian tribes.

Subsequent Homebuyer. Any homebuyer other than the homebuyer who first occupies a home pursuant to a homebuyer agreement.

Tenant Rent. Monthly amount the family must pay to the Department for occupancy of the dwelling unit. Tenant rent equals the total tenant payment less the utility allowance, if any.

Term. Means any one of the periods into which a particular school year is divided for tuition purposes and fixed as such for a particular school

Total Development Cost. As published by HUD, the maximum amount of funds (from all sources) that may be used to develop or acquire/rehabilitate affordable housing.

Total Tenant Payment. The calculated monthly rent payable by the eligible family for occupancy of the dwelling unit before utility allowance, if any.

Tribally Designated Housing Entity (TDHE). The terms 'tribally designated housing entity' and 'housing entity' have the following meaning:

1. Existing IHA's- With respect to any Indian tribe that has not taken action under subparagraph 2, and for which an Indian housing authority:
 - a. was established for purposes of the United States Housing Act of 1937 before the date of the enactment of this Act that meets the requirements under the United States Housing Act of 1937;
 - b. is acting upon such date of enactment as the Indian housing authority for the tribe, and
 - c. is not an Indian tribe for purposes of this Act; the terms mean such Indian housing authority.
2. Other Entities- With respect to any Indian tribe that, pursuant to this Act, authorizes an entity other than the tribal government to receive grant amounts and provide assistance under this Act for affordable housing for Indians, which entity is established:

- a. by exercise of the power of self-government of one or more Indian tribes independent of state law, or
 - b. by operation of state law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska, the terms mean such entity.
3. Establishment- A tribally designated housing entity may be authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity.

Unauthorized Non-Family Resident. Occupancy of a unit who is not a member of the family, as specified in the lease, and whose presence in the unit has not been authorized by the Department.

Unit. The residence (apartment, house, etc.) owned and/or managed by the Housing Department and rented or leased to an eligible family. The size of the unit is determined by the number of bedrooms.

Utility Allowance. Where the cost of utilities and other housing services for a dwelling unit (not including telephone service) is not included in the tenant rent but is the responsibility of the family, an amount equal to the estimate, made and approved by the KIC, of the monthly cost of a reasonable consumption of such utilities and other services for the unit by an energy-conservation household of modest circumstances consistent with the requirements for a safe, sanitary and healthful living environment.

Very Low-Income Family. A family whose Income does not exceed fifty percent (50%) of the median income for the area, as determined by HUD, with adjustments for smaller or larger families.

Violent Criminal Activity. Any criminal activity that has as one of its elements the use, attempted use, or threatened use of physical force against a person or property of another. The Housing Department will take into consideration the length of time since the last evidence of such activity, and the record of rehabilitation efforts on behalf of the family member.

Visitor. A person temporarily residing in a dwelling unit with a family for a period of not more than fourteen (14) days during any thirty day period. Persons residing longer than fourteen (14) days, without the prior permission of the Department, shall be determined to be

Unauthorized Non-Family Residents. The repeated presence of additional persons in the Unit and/or their use of the Unit for purposes such as receiving mail or storing possessions may be cause for the family's assistance to be terminated.

Welfare Assistance. Welfare or other payments to families or individuals, based on need, that are made under programs funded, separately or jointly, by federal, state or local governments.

APPENDIX A –POTENTIAL CONFLICT OF INTEREST FORM

June 28, 2011

Name of Administrator
Office of HUD
Street Address
City, State and Zip

RE: Potential Conflict of Interest
Applicant:

Dear HUD Administrator

Enclosed as required by Ketchikan Indian Community Housing Authority/Tribe (KICHA) Conflict of Interest Policy is a copy of a "Public Posting Notice of Statement of Potential Conflict of Interest." This Potential Conflict of Interest is for _____ Who is _____ [Relative] and a Tribal Member. _____ has applied for Native American Housing Assistance and Self Determination Act (NAHASDA) program and meets the eligible criteria for the program.

The Public posting period began on June 28, 2011 and will continue for the required ten (10) calendar days.

If you have any questions, please do not hesitate to contact our office.

Sincerely,

Housing Director

Enclosure:
KICHA Conflict of Interest of Public Posting

Public Posting Notice of Statement of Potential Conflict of Interest

Posting No: _____

Per the Department of Housing and Urban Development (HUD) NAHASDA regulations, specifically section 24 CFR 1000.30-100.36, the housing authority/tribe must public disclose when an individual directly affiliated with the organization has qualified and been selected to receive financial assistance through the NAHASDA Program.

A potential Conflict of Interest is being disclosed due to the following:

Name of participant/Applicant: _____

Participant/Applicant is a immediate relative of _____ (qualifying employee, Housing Committee, Tribal Board member, or any of their immediate relatives.)

Participant/Applicant has applied and met the requirements for participating in the KICHA's _____ Program which consists of the following criteria for eligibility:

- Met the low-income guidelines published by HUD.
- Qualified for preference in selection as Alaska Native/American Indian.
- Met all other eligibility requirements per the KICHA Indian Housing Program Policies and Procedures.

Please be advised that any public comments must be received at the KICHA Office within ten (10) calendar days of the initial date of this posting. When counting a specific number of days, the days of the beginning action (initial date of posting), and the day of the ending action (final posting date), shall be counted. All conflict of interest comments must be in a sealed envelope, addressed as: "KICHA Conflict of Interest Statement". Comments that are received will be reviewed by the Housing Director and the Housing Committee at the next regular scheduled meeting. The KICHA will not consider any comments received after the end of this ten (10) day comment period.

On the ___ day of _____, 2005, at this time of ___am/pm, this Potential Conflict of Interest was posted at Ketchikan Indian Community Housing Authority Office Located at 615 Stedman Street, Ketchikan, Alaska 99901 and on the ___day of _____, 20__, at the time of ___am/pm, this form will be taken down.

Signed: _____

Title: _____

APPENDIX B – RELOCATION NOTIFICATION LETTER
GENERAL INFORMATION NOTIFICATION LETTER

Dear _____:

On _____ (Date), the residents of _____ (Identifying no., etc.) _____ project were notified that the Ketchikan Indian Community is preparing to perform modernization work on your housing unit. The work items identified during the partnership process planning meeting are the items that will be performed during the modernization work.

This notice is to inform you that, when your project is rehabilitated, you will not be displaced. Therefore, we urge you not to move anywhere at this time. (If you do elect to move for reasons of your choice, you will not be provided with relocation assistance.) This notice guarantees you the following:

1. You will be able to re-occupy your home or another suitable, decent, safe and sanitary home in the same project or locality upon completion of the rehabilitation. Your monthly rent will continue to be computed at 30 percent of adjusted income, and it will not increase as a result of the rehabilitation work.
2. If you are required to temporarily relocate so that rehabilitation work can be completed, suitable housing will be made available to you for the temporary period, and you will be reimbursed for all reasonable extra expenses, including all moving costs and any increase in housing costs. The temporary unit will be decent, safe, and sanitary and all other conditions of the move will be reasonable.

During your temporary relocation period while your home is being rehabilitated, the Ketchikan Indian Community will make every effort to assist you in any way possible to minimize disruption to you and your family. Again, we urge you not to move at this time. You will be provided sufficient notice prior to the move. The Ketchikan Indian Community will make every effort to assist you in accommodating your needs. Because Federal assistance would be involved, you will be protected by the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended.

This notice is important and should be retained. You will be contacted as we proceed. If you have any questions or desire counseling services please contact (Name) , (Title), at (Phone), (Address) . Remember: do not move before we have a chance to discuss eligibility for assistance with you.

Sincerely,

EXHIBIT A

FINAL NOTIFICATION LETTER

Dear _____:

You were notified by letter on _____ (Date of Letter) that the Ketchikan Indian Community was providing modernization funding to rehabilitate your home. Based on the nature and extent of the work to be done, it will be necessary for you and your family to temporarily relocate during the construction period. Based on the schedule of project implementation, the period of temporary relocation will begin on (Date) , and should be finished by (Date) .

The following dwellings are available for occupancy by your family during the period of temporary relocation. You can choose not to use these housing resources and may choose an alternative, however, the conditions of decent, safe and sanitary must be met to retain eligibility for relocation assistance.

Location: _____

Type: _____

Location: _____

Type: _____

We will be in contact with you if it becomes necessary to change the anticipated dates noted above. A firm date of commencement of the rehabilitation work will be provided no later than 45 days before work begins. Based on the project implementation schedule, you should be able to re-occupy your home by (Date).

A schedule of eligible relocation benefits is as follows;

If there are any questions, please contact _____ at _____

Sincerely,

**Ketchikan Indian Community Housing Authority
Admission & Occupancy Policy**

1. Eligibility for Admission

To be eligible for admission an applicant must meet one of the following requirements to qualify as a family that consists of:

A. Family Income

The family's Annual Income cannot exceed the applicable income limits for admission established by the Federal regulations. The Annual Income definition used shall be the one that is most advantageous for the applicant family.

Exception to maximum income limit

- KICHA may provide for admission of applicants to the Homeownership Program and Rental Housing Program whose income is between 80% and 100% of median income if it is determined that there is a need for housing for such families that cannot reasonably be met except under this program.
- Total Indian Housing Block Grant (IHBG) funds used for this purpose cannot exceed 10% of the annual grant allocation.

Unless the family is determined to be essential and there is no other housing available, assistance will be prorated as required by program regulations.

B. Native American

At least one member of the family must be a member of a federally-recognized tribe.

C. Desirability

In determining eligibility the following factors also shall apply:

- 1) A home ownership participant who has given up his/her home shall be ineligible for two (2) years.
- 2) Any participant abandoning his/her home shall be ineligible for two (2) years.
- 3) Any participants evicted for non-payment shall not be eligible until arrears are paid in full.

Families determined to be ineligible shall be notified in writing immediately of the reason(s) therefore, and, if requested, the applicant shall be granted a private conference regarding his/her eligibility status.

2. Preference in selection of Tenants

A. In selecting applicants to fill vacancies, the Ketchikan Indian Community Housing Authority will give consideration to the following in the order shown.

1. Ketchikan Indian Community enrollees
2. Applicants' age, disability or handicapped.
3. Whether applicant is a veteran or serviceman of the U.S. Military.

4. Whether admission to the project would prove detrimental to the project or its residents by established records of any of the following:
 - 1) Non-payment of rightful obligations,
 - 2) Imperil to health, safety, or morals of neighbors,
 - 3) Destruction of property,
 - 4) Disregard for rules of occupancy and rights of others.
5. Other applicants in application-date order

B. Elderly Family selection.

1. Elderly or near elderly families will be given preference for units specifically built or modified for elderly families.
2. Near elderly single persons will be given preference over other single persons to units for elderly.

3. Eligibility Assistance Plan (waiting list)

- A. Each applicant shall be assigned his appropriate place on a community wide basis in a sequence based upon factors affecting preference or priority established by regulation or by the local Ketchikan Indian Community Housing Authority's policy.
- B. At the time a unit becomes available, the applicant first on the waiting list shall be offered a suitable unit at the vacancy location.
- C. If an applicant rejects a unit offered, he/she shall be moved to the bottom of the eligibility list. *- How do you document Refused*
- D. Reassignment or transfer to another dwelling unit may be made to correct occupancy standards.

4. Schedule of Rents

- A. Rents will not exceed 30% of monthly adjusted income.

5. Definition of Income for Determining Rent

Adjusted income, means total family (annual) income less the following.

- 1) \$480.00 Deduction for each minor, full time student, or dependent adult who is dependent upon the family for support.
- 2) Dependent care deduction – reasonable amounts paid when deemed necessary for head of household or spouse to be employed or for education.
 - a) Not to exceed employment income.
 - b) Reimbursement by outside agencies for dependent care is not excluded.
- 3) Families may be allowed a deduction for excessive travel expenses for employment or for education, not to exceed \$25.00 per week.
- 4) Handicapped assistance expense – deduction allowed if it is necessary to help head of household or spouse be employed.

- 5) Medical expenses – deduction allowed is amount exceeds 3% of annual income (elder families only).
- 6) \$400.00 deduction for elderly households

6. Leasing

- A. Prior to admission a lease shall be signed by the family head and spouse and executed by the Ketchikan Indian Community Housing Authority. The head of family who is legally and morally responsible for the group and who is actually looked to and held accountable for the family needs.
- B. The lease is to be current at all times and must be compatible to Ketchikan Indian Community Housing Authority, placed in the tenant’s file, and a copy sent to the tenant.

7. Occupancy Standards

- A. The following standards will determine the number of bedrooms required to accommodate a family of given a size.
 - 1) Standards may be waived when a vacancy problem exists and it is necessary to achieve or maintain full occupancy.
 - 2) Persons per unit size. (By bedrooms)

Number of bedrooms	Minimum	Maximum
One	1	2
Two	2	4
Three	3	6
Four	6	8

8. Annual Examinations

Eligibility for continued occupancy shall be determined periodically in accordance with established examination schedules.

9. Rent Reviews

- A. Rent will be reviewed each year at the time of annual re-examination of income to determine eligibility for continued occupancy.
- B. Upon income review, if it is found that the rent being charged no longer conforms to the approved rent schedule, the rent will be adjusted accordingly.
- C. Once rent is established, such rental rate shall remain in effect until the next annual re-examination or until circumstances occur that warrant interim adjustments.
 - 1) Discontinuance of present income.
 - 2) Whenever a family’s income increases or decreases.
 - 3) When required by changes in HUD regulations.

- D. Tenants are to be notified in writing of any changes in rent resulting from a rent review.
- E. Increases in rent resulting from rent reviews are to be effective on the first day of the second month following the change, given at least a 30-day notice.
- F. Decreases in rent resulting from rent reviews are to be effective on the first day of the second month following the changes.

10. Verifications of Applicant's Statements and Income

- A. Applicants and tenants shall be required to furnish proof of their statements to reasonable assure occurrence.
- B. Certification by applicants will normally be considered sufficient verification of a family composition, displacement, residency, housing conditions, or need. The applicant or tenant's signature on the application for dwelling or continued occupancy provides certification.
- C. All income shall be verified at the time of admission or annual re-examination through:
 - 1) Employer's W-2 forms
 - 2) Income tax returns
 - 3) Check stubs
 - 4) Certificates of awards
 - 5) Other means to ensure accuracy
- D. Decreases in income must be verified.
- E. For those claiming disability as defined in the Social Security Act, but who are not receiving benefits, doctors' certifications as to the degree and possible length of such disability shall be required.
- F. All determinations shall be fully documented in tenant files.

11. Misrepresentation

The tenant is to be notified in writing of any misrepresentations or lease violations revealed through the verification of an annual re-examination, rent review, or other occurrence, and any other corrective action required by the Ketchikan Indian Community Housing Authority.

**Aleutian Housing Authority
Addendum B
Selection Rating**

Applicant(s) Name: _____

<u>Max Points</u>	<u>Rating Category</u>	<u>Total Points</u>
7 points	Elder, 60+	_____
5 points	First Time Home Buyer	_____
5 points	Tribal Member	_____
7 points	Disabled	_____
5 points	Children in home (+ 2 additional points for each child)	_____ _____
5 points	Resident for 1+years	_____
3 points	Involuntary displaced	_____
2 points	Sub-standard housing	_____
3 points	U.S. Citizen	_____
5 points	Regional Member	_____
2 points	Veteran	_____
TOTAL POINTS		_____

Completed by: _____ **Date:** _____

MODEL TDHE/TRIBE **RENTAL ASSISTANCE** **PROGRAM POLICY**

These policies and procedures were adopted by the (name of TDHE/TRIBE) by Resolution # _____ on _____, _____.

(Note: This is a model policy and the TDHE/TRIBE may choose to delete or add any sections or numbers used in this sample. Should the TDHE/TRIBE choose to make any changes, the TDHE/TRIBE should ensure that the policy remains in compliance with the Native American Housing Assistance and Self-Determination Act.)

Policy Statement

The governing body of the (NAME OF TDHE/TRIBE) recognize the need to develop a program that provides assistance to low income tribal members whose needs cannot be met through the existing housing programs. This program is created to supplement existing (NAME OF TDHE/TRIBE) housing stock by providing rental assistance to eligible families. (NAME OF TDHE/TRIBE) will implement the Rental Assistance Program in a manner consistent with the overall mission of the (NAME OF TDHE/TRIBE).

1. Definitions

(Note: The definitions included in this model policy are the statutory or regulatory definitions unless noted at the end of the definition. The non-statutory or regulatory definitions should be considered for inclusion as they may be beneficial in the implementation of this policy. It is suggested that the tribe/THDE include in this policy the same applicable definitions described in their Eligibility, Admissions, & Occupancy Policies & Procedures.)

A. Adjusted Income. The term '***adjusted income***' means the annual income that remains after excluding the following amounts:

- (1) YOUTHS, STUDENTS, AND PERSONS WITH DISABILITIES- \$480 for each member of the family residing in the household (other than the head of the household or the spouse of the head of the household)-
 - (a) who is under 18 years of age; or
 - (b) who is 18 years of age or older and a person with disabilities or a full-time student.

- (2) ELDERLY AND DISABLED FAMILIES- \$400 for an elderly or disabled family.
- (3) MEDICAL AND ATTENDANT EXPENSES- The amount by which 3 percent of the annual income of the family is exceeded by the aggregate of-
 - (a) medical expenses, in the case of an elderly or disabled family; and
 - (b) reasonable attendant care and auxiliary apparatus expenses for each family member who is a person with disabilities, to the extent necessary to enable any member of the family (including a member who is a person with disabilities) to be employed.
- (4) CHILD CARE EXPENSES- Child care expenses for the care of children under the age of (insert #, for example, 13) to the extent necessary to enable another member of the family to be employed or to further his or her education.
- (5) EARNED INCOME OF MINORS- The amount of any earned income of any member of the family who is less than 18 years of age.
- (6) TRAVEL EXPENSES- Excessive travel expenses, not to exceed \$25 per family per week for employment or education related travel.

(Note: In accordance with Sec 4 (G) of NAHASDA, the governing body of the TDHE may wish to include other amounts in the definition of adjusted income.)

B. Annual Income.

(Note: Refer to 24CFR1000.10 (b) (1) listing the options that may be used for defining annual income. Many tribes/TDHEs are using option (3) which states that annual income shall be the adjusted gross income as defined for purposes or reporting under Internal Revenue Service (IRS) Form 1040 series for individual Federal annual income tax purposes.)

C. Drug Related Criminal Activity. The term '*drug-related criminal activity*' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as such term is defined in section 102 of the Controlled Substances Act).

- D. **Elderly and Near-elderly Families.** The terms '***elderly family***' and 'near elderly families' means a family whose head (or his or her spouse), or whose sole member, is an elderly or near-elderly person, respectively. Such terms include two or more elderly persons or near elderly persons living together, and one or more such persons living with one or more persons determined by the (NAME OF TDHE/TRIBE) to be essential to their care or well being.
- E. **Elderly Person.** The term '***elderly person***' means a person who is at least 62 years of age.
- F. **Family.** ***Family*** is defined as a family with or without children, an elderly family, a near-elderly family, a disabled family, and a single person. **(Note: The definition of a family may be determined by the tribe/TDHE based on several factors including your local culture and traditions.)**
- G. **Full Time Student.** A person who is enrolled in a certified educational institution, such as a vocational school with a certificate or diploma program or an institution offering a college degree, and is carrying a subject load that is considered full-time for students under the standards and practices of the institution attended. **(Note: This definition of a full time student is optional and is only a suggestion to be used for this policy as many students usually wish to participate in the rental assistance program. It is neither statutory or regulatory.**
- H. **HUD.** The U.S. Department of Housing and Urban Development.
- I. **Indian.** Any person recognized as being an Indian or Alaska Native by an Indian Tribe, the Federal government or any state.
- J. **Indian Area.** **(Note: In compliance with 24CFR 1000.10, the definition of the Indian area means the area within which the tribe operates affordable housing programs or the area in which the TDHE is authorized by one of more tribes to operate affordable housing programs.)**
- K. **Indian Tribe.**
- (1) The term '***Indian tribe***' means a tribe that is a federally recognized tribe or a State recognized tribe.

- (2) The term '**federally recognized tribe**' means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians pursuant to the Indian Self-Determination and Education Assistance Act of 1975.
- (3) The term '**State recognized tribe**' means any tribe, band, nation, pueblo, village, or community that has been recognized as an Indian tribe by any State and for which an Indian Housing has, before the effective date under section 705 of NAHASDA, entered into a contract with HUD pursuant to the United States Housing Act of 1937 for housing for Indian families and has received funding pursuant to such contract within the 5-year period ending upon such effective date.

L. Low Income Family. The term '**low-income family**' means a family whose income does not exceed 80 percent of the median income for the area, as determined by HUD with adjustments for smaller and larger families.

M. Median Income. The term '**median income**' means the greater of- the median income for (NAME OF TDHE/TRIBE) Indian area, which the Secretary shall determine;
or
the median income for the United States that shall be an addendum to these procedures.

N. NAHASDA. The Native American Housing Assistance and Self-Determination Act passed by the U.S. Congress in 1996.

O. Payment assistance.
(Note: The following factors are only suggestions to be used to calculate assistance amounts. The suggested definition is neither statutory nor regulatory.)

- (1) The factors used to determine the amount of assistance to be paid to the owner on behalf of the participant are:
- (a) Annual income of the family

- (b) Fair Market Rent for counties in the (NAME OF TDHE/TRIBE) service area as determined by HUD. The Fair Market Rent figures for each respective county shall be attached as appendices to this policy and shall be updated when published by HUD.
- (2) The assistance amount a family will be eligible to receive will be the lesser of the actual rent or the fair market rent minus 30 percent. Under no circumstances will the housing authority enter into an agreement where the family is required to pay 30 percent of the family's adjusted monthly. Rent cannot exceed the fair market rent.

Example:

FMR	Rent	30% of Adjusted Income	Assistance
1000	800	200	600
1000	1000	200	800
1000	1200	200	Rent too High

P. Persons with Disabilities. (Note: Refer to 24CFR1000.10 (b) for the definition of Persons with Disabilities which is regulatory.)

2. General Information

A. Eligibility & Admission

- (1) The eligibility and admission criteria for assistance utilizing this program shall be the same as those described in the (NAME OF TDHE/TRIBE) adopted Eligibility, Admission & Occupancy Policies & Procedures. The Occupancy requirements described in the (NAME OF TDHE/TRIBE) adopted Eligibility, Admission & Occupancy Policies do not apply to this program.
- (2) Applications received from any family or person(s) not meeting the established criteria will be referred to other state or local agencies for housing assistance.
- (3) Applicants who owe (NAME OF TDHE/TRIBE) money are not eligible to receive assistance.

- (4) Applicants who have been previously terminated or evicted from any program administered by (NAME OF TDHE/TRIBE) are not eligible to receive assistance.
- (5) A participant may not receive rental assistance while receiving the benefit of any other form of housing subsidy for the same dwelling unit.

B. Term

- (1) Rental assistance may be provided for up to (insert #, for example, 2) years for a non-elderly family.
(Note: The following is optional but is used often as many tribes choose not to put a limit on the amount of time an elder may receive rental assistance.)
- (2) Elderly families may be provided rental assistance for as long as they comply with the terms of this program.

3. Leases - Approval of.

- A.** All lease terms must be for a term of one year automatically renewed at the end of the year unless a 30-day notice is provided by the participant or owner of intent not to renew the lease. Such notice must be provided by the party giving notice to (NAME OF TDHE/TRIBE). The owner is not required to continue with a one-year lease after the initial lease period and may opt to change to a month-to-month lease after the first year.
- B.** (NAME OF TDHE/TRIBE) will provide the participant a copy of the applicable landlord and tenant laws along with and housing discrimination laws and a list of NAHASDA requirements to give to potential owners to assist them in submitting an acceptable lease.
- C.** Upon receipt of the proposed lease, the (NAME OF TDHE/TRIBE) will review it and determine if there are any unlawful provisions in the lease and that all the necessary provisions as defined in Section 207 of NAHASDA are included.
- D.** If any unlawful provisions are found, the (NAME OF TDHE/TRIBE) will require the landlord to strike them. If the owner is not willing to strike them, the lease will be disapproved.

- E. If there is any necessary information missing from the lease in accordance with NAHASDA, the (NAME OF TDHE/TRIBE) will require the landlord to put these items in writing as an addendum to the lease. If the landlord refuses to add the necessary lease information to the lease, the lease will be disapproved.
- F. If the lease covers all necessary provisions required and are determined to have no unlawful provisions, the (NAME OF TDHE/TRIBE) will approve the lease.
- G. The (NAME OF TDHE/TRIBE) is not a party to the lease and assumes no responsibility in its enforcement.
- H. If the owner of the property is related to the applicant the request for assistance will be denied.

4. **Housing Standards**

A. **Minimum Housing Quality Standards (HQS)**

- (1) The (NAME OF TDHE/TRIBE) will utilize the adopted housing quality standards adopted in determining if the unit is a decent, healthy and safe place to live.
- (2) The (NAME OF TDHE/TRIBE) will provide the participant with information to assist them in finding housing that meets the minimum requirements.

B. **Inspections**

- (1) The (NAME OF TDHE/TRIBE) will conduct, or arrange to have conducted, a pre-occupancy inspections utilizing the adopted HQS and inspection form to insure the unit is a healthy, safe, and decent place to reside prior to approval of assistance payments. If the unit does not pass the inspection, assistance can be approved if the landlord is willing to make necessary repairs to bring the unit up to the minimum requirements. If the landlord is not willing to make the repairs assistance cannot be approved.
- (2) The (NAME OF TDHE/TRIBE) will also conduct special inspections if it is reported that the dwelling no longer meets the minimum requirements and the owner is unwilling to make the necessary repairs. If it is determined that the unit no longer meets the minimum requirement, the (NAME OF TDHE/TRIBE) will request the necessary repairs in writing to the landlord. If the landlord is unwilling to make the repairs, the (NAME OF TDHE/TRIBE) will

allow the tenant to transfer to a unit that does meet the requirements.

- (3) If the participant causes damage to the unit, it is the owner's responsibility to take appropriate action in accordance with the lease and state and local law.

5. Payments - Execution of agreements for assistance.

- A. Once the lease and the unit have been approved, and the owner has signed the agreement to abide by the owner obligation statement, the (NAME OF TDHE/TRIBE) will sign a contract with the owner for the assistance payment amount showing the effective date of payments and the amount of the monthly payment.
- B. If a participant moves into a unit during the month rather than at the beginning of the month, the assistance payment will be pro-rated for the remaining days left in the month and a check will be issued within three working days. The assistance payment will be made thereafter on or before the first day of each month. The participant is not responsible for the approved assistance payment made by the (NAME OF TDHE/TRIBE).

6. Transfers - When allowed

- A. Transfers will not be allowed during the initial lease period unless both parties are willing to break the lease and there is good cause to break the lease as determined by the (NAME OF TDHE/TRIBE).
- B. Transfer requests after the initial lease period will be approved only under the following conditions:
 - (1) The dwelling no longer meets HQS standards (not caused by the participant) and the owner refuses to make the necessary repairs.
 - (2) The family needs a smaller or larger unit in accordance with occupancy standards
 - (3) The family needs to relocate closer to work or school, or medical facilities, or for safety reasons such as an act or threat of violence against the family (transfer for these reasons, must be verifiable).
 - (4) The owner does not wish to renew the lease.

7. Certification Requirements.

All participants will be required to be recertified at least annually in accordance with the adopted Eligibility, Admission & Occupancy Policy to determine if they are still eligible for the program and if the assistance amount needs to be adjusted.

All participants who are over income for the program at the time of re-certification will be given at least 30 days notice of termination. The owner will also receive a copy of this notice.

8. Obligations.

A. Participant Obligations

- (1) When the participant's lease and unit are approved, the participant must sign an agreement to fulfill and abide by the required obligations for participation in the program as shown below. Any breach of the participant obligations is grounds for termination of assistance.
- (2) The family must:
 - (a) Supply the (NAME OF TDHE/TRIBE) with any information that the (NAME OF TDHE/TRIBE) determines to be necessary for use in a regularly scheduled re-examination or interim re-examination of family composition and income.
 - (b) Disclose and verify social security numbers.
 - (c) Supply any information requested by the (NAME OF TDHE/TRIBE) to verify the family is living in the unit or information related to family absence from the unit.
 - (d) Promptly notify the (NAME OF TDHE/TRIBE) if the family will be away from the unit for more than 14 days.
 - (e) Notify the (NAME OF TDHE/TRIBE) and the owner in writing at least 30 days prior to moving out of the unit or terminating the lease.

- (f) Use the assisted unit for residence by the family only. The unit must be the family's only residence.
- (g) Request (NAME OF TDHE/TRIBE) and landlord approval to add any other family members as occupants of the unit.
- (h) Give the (NAME OF TDHE/TRIBE) a copy of any owner eviction notice, or notice of lease termination.
- (i) Pay all utility bills and the portion of the rent the participant is responsible for (if any).

(3) The family must not:

- (a) Own or have any interest in the unit.
- (b) Commit any serious or repeated violation of the lease.
- (c) Commit fraud, bribery or any other corrupt criminal act in connection with the program.
- (d) Participate in illegal drug activity or violent criminal activity.
- (e) Sublease or let the unit or assign the lease or transfer the unit.
- (f) Receive any other housing subsidy for the same unit or a different unit from any state, federal or local housing program.
- (g) Damage the unit or premises (other than normal wear and tear) or permit any guest to damage the unit or premises.

(4) When a family breaks up

- (a) If there are children included in the household, the assistance will remain with the parent who has custody and control of the children.
- (b) If children are split between the parents, the tribal member parent will retain the assistance.

- (c) If there are no children in the household, the assistance will remain with the participant who signed the lease if he/she is a tribal member.
- (d) Family members who are forced to leave as a result of violence will retain the assistance.

B. Owner Obligations. Prior to execution of the contract for assistance payment by the (NAME OF TDHE/TRIBE) to the owner on behalf of the family, the owner must agree to the following obligations in the program and must sign a statement that they are willing to adhere to these obligations before assistance can be approved.

- (1) The owner is responsible for conducting background checks and contacting references to determine the participant's suitability as a renter. The (NAME OF TDHE/TRIBE) does not screen the tenants.
- (2) The owner is responsible for compliance issues concerning any and all conditions of the lease.
- (3) The owner is responsible for providing the (NAME OF TDHE/TRIBE) with a copy of any eviction or lease termination.
- (4) The owner must notify the (NAME OF TDHE/TRIBE) if any participant vacates a unit.
- (5) The owner must provide the (NAME OF TDHE/TRIBE) with a copy for approval of any changes to the lease during the tenancy of a participant of this program.

C. (NAME OF TDHE/TRIBE) Obligations

- (1) The (NAME OF TDHE/TRIBE) is responsible for payment of the assistance amount to the owner each month by the first of each month.
- (2) The (NAME OF TDHE/TRIBE) is responsible for conducting an inspection prior to approval of the unit, and for special inspections if the participant reports it that the unit no longer meets the minimum required standards and the damages were caused by maintenance neglect of the owner.
- (3) The (NAME OF TDHE/TRIBE) is responsible for conducting the initial income verification to determine eligibility and conducting recertifications for continued eligibility of participants at least annually.

- (4) The (NAME OF TDHE/TRIBE) is responsible for providing notice to the landlord and participant if Assistance amounts change or cease.

9. **Terminations**

A. Terminations by the owner. During the term of the lease the owner may not terminate tenancy except for:

- (1) Serious or repeated violations of the terms of the lease.
- (2) Violations of state, federal or local law that relate to occupancy or use of the unit.
- (3) The owner desires to use the unit for personal use, or desires to sell or renovate the property.
- (4) The owner may not terminate tenancy for non-payment of the (NAME OF TDHE/TRIBE) assistance payment.
- (5) The owner must give the tenant written notice of the grounds for the termination and provide a copy of any such notice to the (NAME OF TDHE/TRIBE). Any such notice must be in conformance with local or state law.

B. Termination of Tenancy by the Participant.

- (1) The family may terminate tenancy after the first year of the lease.
- (2) Terminations during the first year are allowed only if the owner agrees to release the family from the lease in writing and the participant meets the requirements for a transfer.
- (3) The family must provide the owner and the (NAME OF TDHE/TRIBE) with a copy of the notice of termination in accordance with the lease.
- (4) The family may also terminate the lease if the owner breaches HQS standards and refuses to repair unit after notification in writing of the necessary repairs.

C. Termination of Assistance by the (NAME OF TDHE/TRIBE). The (NAME OF TDHE/TRIBE) may terminate family assistance for any of the following reasons:

- (1) Any violation of family obligations.

- (2) Suspicion of illegal drug activity or violent criminal activity.
- (3) Failure of family to sign and submit verification documents for re-certification.
- (4) If the family moves out of the unit.
- (5) If the family breaks up.
- (6) If the owner fails to maintain unit in accordance with HQS standards.
- (7) If available program funding is insufficient to support continued assistance for the families.

MODEL TDHE/TRIBE REAL PROPERTY ACQUISITION POLICIES AND PROCEDURES

These policies and procedures were adopted by the (name of TDHE/TRIBE) by
Resolution # _____ on _____, _____.

(Note: This is a model policy and the TDHE/TRIBE may choose to delete or add any sections or numbers used in this sample. Should the TDHE/TRIBE choose to make any changes, the TDHE/TRIBE should ensure that the policy remains in compliance with the Native American Housing Assistance and Self-Determination Act (NAHASDA) and any other applicable federal, state, local, or tribal laws or regulations.)

Policy Statement

The Board of Commissioners (or insert governing body of the [insert name of tribe]) of the (NAME OF TRIBE/TDHE) recognize that it is necessary to adopt and implement Real Property Acquisition Policies and Procedures in order to operate as a property management business. The governing body intends these policies to be applicable to the (NAME OF TRIBE/TDHE) programs developed or operated with or without funds provided through the Native American Housing and Self-Determination Act (NAHASDA).

The acquisition of real estate is an eligible activity under NAHASDA as described in section 202(2) under Development. The regulations implementing NAHASDA regarding real property acquisition are described at 24CFR Part 1000.14 that is included as an appendix (A) to this policy. The acquisition of real property for a NAHASDA assisted activity is also subject to 49CFR part 24, subpart B that is also included as an appendix (B) to this policy.

Note: The applicability of 49CFR Part 24, subpart B relates to acquisitions by agencies that acquire real property through condemnation. Very few TDHEs possess the power to condemn property.

Certain acquisitions may be in the interest of the (NAME OF TRIBE/TDHE) that will not meet the requirements of Federal Regulations. In those instances, non-restricted funds must be utilized. Often it is in the best interests of the (NAME OF TRIBE/TDHE) to utilize Tribally controlled Trust Property for it's development purposes. When suitable Trust property does exist it shall be the policy of the (NAME OF TRIBE/TDHE) to attempt to purchase needed property.

In all cases, it shall be the policy of the (NAME OF TRIBE/TDHE) to only consider purchasing real property after the following conditions have been met:

1. An unmet need has been identified through the Indian Housing Plan (IHP).
2. Funding has been identified. (NAHASDA, non-restricted, grant funds, Tribal, other Federal)
3. No suitable Tribal Trust Land is currently available.
4. It is in the best interest of the (NAME OF TRIBE/TDHE).

1. **ACQUISITION REQUIREMENTS**

- a. **General Information.** The requirements of this chapter apply to any acquisition of real property for a project utilizing NAHASDA, non-restricted, Tribal, or other grant funds.
- b. **Less-Than-Full-Fee Interest in Real Property.** In addition to acquisitions of fee simple title, the provisions of this chapter apply to:
 - (1) the acquisition of fee title that is subject to retention of a life estate;
 - (2) a life use;
 - (3) acquisitions by leasing or purchasing a leasehold interest, including option(s) for extension;
 - (4) land held in Trust by the U.S. Government for a tribe or Indian individual;
 - (5) the acquisition of permanent easements;
- c. **Persons Acting as Agent of (NAME OF TRIBE/TDHE).** In some cases, the (NAME OF TRIBE/TDHE) may determine that a property meets the requirements for acquisition and acts through a non-related party to acquire the identified property. This may be a developer, or licensed real estate agent. In such cases, the person is performing as the agent of the (NAME OF TRIBE/TDHE) and the acquisition must be treated as a (NAME OF TRIBE/TDHE) acquisition that is subject to all provisions of these policies and procedures.

2. **Basic Acquisition Policies**

- a. **Expeditious Acquisition.** The (NAME OF TRIBE/TDHE) shall make every effort to acquire the real property expeditiously by good faith negotiation.
- b. **Notice to Owner.** As soon as a property has been identified through offer or inquiry by the (NAME OF TRIBE/TDHE), the owner or agent for the owner shall be given written notice of the (NAME OF TRIBE/TDHE) interest in acquiring the property. If the property is located on Trust or Restricted land or involves the purchase of Trust or Restricted Land, this notice is required to go through the local Bureau of Indian Affairs (BIA) office.
- c. **Appraisal and Invitation to Owner**
 - (1) All properties identified for acquisition shall be appraised by a qualified appraiser. If the acquisition involves the purchase of Trust or Restricted land or long-term leases on Trust or Restricted lands and related improvements, the BIA must conduct the appraisal. In all cases, the owner or his/her representative shall be given the opportunity to accompany the appraiser during the appraiser's inspection of the property, unless:
 - (a) The property is being donated; or
 - (b) The (NAME OF TRIBE/TDHE) determines, after reviewing the available data, that the valuation is uncomplicated and the fair market value of the property does not exceed \$25,000. The determination shall be based on a review by a person who is familiar with real estate values. If the owner requests an appraisal, the (NAME OF TRIBE/TDHE) shall obtain an appraisal subject to paragraph c. 1.
 - (2) The (NAME OF TRIBE/TDHE) recognizes that adequate market information necessary for balanced appraisals may not be available on the (name of Reservation or Indian Service Area) and will recognize the "replacement value approach" when it is determined that inadequate sales information exists.
 - (3) When acquiring commercial property and/or property with tenant-owned improvements, the (NAME OF TRIBE/TDHE) should provide the appraiser with the appropriate legal guidance with respect to the classification of the land, (Trust, Restricted Fee) ownership, documents and the necessary reviews subject to various ownership possibilities in Indian Country.

- d. **Establishment and Offer of Just Compensation.** Once the (NAME OF TRIBE/TDHE) determines the amount which it believes is just compensation, the (NAME OF TRIBE/TDHE) shall tender a written offer to the owner or in the case of restricted lands, the BIA.
- e. **Summary Statement.** In addition to the written offer to purchase, the owner shall be given a written statement of the basis for the offer and shall include:
- (1) A statement of the amount of the offer and the method of establishing the amount.
 - (2) A description and location of the real property and the interest in the property to be acquired.
 - (3) An identification of the buildings, structures, and other improvements (including building equipment and fixtures) that are considered to be part of the real property for which the offer includes. Where appropriate, the statement shall identify any separately held ownership in the property, e.g., a tenant-owned improvement, easement, etc. that is not covered by the offer.
- f. **Basic Negotiations.** The (NAME OF TRIBE/TDHE) shall contact the owner or the owner's representative (BIA) and discuss its offer to purchase. Whenever feasible, personal face-to-face contact and discussion will take place or an attorney may represent the (NAME OF TRIBE/TDHE) in negotiations. The owner shall be given reasonable opportunity to consider the offer and present material that the owner believes is relevant to determining the value of the property and may suggest modifications in the proposed terms and conditions of the purchase.
- g. **Updating Offer of Just Compensation.** If the information presented by the owner, or a material change of the character or condition of the property indicates a need for a new appraisal, or if a significant delay has occurred since the time of the appraisal(s) of the property, the (NAME OF TRIBE/TDHE) shall have the appraisal updated.
- h. **Settlement.** The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed. This action requires the approval of the (Board of Commissioners or governing body of the TDHE). A written justification shall accompany the request.

- i. **Payment Before Taking Possession.** Before requiring the owner to surrender possession of the real property, the (NAME OF TRIBE/TDHE) shall pay the agreed price to the owner, or in the case of Restricted Lands, the BIA.
- j. **Fair Rental.** If the (NAME OF TRIBE/TDHE) permits a former owner or tenant to occupy the real property after acquisition for a short term or a period subject to termination by the (NAME OF TRIBE/TDHE) on short notice, the rent shall not exceed the fair market rent for such property.

3. **Appraisals**

- a. **Definition of Appraisal.** The term “appraisal” means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.
- b. **Standards of Appraisal.** The (NAME OF TRIBE/TDHE) will recognize the Uniform Appraisal Standards or if the Tribe chooses, an alternate method of identifying and qualifying individuals familiar with the real property values on the (name of Tribe) Reservation (or Indian Service Area). Each appraisal will contain at a minimum, the following items:
 - (1) The purpose and/or the function of the appraisal, a definition of the property being appraised and a statement of the assumptions and limiting conditions affecting the appraisal.
 - (2) A description of the physical characteristics of the property, a statement of the known observed encumbrances, if any, title information, (title insurance, title status report if trust) location, zoning, present use, and an analysis of highest and best use.
 - (3) An analysis of reliable approaches consistent with Indian reservation land sales. In most cases, inadequate market sales will necessitate other approaches such as cost of replacement, or rental value if information exists.
 - (4) A statement of the value, in the opinion of the appraiser.
 - (5) The effective date of valuation, date of appraisal, signature and credentials/certification of the appraiser.

c. Qualifications of Appraisers.

- (1) The (NAME OF TRIBE/TDHE) shall establish criteria for determining the minimum qualification of appraisers. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. A contract (fee) appraiser making a “detailed appraisal” under a contract executed after December 31, 1992 must be certified under State law implementing Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA).
- (2) Usually, BIA Appraisers meet the necessary qualification and must be utilized on Trust and Restricted land appraisals.
- (3) Conflict of Interest. No appraiser shall have any interest, direct or indirect, in the real property being appraised for the (NAME OF TRIBE/TDHE) that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation.

d. Property Owner with Conflict of Interest.

- (1) A conflict of interest exists whenever the owner of an interest in real property that is to be acquired by a (NAME OF TRIBE/TDHE) serves as an officer of the (NAME OF TRIBE/TDHE) or it’s designated acquiring agent or exercises any other responsible function in connection with that acquisition. The (NAME OF TRIBE/TDHE) prohibits employees from using positions for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- (2) Examples of Safeguards. Among the various measures which a (NAME OF TRIBE/TDHE) could adopt to prevent the possibility of undue personal enrichment by real property owners who may be in a conflict of interest position are:
 - (a) Disclosure. The (NAME OF TRIBE/TDHE) may require disclosure of any potential conflict of interest to the (Board of Commissioners or governing body of the TDHE), (NAME OF TRIBE/TDHE)’s Legal Counsel, and as otherwise may be appropriate.
 - (b) Review by BIA or separate Tribal agency.

SAMPLE TDHE/TRIBE **COLLECTION AND COMPLIANCE** **POLICIES AND PROCEDURES**

These policies and procedures were adopted by the (name of TDHE/TRIBE) by
Resolution # _____ on _____, _____.

(Note: This is a sample policy and the TDHE/TRIBE may choose to delete or add any sections or numbers used in this sample. Should the TDHE/TRIBE choose to make any changes, the TDHE/TRIBE should ensure that the policy remains in compliance with the Native American Housing Assistance and Self-Determination Act (NAHASDA) and any other applicable federal, state, local, or tribal laws or regulations.) In Alaska, the MH Agreement is considered a Mortgage, not a Lease Purchase, and therefore, a different procedure called “ejectment” (similar to foreclosure) is required rather than eviction.

Policy Statement

The Board of Commissioners (or insert governing body of the [insert name of tribe]) of the (NAME OF TRIBE/TDHE) recognize that it is necessary to adopt and implement collection and compliance policies and procedures in order to operate as a property management business. The governing body realizes that the (NAME OF TRIBE/TDHE) relies on the income generated from rent and homebuyer payments to maintain the property owned and managed by the (NAME OF TRIBE/TDHE).

The purpose of this policy is to inform the residents and homebuyers of established guidelines for the collection of rent, house payments, housing services, and payment of work orders along with other charges. The objective of this policy is to collect the amounts owed to the (NAME OF TRIBE/TDHE) to ensure the continuation of adequate housing services while providing for the safety and well being of residents along with promoting fairness through a due process. This policy is also intended as a means for the (NAME OF TRIBE/TDHE) to enforce other requirements residents are expected to comply with such as Rules of Occupancy, homebuyer maintenance responsibilities, utility payments, etc.

For the purposes of this policy, rental and homeownership occupants and other families receiving services will be referred to as ‘residents’. This policy shall apply to residents who have entered into a lease; homeownership agreement; contract; or any other type of agreement with the (NAME OF TRIBE/TDHE).

1. PAYMENTS

- A. Due Date** Rent and homebuyer payments are due on or before the (insert day, i.e. first) day of each month.

B. Where and How to Make Payments

- (1) Rent and homebuyer payments may be made at the (NAME OF TRIBE/TDHE) administrative offices located at (insert physical address) or sent by mail to the (insert mailing address). Cash should not be sent by mail.
- (2) Payments may be made by cash, money orders or personal checks.
(Note: The TRIBE/TDHE should determine what form of payment may be made. For example, should cash be an acceptable method of payment?)
- (3) Residents shall be strongly encouraged to participate in employer payroll deduction programs so that rent and homebuyer payments are automatically paid each month.
- (4) If possible, residents shall also be encouraged to participant in direct deposit banking programs for the automatic payment of rent and homebuyer payments.
- (5) The amount of monthly rent or homebuyer payments is defined in the (NAME OF TRIBE/TDHE) Eligibility, Admissions, and Occupancy Policy.

- C. Partial Payments** When a resident presents credible evidence that clearly shows an inability to make full payment, the (NAME OF TRIBE/TDHE) may accept partial payment.
(Note: The TRIBE/TDHE may wish to establish a minimum amount acceptable for partial payment, require a percentage of the full amount, or choose not to accept partial payments. The TRIBE/TDHE may also choose to set a limit on the number of times a resident may submit partial payment within a specified period of time.)

2. COLLECTIONS

(Note: Model of Notices of Delinquency for both non-payment & non-compliance along with Termination Notices are included in this sample policy as Appendices.)

A. Timetable for Notices Applicable to Rental and Homeownership Programs

- (1) **First Notice:** If rents or homebuyer payments are not paid by the (insert day, i.e. 10th) day of each month or if the resident is found not to be in compliance with any other provisions of their Dwelling Lease or Homebuyer Agreement, the (NAME OF TRIBE/TDHE) shall send a Notice of Delinquency Non-Compliance by regular mail. This notice will contain the following:
 - (a) The date of the notice.
 - (b) The date the rent or homebuyer payment and other charges were due.
 - (c) Statement of how much is owed the (NAME OF TRIBE/TDHE).
 - (d) Statement of a (insert \$ amount if applicable) late payment charge if no payment was received the (insert day, i.e. 10th)

(Note: Rather than charging a late fee or penalty, the tribe/TDHE may choose to provide a discount for early payments.)
 - (e) If the Notice is being sent for non-compliance issues other than non-payment, the Notice shall describe why the resident isn't in compliance with their Dwelling Lease or Homebuyer Agreement. These reasons may include, but are not limited to, violating the Rules of Occupancy, not complying with the recertification or income verification requirements, conducting criminal activity, etc.

- (2) **Final Notice:** If rents or homebuyer payments are not paid by the (insert day, i.e. 20th) day of each month, or if the resident is found not to be in compliance with any other provisions of their Dwelling Lease or Homebuyer Agreement, the (NAME OF TRIBE/TDHE) shall send a Final Notice of Delinquency by regular mail. This notice will contain the following:
 - (a) The date of the notice.
 - (b) The date the rent or homebuyer payment and other charges were due.
 - (c) Statement of how much is owed the (NAME OF TRIBE/TDHE).

- (d) Statement of who to contact for financial counseling assistance.
 - (e) Statement inviting and encouraging residents to negotiate Payment Agreements for delinquent amounts.
 - (f) If the Final Notice is being sent for non-compliance issues other than non-payment, the Notice shall describe why the resident isn't in compliance with their Dwelling Lease or Homebuyer Agreement.
- (3) In the (NAME OF TRIBE/TDHE) **rental programs**, if rents are not paid by the (insert day, i.e. last day of the month) or if the resident has not complied with any other requirements described in their Dwelling Lease, the (NAME OF TRIBE/TDHE) shall send the resident a (insert day, i.e. 14) day Notice of Termination by certified or registered mail. This notice shall contain the following:
- (a) The reason for termination.
 - (b) A (insert day, i.e. 14) day period during which the resident will be allowed to respond to the (NAME OF TRIBE/TDHE), in writing or in person, regarding the reason for termination.
 - (c) Allow the resident to be represented or accompanied by a person of his/her choice.
 - (d) If within (insert day, i.e. 14) days after the (NAME OF TRIBE/TDHE) gives Notice of Termination, the resident presents assurances or evidence satisfactory to the (NAME OF TRIBE/TDHE), the Notice of Termination may be rescinded or extended on a case-by-case basis to be determined by the (NAME OF TRIBE/TDHE) Housing Management Director. Unless there is such a recession or extension, the lease term and agreement will terminate on the (insert day, i.e. 14th) 14th day of receipt of notice.
- (4) If the resident does not respond within the (insert day, i.e. 14) day period, the (NAME OF TRIBE/TDHE) will proceed with the proper legal actions necessary for eviction. The (NAME OF TRIBE/TDHE)'s designated attorney will file a judgement against the resident with the appropriate (insert name of court that has jurisdiction).
- (5) In the (NAME OF TRIBE/TDHE) **homeownership programs**, if homebuyer payments are not paid by the last day of the month or if

the resident has not complied with any other requirements described in their homebuyer agreement, the (NAME OF TRIBE/TDHE) shall send the homebuyer a 30 day Notice of Termination of the homebuyer's agreement by certified or registered mail. This notice shall contain the following:

- (a) The reason for termination.
 - (b) A 30 day period during which the homebuyer will be allowed to respond to the (NAME OF TRIBE/TDHE), in writing or in person, regarding the reason for termination.
 - (c) Allow the homebuyer to be represented or accompanied by a person of his/her choice.
 - (d) If within 30 days after the (NAME OF TRIBE/TDHE) gives Notice of Termination, the homebuyer presents assurances or evidence satisfactory to the (NAME OF TRIBE/TDHE), the Notice of Termination may be rescinded or extended on a case-by-case basis to be determined by the (NAME OF TRIBE/TDHE) Housing Management Director. Unless there is such a rescission or extension, the lease term and agreement will terminate on the 30th day or receipt of notice.
- (6) If the homebuyer does not respond within the 30 day period, the (NAME OF TRIBE/TDHE) will proceed with the proper legal actions necessary for eviction. The (NAME OF TRIBE/TDHE)'s designated attorney will file a civil complaint in the appropriate court seeking eviction and/or full payment of the delinquent amount. The complaint shall include a copy of the dwelling lease/homebuyer agreement, account ledger, letters and other notices sent or delivered to the resident regarding non-payment or non-compliance.
- (7) Requests for judgment in both the rental and homeownership programs shall contain the following:
- (a) The amount due and owing and/or other non-compliance issues pursuant to the Dwelling Lease or Homebuyer agreement.
 - (b) Legal expenses and filing fees.
 - (c) Cost of repairs to the unit.

- (d) Lost income for the time the unit is unoccupied beyond the date of termination.
- (e) Immediate possession of the property.

(Note: Each TRIBE/TDHE should consult with its legal counsel to ensure that the language regarding evictions in this policy meet the requirements of any applicable local eviction or foreclosure ordinances).

B. Collection or Non-compliance Remedies

- (1) Residents with delinquent accounts or who are not in compliance with their Dwelling Lease or Homebuyer Agreement are encouraged to enter into agreements for payment of their delinquent account or to become in compliance with the requirements of their Dwelling Lease or Homebuyer Agreement. The (NAME OF TRIBE/TDHE) may negotiate an agreement for non-payment or non-compliance with the resident as an alternative to termination. The agreement will be on a short-term basis not to exceed (insert #) of months. The agreement will include an acknowledgment of the amount owed, the terms of repayment including the date, amount, and method of payment, other non-compliance issues, along with a default clause in the event the agreement is breached. The agreement will be signed by the head of household or spouse and designated (NAME OF TRIBE/TDHE) staff. If a resident presents credible evidence of hardship that caused or may cause a breach of the agreement, the (NAME OF TRIBE/TDHE) will have discretionary authority to renegotiate or reconsider the agreement. If prior agreements have failed, the (NAME OF TRIBE/TDHE) may choose not to reconsider the agreement with the resident.
- (2) Should a resident violate the terms of their agreement with the (NAME OF TRIBE/TDHE), the (NAME OF TRIBE/TDHE) shall proceed with proper legal eviction action.
- (3) Payment agreements may be executed for payment of vacated accounts at the discretion of the (NAME OF TRIBE/TDHE) Housing Management Department Director.
- (4) Failure to make the required monthly payments and/or breach of subsequent payment agreements and termination of the resident's lease/homebuyer agreements or other agreements may result in

permanent loss of eligibility for future services or benefits offered by the (NAME OF TRIBE/TDHE).

(Note: This clause in the policy will prevent problem residents from re-applying or applying for other housing services.)

- (5) Residents with delinquent accounts will be referred to appropriate financial management counseling and provided any other available information that will facilitate the prompt payment of their delinquent account. The (NAME OF TRIBE/TDHE) may schedule a financial management counseling session for the resident at a specified time and location during the period of account delinquency. Attendance and participation will be required. The (NAME OF TRIBE/TDHE) shall require the resident to sign a statement documenting attendance and commitment by the resident to improve their personal financial management skills. If a resident's account is delinquent more than (insert #) of time(s) during a (insert #) month period, the resident will automatically be required to complete a financial management session.

(Note: The TRIBE/TDHE should offer and/or require a minimum of one financial management session prior to termination of the lease/homebuyer agreement. A series of follow-up counseling sessions is recommended.)

- (6) At the discretion of the (NAME OF TRIBE/TDHE) Housing Management Department Director, full payment of delinquent rent or homebuyer payments, including any current amounts due, may be accepted and collection proceedings stopped.
- (7) For vacated accounts, a statement of the balance due will be promptly sent to the vacated resident after the unit has been vacated. If the amount is not paid or arrangements have not been made within (insert #) days, the account will be turned over to the (NAME OF TRIBE/TDHE) respective legal counsel for legal collection action.
- (8) A delinquent resident participating in the (NAME OF TRIBE/TDHE) Mutual Help Homeownership Program may apply for the use of their Monthly Equity Payment Account (MEPA) to pay for delinquent administrative charges if there is a sufficient amount in the respective MEPA account. Application for MEPA use shall be limited to (insert #) of time(s) per year to pay for delinquent amounts owed.

(Note: the TRIBE/TDHE should have a separate MEPA Use Policy. The TRIBE/TDHE may decide not to allow the use of MEPA due to the fact that the amount received from the proceeds of sale could be significantly reduced.)

C. Court Action

- (1) After the filing of the complaint and summons are served, the defendant (delinquent resident) can still arrange for settlement and/or an arrangement. The plaintiff (NAME OF TRIBE/TDHE) will inform the court that a settlement has been reached if agreement has been made to resolve the outstanding amount. The (NAME OF TRIBE/TDHE) will include the costs of any amounts included in the civil complaint and request for judgment in the settlement or arrangement. The settlement or arrangement shall include language that in the event the defendants breach the agreement, the case shall be automatically reopened and heard in Court for an immediate eviction.
- (2) The (NAME OF TRIBE/TDHE) shall reserve the right to seek resolution of the case and settlement prior to the court hearing and final ruling. Once the court's final ruling has been made, no settlement or arrangement shall be allowed.

(Note: The TRIBE/TDHE may wish to set a limit on the number of settlements that can be made after a civil complaint is filed. Also, the previous two sections are optional and the TRIBE/TDHE may choose not to offer the defendant an opportunity to settle after a complaint is filed.)

- (3) Once the Court issues an order of eviction, a copy shall be hand-delivered (if possible) to the resident by the appropriate law enforcement officials. The order shall specify the date for the resident to be evicted. The (NAME OF TRIBE/TDHE) shall monitor the unit and arrange to secure the unit (changing locks, boarding up the windows or doors, etc.) on the day of the eviction. The Court Order shall include the method for settlement of the delinquent account after the eviction. The Order may direct the defendant to make monthly payments to the Court or make payments directly to the (NAME OF TRIBE/TDHE). In any case, the delinquent account shall remain on the (NAME OF TRIBE/TDHE) books until the account is paid in full.
- (4) If a resident refuses to vacate a unit by the specified date in the Court Order, the Order, or the judge issuing the Order, shall describe the method as to how the resident(s) shall be forcibly

evicted from the units by appropriate law enforcement officers. The (NAME OF TRIBE/TDHE) employees or members of the governing body shall never attempt to forcibly evict a resident.

- (5) If a resident moves out after notification of termination and makes no attempt to settle the outstanding amount, the (NAME OF TRIBE/TDHE) shall consider the unit abandoned and refer the case to its respective legal counsel for filing in the appropriate Court for collection. The (NAME OF TRIBE/TDHE) shall make every attempt to collect and continue to do so after issuance of the Court Order for payment.
- (6) It is the responsibility of the evicted resident to remove all personal property from the unit with (insert #) of days after being evicted. Personal property can only be removed under the supervision of a designated (NAME OF TRIBE/TDHE) employee or a law enforcement officer depending upon the circumstances of the eviction along with the Court Order for eviction. However, if the resident cannot be located, the (NAME OF TRIBE/TDHE) shall remove and claim the personal items as (NAME OF TRIBE/TDHE) property. Any disposal of the property shall be subject to the (NAME OF TRIBE/TDHE) Disposition Policy.

APPENDIX

(Note: This appendix includes examples of a Notice of Delinquency along with Termination Notices for both rental and homeownership programs.)

FIRST NOTICE OF DELINQUENCY FOR NON-PAYMENT

(DATE)

(NAME & ADDRESS OF DELINQUENT RESIDENT)

You are hereby notified that we have not received any payment from you this month. As you know, your monthly payment is due on the (insert day) of every month. According to our records, you currently owe the (NAME OF TRIBE/TDHE) \$_____.

In accordance with our adopted Collection and Compliance Policies and Procedures, if we do not receive your monthly payment by the (insert day) day of this month or if you have not negotiated a Payment Agreement, a **Notice of Termination** will be delivered to you notifying you that we plan to terminate your Dwelling Lease or Homeownership Agreement with the (NAME OF TRIBE/TDHE).

Your cooperation will be very much appreciated.

Sincerely,

(Signed by designated employee, preferably the Executive Director)

FINAL NOTICE OF DELINQUENCY FOR NON-PAYMENT

(DATE)

(NAME & ADDRESS OF DELINQUENT RESIDENT)

You are hereby notified again that we still have not received any payment from you this month. As you know, your monthly payment is due on the (insert day) of every month. According to our records, you currently owe the (NAME OF TRIBE/TDHE) \$_____.

If you are experiencing some financial difficulties at the present time and are in need of financial management counseling assistance, please contact our office at (insert phone #). If you are unable to clear up your delinquent account immediately, you are strongly encouraged to contact us at your earliest convenience to negotiate a **Payment Agreement**.

In accordance with our adopted Collection and Compliance Policies and Procedures, if we do not receive your monthly payment by the (insert day) day of this month or if you have not negotiated a Payment Agreement, a **Notice of Termination** will be delivered to you notifying you that we plan to terminate your Dwelling Lease or Homeownership Agreement with the (NAME OF TRIBE/TDHE).

Your cooperation will be very much appreciated.

Sincerely,

(Signed by designated employee, preferably the Executive Director)

FIRST NOTICE OF NON-COMPLIANCE

(DATE)

(NAME & ADDRESS OF RESIDENT)

You are hereby notified that you are not in compliance with your (Dwelling Lease or Homebuyer Agreement) with the (NAME OF TRIBE/TDHE).

The reason(s) you are not in compliance is (are) as follows: (list reason(s) for non-compliance such as violating the Rules of Occupancy, non-compliance with the Tribe's Animal Control Ordinance, not complying with recertification notices, not performing maintenance responsibilities, etc.)

In accordance with our adopted Collection and Compliance Policies and Procedures, if you are not in compliance with your (Dwelling Lease or Homebuyer Agreement) with the (NAME OF TRIBE/TDHE) by the (insert day) day of this month or if you have not negotiated a plan of action to correct the reason(s) you aren't in compliance, a **Notice of Termination** will be delivered to you notifying you that we plan to terminate your Dwelling Lease or Homeownership Agreement with the (NAME OF TRIBE/TDHE).

Your cooperation will be very much appreciated.

Sincerely,

(Signed by designated employee, preferably the Executive Director)

FINAL NOTICE OF NON-COMPLIANCE

(DATE)

(NAME & ADDRESS OF DELINQUENT RESIDENT)

You are hereby notified once again that you are still not in compliance with your (Dwelling Lease or Homebuyer Agreement with the (NAME OF TRIBE/TDHE).

If you are experiencing some sort of difficulty in resolving the reason(s) you are not compliance, please contact our office at (insert phone #) and we may be able to refer you to someone who may be able to assist you. If you are unable to resolve the reason(s) why you are not in compliance immediately, you are strongly encouraged to contact us at your earliest convenience to negotiate a plan of action to resolve the non-compliance issues.

In accordance with our adopted Collection and Compliance Policies and Procedures, if you are not in compliance with your Dwelling Lease or Homeownership Agreement with the (NAME OF TRIBE/TDHE) by the (insert day) day of this month or if you have not negotiated a plan of action to resolve the non-compliance issues, a **Notice of Termination** will be delivered to you notifying you that we plan to terminate your Dwelling Lease or Homeownership Agreement with the (NAME OF TRIBE/TDHE).

Your cooperation will be very much appreciated.

Sincerely,

(Signed by designated employee, preferably the Executive Director)

**NOTICE OF TERMINATION
OF HOMEOWNERSHIP AGREEMENT**

(DATE)

(NAME & ADDRESS OF DELINQUENT RESIDENT)

This letter serves as notice that the Homeownership between you as a homebuyer and the (NAME OF TRIBE/TDHE) is being terminated.

The reason for terminating your Homeownership Agreement is that you have failed to make monthly payments to the (NAME OF TRIBE/TDHE) as required or are not complying with the terms of your agreement with the (NAME OF TRIBE/TDHE). According to our records, you currently owe \$_____.

You have thirty (30) days from the date you received this Notice of Termination to respond in writing or in person regarding the reason for termination. You may be represented or accompanied by a person of your choice. If you present assurances or evidence satisfactory to the Director of our Housing Management Department within thirty (30) days after the date you received this Notice of Termination, this notice may be rescinded or extended. Unless there is such a rescission or extension, your agreement with the (NAME OF TRIBE/TDHE) will terminate on the 30th day after you received this notice and you will be expected to have vacated your home or legal actions necessary for eviction will begin including filing a judgment against you in (insert the name of the appropriate Court).

Should you have any questions, please contact (insert name), Director of our Housing Management Department or myself at (insert phone #).

Your cooperation will be very much appreciated.

Sincerely,

(insert name)
Executive Director

**NOTICE OF TERMINATION
OF DWELLING LEASE**

(DATE)

(NAME & ADDRESS OF DELINQUENT RESIDENT)

This letter serves as notice that the Dwelling Lease between you as a resident and the (NAME OF TRIBE/TDHE) is being terminated.

The reason for terminating your Dwelling Lease is that you have failed to make monthly payments to the (NAME OF TRIBE/TDHE) as required or you are not complying with the terms of your Dwelling Lease with the (NAME OF TRIBE/TDHE). According to our records, you currently owe \$_____.

You have (insert #) days from the date you received this Notice of Termination to respond in writing or in person regarding the reason for termination. You may be represented or accompanied by a person of your choice. If you present assurances or evidence satisfactory to the Director of our Housing Management Department within (insert #) of days after the date you received this Notice of Termination, this notice may be rescinded or extended. Unless there is such a rescission or extension, your Dwelling Lease with the (NAME OF TRIBE/TDHE) will terminate on the (insert #) day after you received this notice and you will be expected to have vacated your home or legal actions necessary for eviction will begin including filing a judgment against you in (insert the name of the appropriate Court).

Should you have any questions, please contact (insert name), Director of our Housing Management Department or myself at (insert phone #).

Your cooperation will be very much appreciated.

Sincerely,

(insert name)
Executive Director

This manual provides comprehensive coverage of standard admissions and occupancy practices governing typical low-rent housing assistance. While these policies apply to housing programs in general, Recipients have created additional programs which generated unique requirements. NAHASDA enabled activities such as the following:

- down payment and closing costs assistance
- tenant based rental assistance
- housing rehabilitation assistance
- Homeowner loan improvement assistance
- Mold remediation assistance
- Weatherization

Section 12 will focus on the unique admissions and occupancy issues applicable to down payment, housing rehabilitation, emergency, and tenant based rental assistance. Sample policies are included in the Appendices.

DOWN PAYMENT ASSISTANCE POLICY

Recipients operating down payment assistance programs must establish policies governing the eligibility of participants and the delivery of assistance. Regardless of the content of the policy, the first order of business is to determine income eligibility. In addition to the basic admission requirements, down payment assistance programs address are developed by the Recipient based on needs of the tribal community. In designing a program the Recipient should consider the following factors:

- Number of families who can qualify
- Grant assistance or loan
- Availability of housing existing housing stock/new construction
- Area economy
- Affordability ratios
- Mortgage financing lenders
- Useful life

Refer to Exhibit ??? for sample contents of a down payment assistance policy. When using NAHASDA funds there must be binding agreements to comply with affordability

requirements which defines the period for repayment or recapture of the funds based on the amount of funds invested in the home purchase. The example below is outlines a Recipient's approach to useful life. Program Guidance 2014-09(R) *Useful Life and Binding Agreements*, Appendix ?, describes in detail NAHASDA useful life requirements.

Per Unit MFA Investment	Minimum Recapture Period	Secured by:	Financing Terms
<\$5,000	1 years	Subordinate mortgage promissory note as determined by the Executive Director	Contingent upon Affordability, income
\$5,000 - \$10,000	10 years	Subordinate mortgage and/or Assignment of trust/lease income, land, promissory note	Contingent upon Affordability, income
\$10,000 - \$15,000	15 years	Subordinate mortgage and/or Assignment of trust/lease income, land, promissory note	Contingent upon Affordability, income
\$15,000 - \$25,000	20 years	Subordinate mortgage and/or Assignment of trust/lease income, land, promissory note	Contingent upon Affordability, income
\$25,000 - \$40,000	30 years	Subordinate mortgage and/or Assignment of trust/lease income, land, promissory note	Contingent upon Affordability, income

EXHIBIT

CATEGORY	DESCRIPTION
1. Purpose	Addresses tribal community needs
2. Eligibility Requirements	Income, affordability
3. Housing Counseling Requirements	Includes credit repair, homebuyer education, debt management
4. Selection Criteria	First qualify for mortgage financing, first served
5. Eligible Property Type	Standard condition
6. Property Value	Establish cost limit, may apply TDC
7. Maximum Assistance for Low-Income Families	\$10,000
8. Maximum Assistance for Moderate Income Families	Use HUD formula to calculate maximum assistance depending on moderate income level
9. Property Standards	Set parameters for unit condition
10. Eligible Costs	Down payment, closing costs, legal review, appraisal

11. Financing Source	Terms of financial assistance; terms in the event of resale or other disposition of the property
12. Period of Repayment, Recapture, or Resale Provisions	Establishes a period of affordability for assistance:
13. Leveraging	Encourages participant to personally invest in the home or find other funds
14. Monitoring Requirements	Monitor debt service repayment and useful life tracking
15. Application Procedures	Standard application, copy of loan documents, conditional grant document or subordinate mortgage document, record documents as lien on property

A sample policy is provided in Appendix

MODEL **DOWN -PAYMENT -ASSISTANCE -PROGRAM** **POLICY**

These policies and procedures were adopted by the (name of TDHE/TRIBE) by Resolution # _____ on _____, _____.

(Note: This is a model policy and the TDHE/TRIBE may choose to delete or add any sections or numbers used in this sample. Should the TDHE/TRIBE choose to make any changes, the TDHE/TRIBE should ensure that the policy remains in compliance with the Native American Housing Assistance and Self-Determination Act.)

POLICY -STATEMENT

The purpose of the (NAME OF TDHE/TRIBE)'s Down Payment Assistance program is to provide the members of the (NAME OF TRIBE) with affordable homeownership financing opportunities to help improve the quality of life in the tribal communities.

The (NAME OF TDHE/TRIBE)'s Down Payment Assistance Program shall comply with all applicable regulations of the Native American Housing Assistance and Self-Determination Act of 1996 ~~of 1996~~ (as amended) (NAHASDA) along with other applicable rules and regulations. The (NAME OF TDHE/TRIBE) Executive Director with the approval of the governing body shall be responsible for periodically amending this policy to comply with any applicable laws or regulations.

CONTENTS

1. Program Description
2. Assistance Available
3. Borrower Eligibility
4. Ineligibility
5. Waiting List/Applicant Pool
6. Reservation of Funds
7. Property Requirements
8. Repayment of the Loan
9. Annual Recertification
10. Resale Restrictions
11. Assumption of Loan
12. Transfer of Home
13. Counseling
14. Payment Oversight
15. Appeals Process

1. PROGRAM DESCRIPTION.

The Down Payment Assistance Program is specifically designed to increase the availability of affordable housing by addressing homeownership on several levels. It combines (NAME OF TDHE/TRIBE) Indian Housing Block Grant funds with private first mortgages, thereby multiplying many times over the number of native families that can be assisted with (NAME OF TDHE/TRIBE)'s grant.

(Note: The TDHE/TRIBE shall determine whether the Downpayment Assistance Program will be a grant program or forgivable loan program.)

- A. **Eligibility** – The Down Payment Assistance Program is available to low-income Indian families with gross incomes at or below 80% of the median income adjusted for family size. The current income limits shall be appendices to this policy.
- B. **Credit** – Down Payment Assistance Program borrowers must meet the credit requirements of the first mortgage lender (bank/lender). Applicants will be pre-screened to determine credit worthiness. (NAME OF TDHE/TRIBE) will assist applicants in demonstrating that they have stable income and the ability and willingness to meet financial obligations.
- C. **Affordability** – Down Payment Assistance funds are available to buy down the cost of owning a home. This results in a lower mortgage amount and lower monthly payments. (NAME OF TDHE/TRIBE) funds will be in the form of a second mortgage with no monthly payments. This second mortgage is gradually reduced, thus converting it to homeowner equity.
- D. **Cash Flow** – Down Payment Assistance may include payment of reasonable loan closing costs associated with the first mortgage and (NAME OF TDHE/TRIBE)'s second mortgage.
- E. **Support** – Trained staff will assist eligible applicants in successfully ~~working through the process of making an application to completing an application with~~ a bank/lender for a first mortgage loan.
- F. **Counseling** – Borrowers will be required to participate in homebuyers' classes designed to assist new homeowners in understanding and fulfilling the responsibilities of homeownership.

2. **ASSISTANCE AVAILABLE.** The (NAME OF TDHE/TRIBE) has established and implemented the Down Payment Assistance Program to assist creditworthy low-income households in purchasing a home. The Down Payment Assistance loan may help with down payment and closing costs and is designed to make home mortgage payments more affordable. The following is a list of the assistance offered at this time:

A. **Down payment.** (NAME OF TDHE/TRIBE) may provide funds to buy down the amount of the first mortgage to a level that is affordable to the homeowner. Down payment assistance is limited to (% OF THE VALUE OF THE PROPERTY OR AMOUNT TO BE ESTABLISHED BY TDHE/TRIBE) of the value of the property.

Nearly all lenders will require a down payment when purchasing a home. Part of this down payment may be provided by (NAME OF TDHE/TRIBE), however, homebuyers must provide a small portion from their own cash. (NAME OF TDHE/TRIBE) requires that the homebuyer pay at least (% TO BE ESTABLISHED BY TRIBE/THE) of the sales price toward the down payment. This amount may increase, depending on the requirements of the first mortgage lender.

B. **Closing Costs.** Funds are available from (NAME OF TDHE/TRIBE) to pay all, or a substantial part of, the closing costs of the first mortgage loan. This assistance is limited to actual, reasonable closing costs.

C. **Maximum Loan Amount.** The maximum amount of assistance for each homeowner will be (\$ AMOUNT TO BE ESTABLISHED BY TDHE/TRIBE) including down payment and closing costs.

D. **Minimum Loan Amount.** The minimum loan amount for this program is (\$ AMOUNT TO BE ESTABLISHED BY TDHE/TRIBE).

3. **~~BORROWER ELIGIBILITY~~ BORROWER ELIGIBILITY.**

A. **Native Restrictions.** Assistance is only available to members of a Federally recognized tribe. Tribe means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act. Borrowers must present a tribal membership card or other form of positive identification of native status at the time of application.

(Note: The TDHE/TRIBE may ~~restrict participation to only local Tribal members give preference to local tribal members~~ if they have adopted the preference in its admissions policy. The tribe/TDHE has the option to serve the following types of families. Non low-income Indian families are eligible to receive rehabilitation assistance in accordance with 24CFR 1000.110. Also, ~~non-Indianessential~~-families may receive this type of assistance on a reservation or Indian area if the ~~non-Indianessential~~ family's housing needs cannot be reasonably met without such assistance and the tribe/TDHE determines that the presence of that family on the reservation or Indian area is essential to the well-being of Indian families.)

- B. Income -Limitations.** Participation in the Down Payment Assistance Program is limited to low-income families as defined in the (NAME OF TDHE/TRIBE) established income limits. Participants will be required to provide documentation to verify the determination of low-income status.
- C. Homeownership -Counseling -Classes.** The applicant must successfully complete an (NAME OF TDHE/TRIBE) approved home ownership-counseling curriculum. The (NAME OF TDHE/TRIBE) (INSERT THE APPROPRIATE STAFF TITLE) shall approve the curriculum.
- D. First -Mortgage -Loan.**
- (1) The applicant must be able to obtain a mortgage loan with an eligible lender for the maximum affordable amount. The lending institution must be willing to participate in the Down Payment Assistance Program and its requirements. The borrower will sign a Release of Information form so that (NAME OF TDHE/TRIBE) is able to share information with the lending institution.
 - (2) The lending institution must, as a part of its mortgage loan, require purchase of property insurance, and must escrow the insurance payments.
- E. Cash -Down -Payment.** The applicant must be able to provide at least (% OR \$ AMOUNT TO BE DETERMINED BY THE TDHE/TRIBE) of the sales price in the form of a cash down payment from his or her own assets. This cash payment shall not be borrowed.
- F. Assets.** (NOTE: THIS SECTION IS OPTIONAL) The applicant shall not own any other residential property. An exception may be made for inherited property.

G. Employees. Employees, agents, officers or elected or appointed officials of (NAME OF TDHE/TRIBE) are eligible for loans under this program. The Executive Director of (NAME OF TDHE/TRIBE) must approve all such loan applications. Employees, agents, officers or elected or appointed officials must comply with 24CFR 1000.30, 1000.32, and 1000.34 regarding conflict of interest.

4. INELIGIBILITY. Applicants will be considered ineligible for not meeting items in Section 2 above or for any of one or more of the following:

- Providing false information on the application.
- Failing to complete required forms or to supply requested information.
- Committing fraud in connection with any (NAME OF TDHE/TRIBE) program, or failing to disclose previously committed fraud in connection with any (NAME OF TDHE/TRIBE) program.
- Appearing on HUD's list of suspended, debarred and limited denials of participation.
- Having a record of eviction from any government assisted housing program.
- Having an outstanding debt owed to any public or Indian ~~H~~ousing ~~A~~uthority or ~~T~~ribally ~~D~~esignated ~~H~~ousing ~~E~~ntity.

5. WAITING LIST / APPLICANT POOL

- A.** The Down Payment Assistance Program is operated on a first-come first-served basis (with any preferences the TDHE/TRIBE has defined under eligibility on page 2) subject to the availability of funds.
- B.** (NAME OF TDHE/TRIBE) will maintain a list of eligible applicants based on the date and time the completed application is received by (NAME OF TDHE/TRIBE).
- C.** If funds are unavailable for the Down Payment Assistance Program, (NAME OF TDHE/TRIBE) may suspend or discontinue accepting applications until funds become available.

6. RESERVATION OF FUNDS.

- A. Funds will be reserved for each applicant when the loan application is complete, including a copy of the Earnest Money Agreement and all information required by the first mortgage lender.
- B. Funds will be reserved for (# TO BE DETERMINED BY TDHE/TRIBE) days and may be extended for (# TO BE DETERMINED BY TDHE/TRIBE) days at a time.

7. PROPERTY REQUIREMENTS. The owner must meet the following property requirements during the life of the loan:

- A. The home must be the primary residence of the owner.
- B. The property must be located within (NAME OF TDHE/TRIBE)'s Indian area as defined in its IHP.
- C. The property must be a single-family residence, including condominiums and townhouses.
(Note: The TDHE/TRIBE shall determine whether manufactured homes and/or mobile homes qualify for the program.)
- D. The initial purchase price of the home may not exceed the Total Development Cost limits established by the (NAME OF TDHE/TRIBE) for the type of single family housing for the area. The (NAME OF TDHE/TRIBE) may use HUD established Total Development Cost limits which are attached as ~~an~~ appendices to this policy.
- E. The house must pass all Housing Quality Standards as established by the (NAME OF TDHE/TRIBE), if applicable.
- F. The property must be reviewed by (NAME OF TDHE/TRIBE) for environmental impact in accordance with the National Environmental Policy Act (NEPA) and all other applicable statutes, regulations and Executive Orders.
- G. Lead based paint prevention requirements apply to housing acquired under this program. (Note: The TDHE/TRIBE should require the seller to certify that there is no lead based paint in the home.)
- H. If the owner selects a home in a flood plain, flood insurance must be obtained in an amount adequate to cover the first and second mortgage loan in compliance with 24CFR 1000.38. The owner must provide a certification of insurance to (NAME OF TDHE/TRIBE) annually.

- I. The owner shall be responsible for an insurance coverage required by the TDHE/TRIBE or the lending institution.

8. REPAYMENT -OF -THE -LOAN

- A. There are no monthly payments or interest associated with (NAME OF TDHE/TRIBE)'s Downpayment Assistance Program loans.
- B. (% TO BE DETERMINED BY TDHE/TRIBE) of the original down payment assistance loan amount will be forgiven on each annual or monthly anniversary of the loan. If the property is sold (or the title is otherwise transferred) and ceases to be the borrower's primary residence, the unforgiven portion of the loan will be due and payable.

9. CERTIFICATION -OF -RESIDENCY. The property must remain the borrowers' primary residence throughout the term of this loan. Borrowers will be required to sign an annual affidavit stating the amount of time they lived in the house as their primary residence during the previous year. If they did not live in the house for at least 11 of the previous 12 months, the loan will be considered to be in default, (NAME OF TDHE/TRIBE)'s Executive Director will review each default and consider the appropriate course of action. (NOTE: THIS SECTION IS OPTIONAL AND THE TRIBE/TDHE SHOULD ESTABLISH ITS OWN CRITERIA. FOR EXAMPLE, ALASKAN FISHERMAN MAY LIVE IN A FISHING CAMP PART OF THE YEAR AND THEN LIVE IN THEIR PRIMARY RESIDENCE THE REST OF THE YEAR.)

10. RESALE RESTRICTION

- A. Documents for the Down Payment Assistance Program shall include resale restrictions and an option to purchase granted to (NAME OF TDHE/TRIBE).
- B. If, at any time, the owner sells or transfers title to the home, the owner must repay the TDHE/TRIBE any balance due. (NOTE: THIS SECTION WOULD APPLY IN A FORGIVABLE LOAN SITUATION.)

11. **ASSUMPTION OF LOAN (NOTE: THIS SECTION IS OPTIONAL.).**

If the property is sold during the term of (NAME OF TDHE/TRIBE)'s loan, the (NAME OF TDHE/TRIBE) loan may be assumed by a qualified borrower. Generally, the assumption approval will be based on the following:

- A. The new owners must assume the first mortgage and be contractually obligated to satisfy the mortgage.
- B. The new owners must be low income, as defined by the (NAME OF TDHE/TRIBE). The definition of low-income shall be the same as defined in the (NAME OF TDHE/TRIBE) Eligibility, Admissions & Occupancy Policy.
- C. The property must be the new owner's primary residence.
- D. The new owners must be members of a Federally recognized tribe, band, nation, or other organized group or community of Indians.

12. **TRANSFER -OF -HOME (NOTE: THIS SECTION IS OPTIONAL.)**

- A. If the homebuyer no longer desires to own the property and intends to sell or otherwise transfer title, the homebuyer must notify (NAME OF TDHE/TRIBE) of their intent in writing. Upon receipt of the notice, (NAME OF TDHE/TRIBE) shall then have the right to exercise its Purchase Option by delivery of notice to the homebuyer of such exercise at any time within thirty (30) days from its receipt of such written notice from the homebuyer of interest to sell or otherwise transfer the residence.
- B. If the (NAME OF TDHE/TRIBE) exercises its Option to Purchase the property, closing shall be through an escrow with the title insurance company issuing the owners title insurance policy. The closing shall be within sixty (60) days of the opening of escrow. In the event the (NAME OF TDHE/TRIBE) decides to assign the Purchase Option, the opening of the escrow will be within thirty (30) business days after the homebuyer is notified of (NAME OF TDHE/TRIBE)'s intent to exercise the Purchase Option. In the event (NAME OF TDHE/TRIBE) postpones opening of escrow and is unable to select an assignee, (NAME OF TDHE/TRIBE) retains the right to open escrow and complete the purchase provided the escrow is opened within thirty (30) business days and the sales transaction is completed within ninety (90) days from the homebuyer's notice of intent to sell.

- I
- C.** Up to ten (10) days before close of escrow, the homebuyer may give notice to (NAME OF TDHE/TRIBE) of the homebuyer's intent to terminate the escrow. (NAME OF TDHE/TRIBE) shall retain the right by notice to the homebuyer to complete the purchase of the property for an additional period of ten (10) days commencing from the date of the receipt of notice the homebuyer's intent to terminate the escrow.
 - D.** In the event the (NAME OF TDHE/TRIBE) does not exercise its Purchase Option within thirty (30) business days of the homebuyer's notice pursuant to the Resale Restriction and Purchase Option, the homebuyer may offer the residence to anyone.
 - E.** Any attempt by the homebuyer to make a prohibited transfer of title or interest in the property in violation of the DOWN PAYMENT ASSISTANCE Program Documents, the transfer will be void and subject to exercise of the purchase option described in Section VI of that document.
 - F.** Permitted Transfer by Owner. The following transfers are not prohibited and therefore are not subject to exercise by the Optionee of the Purchase Option:

 - (1)** Transfer by gift or inheritance to the homebuyer's spouse or children;
 - (2)** Transfer of title by a homebuyer's death to a surviving joint tenant, tenant by entireties, or surviving spouse of community property;
 - (3)** Transfer of title to a spouse as part of divorce or dissolution proceedings;
 - (4)** Granting of leasehold interest or rental of the residence for a period of less than a year; or
 - (5)** Transfer of title or interest in the residence to the spouse in conjunction with marriage.
 - (6)** The above transfers are allowable if the Second Mortgage Document covenants continue to run with the title to the property following said transfers, and any transfer documents must contain the following covenant:
- I

This residence is subject to the Resale Restrictions Agreement and Option to Purchase and Transferee, on behalf of Transferee and Transferee's successors and assigns, covenants and agrees to be bound by and perform the Agreement, and to include in any further transfer of the residence the covenant required by the Agreement.

- (7) The homebuyer must notify (NAME OF TDHE/TRIBE) at least thirty (30) business days prior to the sale or transfer of the property. (NAME OF TDHE/TRIBE) will approve or disapprove of the proposed Transferee within thirty (30) business days after receiving the notification.

13. COUNSELING

A. All applicants will be required to attend an (NAME OF TDHE/TRIBE) approved homebuyer counseling class prior to loan approval. The purpose of this requirement is:

- (1) To enable the applicant to understand the responsibilities that accompany participation in (NAME OF TDHE/TRIBE)'s Down Payment Assistance Program.
- (2) To enable the applicant to understand the home buying process,
- (3) To enable the applicant to understand and prepare to assume homeownership responsibilities and tasks,
- (4) To develop an understanding of the Down Payment Assistance Program with a goal of promoting feelings of self-respect, pride and community responsibility.

B. If available, applicants may elect to attend Post-Occupancy counseling. The cost of this counseling may be included in closing costs paid by (NAME OF TDHE/TRIBE) if the homeowner makes arrangements before the loan closing. (NOTE: THE FOLLOWING SENTENCE IS OPTIONAL SINCE THE COUNSELING COSTS ARE ELIGIBLE UNDER SECTION 202(3) OF NAHASDA.) If the homebuyer elects to attend after the loan closing, the costs of the counseling will be at the owner's expense. Post-Occupancy counseling may include the following:

- (1) Budget Counseling
- (2) Home Maintenance
- (3) Refresher review of (NAME OF TDHE/TRIBE)'s Down Payment Assistance Program requirements.

C. Any counseling required by the lender of the TDHE/TRIBE shall be at no cost to the homebuyer.

14. PAYMENT -OVERSIGHT

A. (NAME OF TDHE/TRIBE) shall work with the homebuyer to ensure the success of their home ownership. If, for any reason, the first mortgage loan becomes delinquent, the lender will contact (NAME OF TDHE/TRIBE). Upon receipt of any delinquent notices, (NAME OF TDHE/TRIBE) staff may contact the homebuyer to assist in resolving the problem. This intervention does not, in any way, diminish the homeowner's responsibilities to the first mortgage lender.

B. If a homebuyer is found to be in default of any portion of the first mortgage documents, (NAME OF TDHE/TRIBE) may provide or refer the home buyer to financial counseling in an effort to resolve the problem, and may:

- (1) Arrange a meeting with the home buyer to discuss the default;
- (2) Work with the home buyer to develop a specific plan of action to correct the default;
- (3) Monitor the homebuyer's plan of action until the default is corrected.

15. APPEALS -PROCESS

- A. Individuals or families who have applied for the Down Payment Assistance Program and who, for any reason, have been determined to be ineligible will be notified by (NAME OF TDHE/TRIBE) in writing. The notification shall state the reasons for ineligibility. All information relative to the rejection of the applicant shall be documented and placed in the applicant's file.

- B. An applicant who has been determined ineligible for the Down Payment Assistance Program may request a second determination within 30 days of the date on the written notification. The applicant may resubmit eligibility documentation at the time of the second determination. A written notification of selection or denial will be provided based on the information submitted by the applicant. Other recourses for appealing a (NAME OF TDHE/TRIBE) decision may also be available and will be described in each letter of denial sent to the applicant.

***COEUR D'ALENE TRIBAL HOUSING AUTHORITY
HOUSING REHABILITATION***

POLICY

(CDTHA REHAB)

*Adopted by the Housing Board
May 25, 2005*

CDTHA HOUSING REHAB POLICY

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1. Programs Available

The CDTHA's housing rehabilitation programs are designed as a means to increase the livability of housing units across the Coeur d'Alene Reservation. The types of assistance that are available, depending on the availability of funds, are as follows:

PROGRAM	SOURCE OF FUNDS	OWNERSHIP STATUS	INCOME REQUIREMENTS	CEILING AMOUNT	REQUIREMENTS	FINANCING TYPE	LAND STATUS
CDTHA RENTAL REHAB	CDTHA IHP	CDTHA	Very Low & Low Incomes	\$40,000	Rehab to standard, Housing & maintenance counseling. Subject to the availability of funds.	Grant	Trust
CDTHA MH LOAN	CDTHA IHP	CDTHA	Low Income	Depends on the availability of funds*	Major, essential repairs, payments must be current, permanent residence, maintenance & housing counseling; additions based on occupancy standards. Subject to the availability of funds.	Secured Loan	Trust
CDTHA NON-HUD ASSISTED SR. REPAIR ASSISTANCE	Model Activity	Owner Occupied	Very Low Income & Low Income	\$4,500	Senior Citizens only. Major repairs essential to health & safety of occupants. Housing & maintenance counseling. Subject to the availability of funds. Repairs are exempt for environmental purposes.	Grant	Trust
Prequalifying Assistance for rehab financing	Private lender (HUD 184 must use HUD approved lender (WAMU, Wells, Tribal Point)	Lease/Purchase Owner Occupied	All incomes	Can not exceed 150% of 203b limits for area; modest	Lender requirements; Housing & maintenance counseling.	Mortgage Financing	Trust & Fee

*Amount indicated is per applicant based on affordability analysis and funds available.

Application for assistance will be made at the CDTHA office for the following:

- CDTHA Revolving Loan
- CDTHA Senior Repair Assistance
- CDTHA Mortgage Financing Prequalifying Assistance for Section 184 Rehab financing

The application procedures and the standards for the above mentioned programs are basically the same. The CDTHA Senior Repair Assistance will require essentially the same process, although the repairs can not exceed \$4,500 and are one-time assistance only for major repairs to the structure essential to the health and safety of the senior citizen occupants.

2. Reconstruction - Reconstruction is defined as building a new structure on the site, in approximately the same "footprint" of a previous structure. Reconstruction is considered

replacement and is not permitted under any rehabilitation assistance.

3. **Relocation/Displacement** - Any tenant who is required to move to accommodate the rehabilitation of his or her unit (displacement) or whose rent increases as a result of the rehabilitation (economic displacement) is a potential candidate for relocation benefits. Rental assistance must be factored into the rehabilitation cost when relocation is necessary. This does not apply to assistance under the CDTHA Senior Repair Program.

4. **Eligible Applicants**

Priority 1-CDTHA Rentals: CDTHA owned rental units are the first priority for rehabilitation funds under the Indian Housing Plan funded through NAHASDA.

Priority 2-CDTHA MH Homebuyers: Mutual Help homes are required to be maintained by the homebuyer. In the event that serious maintenance problems are identified that are not addressed by the homebuyer, depending on the circumstances, any of the following options will be used:

- Proceed with eviction due to breach of contract;
- Apply for a loan from CDTHA for rehab assistance; or
- Homebuyer obtains private loan to make repairs or meet rehab needs.

Priority 3 - Senior Owner of Non-HUD Assisted Units: Once all CDTHA units are brought to standard, owners of non-HUD assisted units will be served who meet the following criteria:

<u>CATEGORY</u>	<u>ELIGIBILITY CRITERIA</u>
Tribal Affiliation	Enrolled Coeur d'Alene Tribe Member
Special Needs	Senior Citizen (55 +)
Property Location	On the Coeur d'Alene Reservation
Ownership Status	! Have fee simple title to the property; or ! Proof of Individual Trust or Tribal Trust ownership; or ! Maintain a 50 year undivided leasehold interest in the property; or ! Have shared ownership interest in the property.
Income	Can not exceed HUD National Low-income standards
Serviceability	Must permit inventory to determine unit condition
Counseling	Must agree to participate in home & maintenance counseling
Debt	Must have no outstanding obligations to the CDTHA
Residence	Must be permanent residence (at least 9 months per year)

5. Eligible Property Type

The following property types will receive assistance according to the availability of funds:

<u>PRIORITY</u>	<u>ELIGIBLE APPLICANT</u>	<u>DWELLING TYPE</u>
1	CDTHA Low-income rentals	single family dwelling units, duplexes, apartments, quads
2	CDTHA MH units	single family dwelling units
3	Sr. Citizen-Owner Occupied	A one family property, two family property, a modular home
Anytime	Prequalifying Assistance	Single family dwelling units that are privately owned or a lease purchase home, including MH. Wrap-around seller financing property is ineligible.

6. Property Value

The appraised value of the assisted property, after rehabilitation, may not exceed the 203(b) mortgage limits for the area for the type of property being assisted (single family, condominium, etc.). Verification of the estimated value of the property after rehabilitation must be provided by an independent appraisal before the work is started.

The cost of rehabilitation can not exceed the cost of replacement of a similar type of dwelling.

7. Property Standards

At the completion of each rehabilitation project assisted, the following minimum property standards must be met.

- Section 8 Housing Quality Standards (HQS) cited in 24 CFR 982.401 or HUD UPS standards
- Requirements which address child safety measures
- The Uniform Building Code or International Building Code
- Standards that ensure the provision of the following:
 - < that the house is safe, in a physically sound condition with all systems performing their intended design functions;
 - < a livable home environment;
 - < an energy efficient building & systems which incorporate energy conservation measures;
 - < adequate space and privacy for all intended household members; and
 - < child safety provisions.

Costs under the CDTHA Senior Citizen Repair Program are for structural repairs that are essential to the health and safety of the senior citizen occupants. This repair assistance is not designed to bring a substandard unit to standard condition nor is it for replacement of appliances. All repairs performed must be done in accordance with Section 8 HQS or UPS standards and meet prevailing code requirements to the greatest extent feasible.

8. Eligible Rehabilitation Costs

Development hard costs are the actual rehabilitation costs for labor and materials for the following:

- Essential improvements
- Energy-related improvements
- Lead-based paint hazards
- Improvements for handicapped accessibility
- Repair or replacement of major housing systems.
- Demolition Costs - When part of a rehabilitation project.
- Site Improvements and Utility Connections
- Physical Enhancements for crime prevention

Related Soft Costs are reasonable and necessary costs (paid to a third party), including:

- Finance Related Costs
 - < Housing Counseling
 - < Prequalifying
 - < Origination fees
 - < Credit reports
 - < Title reports and updates
 - < Recordation fees
 - < Preparation and filing legal documents
 - < Appraisal
 - < Attorney's fees
 - < Loan processing fees
 - < Other customary fees
- Construction Related Costs
 - < Architectural fees
 - < Engineering fees
 - < Preparation of work write-ups and cost estimates
 - < Surveys
 - < Environmental Review and Assessment
 - < Cultural Resource Survey

9. Eligible Senior Repair Costs

Costs under this program are for repairs that are essential to the health and safety of the senior citizen occupants. This repair assistance is not designed to bring a substandard unit to standard condition. However, all repairs must be done in accordance with Section 8 HQS or UPS standards and meet the prevailing code to the greatest extent possible. Assistance is a one-time assistance for that specific repair. In other words, an applicant can only apply for roof assistance once. If the requested repair can not be completed within the \$4,500 CDTHA ceiling amount, it will not be done unless matching funds are secured. Below are the categories of repair eligible for assistance:

\$ Roof	\$ 504 needs
\$ Plumbing	\$ Energy Efficiency
\$ Flooring	\$ Electric
\$ Windows	\$ Heating
\$ Ventilators for mold prevention	\$ Physical enhancements
\$ Exterior or Interior Painting	\$ Child safety provisions

10. Financing

When repayment is required, repayment terms will be based on the local design of the program including such factors as the income levels of the households targeted to receive the assistance, the homeowner's "ability to pay," the average expected size of the loan of rehabilitation funds, and whether other rehabilitation loan funds will be used to leverage the CDTHA funds. Typically, Mutual Help participants would be required to repay loans to make rehab or repair of structural problems that are the homebuyer's responsibility. Options for repayment of the CDTHA loans include but is not limited to

- repayment on a monthly basis with a low interest rate,
- repayment after other rehab loan funds are paid in full,
- repayment due upon transfer of ownership of the home, or
- in certain hardship cases deferred loans whereby the principal amount of the loan is forgiven over a period of time and after satisfaction of any stipulated conditions.

11. Model Process

A well run Housing Rehabilitation Program addresses the rehabilitation needs of individual properties and neighborhoods and requires close involvement with the homebuyer or

homeowner receiving the assistance. The following table lists the minimum steps that must be implemented to ensure program success.

GENERAL STEP	INVOLVEMENT
Intake	Meet tenant, homebuyer, or homeowner; take a pre-application, determine type of assistance, explain program and counseling requirements
Initial Inspection	Schedule property inspection, inspect property, write deficiency list; prepare detailed work write-up and cost estimate (scope of work)
Verification	Prepare and submit verification forms, order title search, order appraisal (if applicable)
Verify Home Owner Income	Prepare and submit verification forms
Schedule Counseling	Discuss during initial contact, insurance requirements, maintenance counseling
Finalize Agreement	Complete all application documents
Construction	Force account or conventional method of construction will be utilized. Activities include but are not limited to the following: Schedule construction, Mobilize force account crew, Tenant/Homebuyer/Owner preconstruction conference, sign notice to proceed and scope of work,
Contracting	Solicit bids for electrical, heating, or other specialty items. Negotiate price and contract terms when applicable.
Construction Management	Conduct progress inspections, conduct final inspection, owner approval

12. Construction Activity

The CDTHA will act as the contractor and perform and manage the construction work when using the CDTHA Force Account Crew with supervision provided by a qualified Construction Foreman. Work will be inspected by the Facilities Manager, who is a licensed residential building inspector. The CDTHA can also exercise the option to contract all work out. Specialized areas will be performed through out sourcing in accordance with the CDTHA procurement policy. Work will be completed in accordance with Section 8 HQS or HUD UPS standards and the prevailing code to the greatest extent feasible. CDTHA is to use at no cost to the CDTHA, recipient=s existing utilities to carry out and complete work under this contract.

13. Warranty

The work to be completed by CDTHA will be guaranteed for One (1) Year from the date of completion. Recipients of rehab or repair assistance must be informed that problems with any of the items covered by a warranty or warranty certificate must contact the supplier/manufacturer directly to obtain assistance. No part of any warranty will cover damage to an item which has been deemed damaged through negligence or by lack of maintenance.

14. Documentation

All activities associated with the CDTHA=s Rehabilitation Programs must be documented. The following documents will be used as required. Additional documents may be developed and approved by the CDTHA Executive Director to track a specific requirement associated with a specific type of assistance. Tracking of documentation will be recorded on the CDTHA Rehabilitation Checklist designed for that particular program and can include, but is not limited to, the following documents.

- Preliminary Application (for assessment purposes)
- Formal Application
- Housing Counseling Agreement
- Loan Agreement
- BIA Title Search Report
- BIA Credit Verification
- Verification of Trust Income/Assets
- Release of Information
- Verification of Ownership, Land Status
- Property Inspection Form: Lists deficiencies and work needed (May use Section 8 Housing Quality Inspection Form or form of CDTHA choosing)
- Program Description: Description of what to expect
- Verification of Employment: Verifies applicant employment
- Verification of Public Assistance: Verifies applicant receipt of public assistance
- Verification of Deposits: Verifies applicant savings and checking accounts
- Verification of Mortgage or Deed of Trust: Verifies presence of other liens on applicant property
- Authority to Verify Credit Information
- Preconstruction Conference Form: A statement of the understanding of the terms under which the work is to be performed and the responsibilities of each party
- Change Order Form: Statement that documents the need to change a work specification
- Certificate of Final Inspection: Indicates all work has been completed to expectations
- Warranty Information

15. Monitoring Requirements

Project monitoring is required only for the duration of rehabilitation work or the close out of a particular grant program. There are no long term monitoring requirements except for loan servicing, conditional grants, insurance requirements, and where continued counseling is required.

16. Application

Application procedures are to be developed and implemented by the CDTHA Executive Director. All application information is to be completed, processed, and verified utilizing forms developed by the Executive Director. Intake, processing, and verification procedures must be consistent with standard financing and underwriting practices. Additionally, applications for CDTHA Rehab Programs must indicate the income levels and any other special characteristics of the targeted population.

Involvement in the CDTHA Rehab Programs will require the CDTHA to apply practices and documentation that require an understanding of underwriting procedures and quality control measures. Underwriting procedures will be developed and implemented by the CDTHA Executive Director.

MODEL TDHE/TRIBE **TENANT/HOMEBUYER** **GRIEVANCE POLICY**

These policies and procedures were adopted by the (name of TDHE/TRIBE) by Resolution # _____ on _____, _____.

(Note: This is a model policy and the TDHE/TRIBE may choose to delete or add any sections or numbers used in this sample. Should the TDHE/TRIBE choose to make any changes, the TDHE/TRIBE should ensure that the policy remains in compliance with the Native American Housing Assistance and Self-Determination Act.)

Policy Statement

The governing body (NAME OF TDHE/TRIBE) recognizes the need to establish procedures to resolve disputes between participants or applicants and the (NAME OF TDHE/TRIBE) in a fair and impartial manner. The purpose of these grievance procedures is to establish the general principals by which the (NAME OF TDHE/TRIBE) provides for and hears grievances and formal complaints by its program participants and applicants.

These policies and procedures are intended to provide due process to everyone involved along with being in compliance with all state, federal, and tribal laws, which have precedence. Nothing contained in these grievance procedures shall waive any sovereign immunity that the (NAME OF TDHE/TRIBE) may have.

This grievance process does not apply to (NAME OF TDHE/TRIBE) employees except as they may file a grievance as a participant, nor does it apply to vendors or contractors.

These policies and procedures shall be provided to all Participants who become residents or homebuyers of (NAME OF TDHE/TRIBE) owned or managed properties. It shall be made available to the public and shall be prominently posted in the (NAME OF TDHE/TRIBE) office.

1. Definitions.

- A. **Governing body** shall mean the (insert either the Board of Commissioners or Tribal Council, Tribal Executive Committee, etc) of the (NAME OF TDHE/TRIBE).

- B. **Participant** shall mean any individual who has applied for, has been awarded, or is currently participating in any (NAME OF TDHE/TRIBE) housing program. Expressly excluded are individuals whose leases, homeownership agreements, or any other rights to occupancy are being terminated or who are being evicted. All such individuals are not allowed to file a grievance.
- C. **Grievance** shall mean any dispute which a Participant may have with respect to (NAME OF TDHE/TRIBE) action or failure to act with respect to any (NAME OF TDHE/TRIBE) housing program and which is presented to the (NAME OF TDHE/TRIBE) in accordance with these grievance procedures. Expressly excluded are any matters involving the HUD 184 Loan Guarantee program. Also expressly excluded are disputes involving termination of leases, homeownership agreements, or any other rights to occupancy or evictions except that this does not alter any right of review or examination of documents under certain such proceedings as provided by the Native American Housing and Self-Determination Act of 1996.
- D. **The Grievance (insert Officer, Panel, Committee, etc.)** shall be an impartial (person or group) appointed by the (Executive Director or governing body) of the (NAME OF TDHE/TRIBE). **(Note: It's up to the governing body to determine who will be the person(s) to hear grievances. In most cases, where one person is designated as the Grievance Officer, that person is identified as the Grievance Officer for the purposes of this model policy. Where a grievance panel or commission hears grievances, the chairperson of that respective group will be identified as the Grievance Officer). This position is also often referred to as the Hearing Officer. This title may be determined by local practices, tribal law, the tribe's organizational structure, etc.)**
- E. **Complainant** shall mean any Participant who has presented a grievance to the (NAME OF TDHE/TRIBE) in accordance with these grievance procedures.
- F. **Grievance Hearing** shall mean the presentation to the (insert term as defined in 1. d.) of the grievance and (NAME OF TDHE/TRIBE)'s response to the grievance. The (NAME OF TDHE/TRIBE)'s Executive Director and/or legal counsel along with other pertinent (NAME OF TDHE/TRIBE)'s employee's shall be present at the hearing along with the complainant's representative if applicable.

2. Procedures.

A. Prior to a hearing.

- (1) These grievance procedures allow decisions, actions or inaction or (NAME OF TDHE/TRIBE) staff or governing body to be appealed or reviewed by Participants who are directly impacted or affected so long as certain required procedures are followed.
- (2) To facilitate the process, the complainant may first present his/her case in person or by phone to the Executive Director in an attempt to resolve the issue before it goes to a formal Hearing. If there is no resolution to the issue, the grievance will then be provided in written form.
- (3) Before filing a complaint with the Executive Director, the complainant should review the program agreement he/she has with the (NAME OF TDHE/TRIBE) to assure that he/she has a valid complaint.
- (4) The complainant should contact the (NAME OF TDHE/TRIBE) in an attempt to resolve the issue before contacting the Dept. of Housing and Urban Development (HUD).
- (5) The grievance may be simply stated, but shall specify at least the following:
 - (a) the particular grounds upon which the grievance is based; and
 - (b) the action requested;
- (6) Any grievance must be in writing and signed by a Participant and personally delivered to the (Executive Director, Housing Dept. Director, etc.) or designated (NAME OF TDHE/TRIBE) employee or sent by certified mail no later than (insert # of days, for example, 10) days after the (NAME OF TDHE/TRIBE) decision, action or inaction occurs.
- (7) The (Executive Director or title of designated employee) and the complainant shall make every effort to attempt to resolve a grievance prior to the complainant requesting a grievance hearing.

- (8) The (Executive Director or title of designated employee) shall respond in writing within (insert # of days, for example, 10) days after receiving a grievance. The response shall be personally delivered or delivered by certified mail to the complainant. A copy of the response shall be attached to complainant's grievance.
- (9) The (NAME OF TDHE/TRIBE)'s response shall specify:
 - (a) the proposed action to be taken to resolve the grievance;
 - (b) the right of the complainant to a hearing before the (insert term as defined in 1. d.) and
 - (c) the procedure for requesting such a hearing;
- (10) If the complainant is dissatisfied with the proposed action to resolve the grievance, the complainant may request a hearing before the (insert term as defined in 1. D.) The request for a hearing must be made within (insert # of days, for example, 10) days of the date on the (NAME OF TDHE/TRIBE)'s written response. The request for a hearing must be in writing and personally delivered to the (NAME OF TDHE/TRIBE) office or sent by certified mail.
- (11) If the complainant does not request a hearing within (insert # of days, for example, 10) after receiving the (NAME OF TDHE/TRIBE)'s response to the grievance, the complainant waives his/her right to a hearing and the (NAME OF TDHE/TRIBE)'s proposed disposition of the grievance shall become final.

B. Hearing.

- (1) If the complainant requests a hearing within (insert # of day, for example, 10) days of the date of the (NAME OF TDHE/TRIBE)'s written response, the (Executive Director or title of designated employee) shall notify the Grievance Officer in writing of the request and shall schedule the hearing to be held within (insert # of days, for example, 30) days of the complainant's request for a hearing.

- (2) Written acknowledgment of the request and notice of the scheduled Grievance Hearing date, time and place shall be provided by the (Executive Director or title of designated employee) to the complainant at least (insert # of days, for example, 10) days prior to the hearing date. The written acknowledgement may be personally delivered or sent by certified mail.
- (3) Before attending the Grievance Hearing, the complainant should review the Grievance Policy to acquaint himself/herself with the proceedings.
- (4) The appointed Grievance Officer shall preside over the Grievance Hearing and shall make the final determination as to questions of rules and procedure. The Grievance Officer may be advised by and consult with (NAME OF TDHE/TRIBE) staff or legal counsel on procedural matters during this process.
- (5) The Grievance Officer, (NAME OF TDHE/TRIBE) staff, and complainants shall treat each other respectfully and fairly when handling, hearing or presenting a grievance.
- (6) The Grievance Officer shall require all in attendance to conduct themselves in an orderly fashion during the Grievance Hearing. Failure to comply with the directions of the Grievance Officer to obtain order may result in exclusion from the proceedings or in a decision adverse to the interest of the disorderly party and automatic granting or denying the action sought.
- (7) Grievance matters including the Grievance Hearing may be confidential and not open to the public depending upon the subject matter, as determined by the Grievance Officer. **(Note: Make sure this section is in compliance with your local tribal or state, if applicable, open meetings laws.)**
- (8) The complainant has the right to review all files and documents that were used by the (NAME OF TDHE/TRIBE) in its original decision. This includes name of witnesses or parties who have made complaints if such parties' statements were used by the (NAME OF TDHE/TRIBE) in its original decision.

- (9) Both the complainant and a representative of the (NAME OF TDHE/TRIBE), who may be the same person who is providing advice to the Grievance Officer, shall make verbal arguments at the Grievance Hearing. The complainant may have a representative speak on his/her behalf.
- (10) The Grievance Hearing shall be conducted informally by the Grievance Officer and verbal or written evidence pertinent to the facts and issues raised by the complainant will be received without regard to admissibility under the rules of evidence applicable to judicial proceedings.
- (11) After due consideration is given to a Grievance, a final decision will be made by the Grievance Officer whether to sustain, reverse or modify the decision, action or inaction challenged. A written decision shall be promptly given to the Complainant no later than (insert # of days, for example, 5) days after the hearing. **(Note: in most cases, the decision of the Grievance Officer or Panel is binding and the complainant's next step in the appeal process would be tribal or state court. In other cases, tribal law may allow for grievances to be heard before the Board of Commissioners and/or the tribe's governing body before going to court.)**
- (12) Failure to follow any requirement of these grievance procedures shall allow the Grievance Officer to dismiss the grievance with no further consideration.
- (13) Filing a grievance shall not suspend, negate, delay or disrupt the implementation of an (NAME OF TDHE/TRIBE) decision or action.
- (14) The provisions of these procedures shall not apply when any grievance concerns:
 - (a) any criminal activity that threatens the health or safety of, or right to peaceful enjoyment of by other Participants, neighbors or (NAME OF TDHE/TRIBE) employees, or
 - (b) any criminal activity, including drug-related activity, by Participants, their household members, guests or invitees affecting premises, or rights or well-being of any Participant's neighbors.

- (15) Should the complainant fail to appear at the Grievance Hearing, the Grievance Officer may:
- (a) dismiss the Grievance
 - (b) proceed without the complainant, or
 - (c) reschedule the hearing one time if the complainant has provided a valid reason for failing to appear;
- (16) This Grievance process does not apply to (NAME OF TDHE/TRIBE) employees except as they may file a grievance as a participant, nor does it apply to vendors or contractors.
- (17) These policies and procedures shall be provided to all Participants who become participants in any of the (NAME OF TDHE/TRIBE) programs. It shall also be prominently posted in the (NAME OF TDHE/TRIBE) office.
- (18) Filing a grievance shall not affect the relationship between the (NAME OF TDHE/TRIBE) and the complainant with regard to the provision of other services.

Sequence of Events

(Note: The following table is a sample sequence of events that includes the tasks, responsible parties, and timing of the grievance process. The information included in the table should be adjusted to comply with the information in the policy.)

Task	Responsible Party	Timing
Grievance provided in writing to the (NAME OF TDHE/TRIBE)	Program Participant	Within 10 days of a decision, action or inaction by the (NAME OF TDHE/TRIBE)
Response in writing provided to the Program Participant	Executive Director	Within 10 days of receipt of written grievance.
Request a Hearing	Program Participant	Within 10 days of receipt of Executive Director's response.
Notify Grievance Officer & schedule Hearing	Executive Director	Within 30 days of request.
Notify Program Participant of Hearing date.	Executive Director	At least 10 days prior to Hearing.
Written decision given to Program Participant & (NAME OF TDHE/TRIBE).	Grievance Officer	Within 10 days after Hearing.

Rehab Projects for Small Tribes



A Tradition of Native American Housing

National American Indian Housing Council

50 F Street NW, Suite 3300

Washington, DC 20001

Phone 202-789-1754

800-284-9165

REHAB PROGRAM SAMPLE POLICY

This Policy was adopted by the Board of Commissioners by Resolution # _____
on _____.

(Note: This is a model policy and the Tribe/TDHE may choose to delete or add any sections or numbers used in this sample. Should the Tribe/TDHE choose to make any changes, the Tribe/TDHE should ensure that the policy remains in compliance with the Native American Housing Assistance and Self-Determination Act.)

1. POLICY STATEMENT

- a. The Board of Commissioners / Tribal Council of the (NAME OF TDHE/TRIBE) recognizes the need to establish policies regarding the rehab work performed on homes owned by eligible homeowners who are unable to acquire assistance from other agencies. The (NAME OF TDHE/TRIBE) will provide assistance, within approved budget amounts, for the rehabilitation of privately-owned homes that are occupied by eligible families as determined by the (NAME OF TDHE/TRIBE).
- b. Homeowners who apply for assistance funded by the (NAME OF TRIBE/TDHE) using Indian Housing Block Grant funds will have to meet eligibility standards established by the (NAME OF TDHE/TRIBE) along with other agencies or financial institutions that may be partners in these programs.

2. GENERAL INFORMATION.

- a. The (NAME OF TRIBE/TDHE) will provide assistance to pay for labor, materials and related costs associated with the rehabilitation of privately-owned homes.
- b. Eligible low-income families may receive a grant up to (\$ AMOUNT TO BE DETERMINED BY TRIBE/TDHE) for the rehabilitation of their home.
- c. Participation in the rehabilitation grant program is limited to low-income families as defined by the (NAME OF TRIBE/TDHE). Participants will be required to provide documentation to verify the determination of low-income status.
- d. The Executive Director or other designated employee and/or governing body of the (NAME OF TRIBE/TDHE) shall review and approve each home rehab grant application. Eligible low-income families must make their request for a

rehabilitation grant on an application form developed by the (NAME OF TDHE/TRIBE).

- e. This assistance is a grant (or forgivable loan as determined by the TRIBE/TDHE) to the family and will be paid directly to the vendor, contractor or appropriate agency that requires specific types of fees for permits, fees, or licensing requirements to rehabilitate a house. No payments will be made to the family.

3. PURPOSE.

- a. This policy describes the type of work that is allowable and the steps that must followed to request payment for the rehabilitation work. The homeowner that requests this assistance will not be allowed to use rehabilitation funds for luxury items, as determined by the (NAME OF TRIBE/TDHE). Each request will be considered on a case-by-case basis.

(Note: If a homebuyer is a current participant in the Mutual Help Homeownership Program, paying for routine maintenance is not a eligible activity using NAHASDA funds unless the Mutual Help and Occupancy Agreement has been amended. TRIBES/TDHES should prioritize rehabilitation items to be completed in this policy. For example, roofs should be repaired before carpet being replaced.)

- b. **Repairs or Replacements** are defined as work that is done that does not improve or extend the life of the structure. Examples include replacing old carpeting with new, replacing windows with similar type, etc. Applications for this category will include a description of the items being repaired and/or replaced, and justification for their repair and/or replacement.
- c. **Betterments** are defined as work that is done that either improves or extends the life of the structure. Examples include replacing existing windows with energy-efficient windows, making a home accessible, installing a foundation, etc. Applications for this category will include a description of the items being repaired and/or replaced, justification for their repair and/or replacement, and a description of how the structure will be improved or its life extended.
- c. **Additions** are defined as any improvement made to the home that will result in additional square footage. Any request made by the homeowner to make additions or structural changes to the home shall be submitted to the (NAME OF TRIBE/TDHE) in writing with a plan and drawing of the proposed change(s) for approval.
- d. **Luxury items** are defined as (definition to be determined by the TRIBE/TDHE).

4. APPLICATION PROCESS.

- a. The (NAME OF TRIBE/TDHE) will require the homebuyer to submit the following documents:
 - (1) A completed application form requesting to use the rehabilitation funds for repairs, betterments, or additions to the unit, including information regarding the purpose of the grant as described above.
 - (2) Proof of ownership of the structure to be rehabilitated.
- b. The TRIBE/TDHE shall determine who has approval or denial authority subject to the availability of funds.

5. ELIGIBILITY REQUIREMENTS.

An individual or family must first meet the following eligibility requirements to be eligible for a rehabilitation grant from the (NAME OF TRIBE/TDHE):

- a. Be a low-income family as defined by the (NAME OF TRIBE/TDHE).
- b. Reside within the service area as defined in the (NAME OF TRIBE/TDHE)'s Indian Housing Plan.

(Note: Programs funded using Indian Housing Block Grants are generally limited to serving low-income Native American families. Families with incomes between 80-100% of median may be assisted according to 24 CFR 1000.110. In addition, non-Indian families determined to be "essential" may be eligible according to Section 201(b)(3) of the NAHASDA Statute.)

(Note: Requiring the family to reside in the service area is at the discretion of the Tribe/TDHE; however it would make it easier to administer the program by reducing travel for inspections, etc.)

6. ALLOWABLE USES

- a. Rehabilitation of home to make accessible to persons with disabilities including bathroom(s), doorways, entrance ramps, etc.
- b. Repairs and/or replacement of items that have been identified in a home inspection. Damage items that that create a hazard to the life, health, or safety of the occupants or cause serious damage to the property shall have priority over other requests.
- c. Improvements such as installation of carpet, upgrade of windows, cabinets, doors, lighting and plumbing fixtures, electrical, insulation, wood stoves, fencing, or other items as determined by the (NAME OF TRIBE/TDHE).
- d. Replacement of appliances such as kitchen stoves, refrigerators, water heaters, furnaces and other items as determined by the (NAME OF TRIBE/TDHE).

- e. Building additional bedrooms, living space, decks, or garages.
- f. Repairs shall be made in accordance with the TRIBE/TDHE's prioritization schedule.
- g. Rehabilitation funds shall not be used for luxury items as determined by the (NAME OF TRIBE/TDHE) such as hot tub, spas, swimming pools, electronic equipment, or household furniture.

8. PAYMENT FOR MATERIALS, CONSTRUCTION COSTS AND/OR CONTRACTOR SERVICES.

- a. The (NAME OF TRIBE/TDHE) will make direct payment to the party performing the work or to the vendor where the purchase for material was made using the (NAME OF TRIBE/TDHE) Purchase Order System. At no time will payments be made directly to the homeowner for any material or contractor invoices.
- b. For the construction of additions or major improvements, payments shall be processed in accordance with the adopted Procurement Policy and/or contract documents.

9. INSPECTIONS.

- a. For construction of additions or structural changes, the (NAME OF TRIBE/TDHE) will conduct an interim inspection, and upon completion of the project, a final inspection will be performed with the homebuyer or homeowner. A certification of completion will be signed by the homebuyer or homeowner along with the TRIBE/TDHE and the contractor prior to final payment being issued.
- b. All completed rehabilitation work must be inspected to assure that work completed meets any Housing Quality Standards established by the (NAME OF TRIBE/TDHE), if applicable.
- c. All homes must be inspected prior to being rehabilitated to assure that the proper level of environmental review has been conducted in accordance with the National Environmental Policy Act (NEPA) and any other applicable statutes, regulations and Executive Orders.
- d. All homes constructed prior to 1978 must have been inspected for the existence of any lead based paint prior to being rehabilitated in accordance with HUD regulations entitled Requirements for Notification, Evaluation and Reduction of Lead-Based Paint Hazard in Federally Owned Residential Property and Housing Receiving Federal Assistance contained in 24CFR35.

10. RESALE RESTRICTION

- a. Documents for the Rehabilitation Program shall include resale restrictions. (For example, if the owner sell or transfers title to the home within a timeframe established by the TRIBE/TDHE, the entire amount or a designated % of the cost of rehabilitation the home may be required to be paid back to the TRIBE/TDHE.
- b. If, at any time, the owner sells or transfers title to the home, the owner must repay the (NAME OF TDHE/TRIBE) any balance due.

11. OTHER REQUIREMENTS (OPTIONAL).

- a. If the (NAME OF TRIBE/TDHE) rehabilitation program is a forgivable loan program, the homebuyer/homeowner shall be required to carry any (NAME OF TRIBE/TDHE) required insurance coverage on the home during the term of the loan.
- b. The homebuyer/homeowner shall be responsible for having warranty work performed on any manufactured appliances or materials used in the rehabilitation of their home.
- c. The (NAME OF TRIBE/TDHE) may establish warranty periods (for example, 1 year) on workmanship and products used in rehabilitation activities.
- d. The (NAME OF TRIBE/TDHE) may require the participants in any rehabilitation program to participant in counseling programs sponsored and paid for by the (NAME OF TRIBE/TDHE).
- e. All eligible applicants selected to participate in the (NAME OF TRIBE/TDHE)'s rehabilitation program shall sign a Rehabilitation Program Agreement with the (NAME OF TRIBE/TDHE).

12. Appendices

- a. Rehabilitation Program Supplemental Application
- b. Sample Rehab Program Agreement
- c. Rehab Program Checklist
- d. Rehab Program Implementation Steps

SUPPLEMENTAL APPLICATION FOR THE REHAB PROGRAM

The purpose of this program is to eliminate substandard housing conditions. Homes must be owned and occupied by the applicant, rental properties are not eligible. All eligible and verified repairs will be done by the Tribe or by direct payment to approved subcontractors. No payments will be made to the family. Repayment will only be required if the family sells the home within ten years – a lien will be placed on the home by the Tribe.

Information about home to be rehabilitated:

Applicant: _____

Address of Property: _____

Owner: Same as Applicant

Type: Stick Built Modular Mobile Home

Year Built: _____

General Condition of Home: Good Fair Poor

Information about how loan will be used:

Amount of Loan Requested: \$_____

Describe how Loan will be used (check all that apply):

- Roof Foundation Heating System Plumbing Electrical
- Siding Windows Weatherization Septic System
- Handicap Assistance (ramps, grab bars, etc.) _____

Describe below the repairs that are needed to eliminate substandard conditions:

Applicant Signature

Date

SAMPLE HOME REPAIR PROGRAM AGREEMENT

The (Tribe/TDHE), hereinafter referred to as "Tribe/TDHE", and _____ hereinafter referred to as "Homeowner", hereby agree as follows:

1. The Homeowner has applied for the Home Repair Program. Based on the information supplied by the Homeowner and verified by the Tribe/TDHE, the Homeowner has been determined to be eligible for the program.
2. An Inspection and Environmental Review of the property located at _____ has been done by the Tribe/TDHE and substandard conditions have been verified and included in the Scope of Work, which is attached and considered a part of this Agreement.
3. (Elderly Only) A grant in the amount of \$_____ has been approved. No payback of this grant is required.
4. (Non-Elderly Only) A loan in the amount of \$_____ has been approved. This loan will be amortized over _____ years and no repayment will be required if the Homeowner does not sell or otherwise transfer ownership of the home during this amortization period. If the Homeowner does sell or otherwise transfer ownership of the home during this period, the unamortized portion of the loan shall be due and payable immediately. In addition, the Tribe/TDHE will place a lien on the property during the amortization period.
5. (Non-Elderly Only) The Homeowner must agree to carry Homeowner's Insurance on the dwelling, naming the Tribe/TDHE as Loss Payee and providing insurance certificates to the tribe for same. The insurance must be in an amount necessary to protect the loan investment in the property for a minimum of ten years after the date of the loan, or until the loan obligation is satisfied.
6. The Homeowners certifies that the home described in this Agreement is the primary residence of the Homeowner, and acknowledges that if any of the information provided to the Tribe/TDHE is false or misleading, participation in this program will be terminated and all costs incurred by the Tribe/TDHE shall be due and payable immediately, including any costs associated with collecting this debt.
7. The Tribe/TDHE agrees to have all work described in the Scope of Work performed in a professional and satisfactory manner. The Homeowner agrees that no further work will be done other than the work described in the Scope of Work.
8. All work shall be done either by the Tribe/TDHE or by subcontractors selected by the Tribe/TDHE. It shall be at the Tribe/TDHE discretion as to how the work is completed. All payments related to this work shall be made directly to the vendor. No payments of any kind shall be made to the Homeowner.

Agreed to this _____ day of _____, _____ by:

TRIBE/TDHE

HOMEOWNER

REHAB PROGRAM CHECKLIST

APPLICANT: _____

ADDRESS: _____

STEP 1: ELIGIBILITY DETERMINATION

- Application complete
- Verification of Tribal Enrollment for Head or Spouse
- Copies of Social Security Cards for Head and Spouse
- Verification of Income completed (Tax Return)
- Proof of Homeownership provided (BIA TSR, Deed, Tax Statement, etc.)

STEP 2: DEFINE SCOPE OF WORK AND SIGN AGREEMENT

- Scope of Work and Estimate completed
- Environmental completed
- Certificate of Insurance provided
- Budget verified
- Agreement signed

STEP 3: COMPLETE WORK

- Procurement completed
- Work completed
- Payments processed
- Lien filed

HOUSING REHABILITATION IMPLEMENTATION STEPS

STEP ONE: PLANNING

1. Perform Community Needs Assessment
2. Create Community Strategic Plan
3. Develop Indian Housing Plan
4. Obtain funding commitment(s) for planned activities

STEP TWO: PROGRAM DEVELOPMENT

1. Develop and adopt an administrative plan for the program
 - a. Staffing
 - b. Policies
 - c. Filing System
 - d. Internal Controls
 - e. Budgeting
 - f. Scheduling
2. Develop and adopt a program policy
 - a. Program intent
 - b. Program benefits, restrictions and limitations
 - c. Eligibility requirements
 - d. Basis for selection
 - e. Building Standards
 - f. Participant responsibilities

STEP THREE: PARTICIPANT SELECTION

1. Notify community of program and solicit applications
2. Review Applications:
 - a. Eligible applicants are placed on the waiting list
 - b. Ineligible applicants are notified in writing
3. Inspect homes of applicants on the waiting list
4. Make tentative selections from the waiting list
5. Conduct environmental review
6. Finalize selections

STEP FOUR: CONSTRUCTION PLANNING

1. Hire construction project supervisor to assume responsibility for all aspects of construction planning, construction management and quality control.
2. Assess capacity to determine additional resources needed to complete work in an efficient and professional manner including:
 - a. Technical capacity to analyze problems and design repairs
 - b. Capacity to prepare material lists and cost estimates
 - c. Capacity to inspect work to ensure quality
 - d. Availability of skilled and qualified labor to perform all needed work
 - e. Availability of equipment and tools to perform all needed work

3. Procure needed technical services
4. Identify risks and develop a risk management plan
5. Obtain needed insurance
6. Perform assessment of homes
7. Determine applicable wage rates
8. Prepare scope of work, and cost estimate for each home
7. Develop plans and specifications
8. Identify tools, equipment and work force needed for work
9. Assess availability of needed resources
10. Determine production method(s)
 - a. Contract
 - b. Subcontract
 - c. Force Account
 - d. Subrecipient
11. Prepare work schedule and update cost estimate for each home
12. Execute work order and participant agreement
13. Prepare IFB (Invitation for Bid)
14. Solicit Bids
15. Review Bids to Determine bid responsiveness and eligibility
16. Verify adequate competition
17. Perform price analysis
18. Award bid
19. Hire work force

STEP FIVE: CONSTRUCTION MANAGEMENT

1. Take delivery of materials, supplies, tools, equipment
2. Maintain system of accountability for payroll, materials, supplies, tools and equipment
3. Coordinate with homeowner
4. Perform work with inspections sufficient to ensure quality
5. Monitor compliance with scope of work, plans and specifications, budget and schedule
6. Formally revise scope of work, budget and work schedule as necessary

STEP SIX: PROJECT CLOSE OUT

1. Document the satisfactory completion of the work and expenditures for each home
2. Meet with homeowner to sign off on completion and discuss applicable maintenance instructions
3. Ensure documentation is complete and sufficient to support:
 - a. Expenditure of all funds
 - b. Eligibility of the beneficiary
 - c. Compliance with program requirements including environmental review, competitive procurement, compliance with labor requirements, etc.
 - d. Compliance with program policy including the basis for selection and the benefits provided to the family
4. Report on the use of all funds and accomplishments in the Annual Performance Report or as required by each funding source

LEASE PURCHASE AGREEMENT

This Lease Purchase Agreement (Agreement) form shall be used for the (NAME OF TRIBE/TDHE)'s Lease to Own Program.

Contents

- Article I Parties; Definitions
- Article II Special Provision
- Article III Change in Income
- Article IV Commencement of Occupancy
- Article V Inspections, Responsibility for Items Covered by Warranties
- Article VI Lessee Payments
- Article VII Maintenance, Utilities, and Use of Home
- Article VIII Termination of Agreement
- Article IX Succession Upon Death or Mental Incapacity
- Article X Miscellaneous
- Article XI Counseling of Lessees

ARTICLE I Parties & Definitions

1.1. Parties.

This Lease Purchase Agreement ("Agreement") is entered into by and between (NAME OF TRIBE/TDHE) and the Lessee whose signature(s) appear below. Under this Agreement, the (NAME OF TRIBE/TDHE) will give the Lessee an opportunity to achieve ownership of a home in return for fulfilling the Lessee's obligations that include:

- Making monthly payments based on income.
- Providing all maintenance of the home.
- Participating in the (NAME OF TRIBE/TDHE) authorized credit counseling program.
- Completing an approved Homebuyer Education program.
- Satisfying all other program requirements including a periodic certification of income and family composition.

The terms and conditions of this Agreement are attached hereto and made a part hereof. This Agreement has been executed in duplicate original, and the Lessee hereby acknowledges receipt of one such original.

(NAME OF TRIBE/TDHE) representative:

(Official title) _____

(Lessee) _____

(Lessee's Spouse) _____

(Legal Description and/or Address of home)

_____ Initial Lessee

_____ Subsequent Lessee

Date: _____

1.2. Definitions. In addition to the definitions listed below, certain Construction Contract terms as used herein shall have the same meaning as in the Construction Contract.

Agreement. A Lease to Own Program Agreement between the (NAME OF TRIBE/TDHE) and a Lessee. The Agreement constitutes a purchase agreement.

Construction Contract. The contract for construction in the case of the conventional method.

Home. The dwelling home covered by this Agreement.

Lessee. The person(s) who has executed this Agreement and who has not yet achieved Homeownership.

Homeowner. A former Lessee who has achieved ownership of his or her home and acquired title to the home.

Subsequent Lessee. Any Lessee other than the Lessee who first occupies a home pursuant to an Agreement.

ARTICLE II Special Provision

2.1. This Agreement shall be subject to revocation by the (NAME OF TRIBE/TDHE) if the (NAME OF TRIBE/TDHE) decides not to proceed with the development of the home in whole or in part. In such event, any contributions made by the Lessee or Tribe shall be returned. If the contribution was a land contribution, it will be returned to the contributor.

ARTICLE III Change in Income

3.1. If a family's income changes after the Agreement is executed but before the home is occupied so that it no longer qualifies for the program, the (NAME OF TRIBE/TDHE) may reject the family for this program. If it becomes evident that a family's income is inadequate to meet its obligations, the (NAME OF TRIBE/TDHE) may counsel the family about other housing options, such as its rental program. Inability of the family to meet its obligations under the Agreement is grounds for termination of the Agreement.

ARTICLE IV

Commencement of Occupancy

4.1. Notice.

- A.** Upon acceptance by the (NAME OF TRIBE/TDHE) from the contractor of the home as ready for occupancy, the (NAME OF TRIBE/TDHE) shall determine whether the Lessee has met all requirements for occupancy including the fulfillment of any Lessee counseling requirements. In the event of an affirmative determination, the Lessee shall be notified in writing that the home is available for occupancy as of a date specified in the notice ("Date of Occupancy").
- B.** If the (NAME OF TRIBE/TDHE) determines that the Lessee has not fully met any of the conditions for occupancy, the Lessee shall be so notified in writing. The Notice:
 - (1) must specify the date by which all requirements must be satisfied; and
 - (2) shall advise the Lessee that the Agreement will be terminated and a substitute Lessee selected for the home if the requirements are not satisfied.

- 4.2. Agreement Term.** The term of this Agreement shall commence on the first day of the calendar month following the Date of Occupancy and shall expire when the Lessee is able to obtain financing from a financial institution to purchase the home from the (NAME OF TRIBE/TDHE).

ARTICLE V

Inspections: Responsibility for Items Covered by Warranty

5.1. Inspection before Move-In and Identification of Warranties.

- A.** To establish a record of the condition of the home on the date of occupancy the Lessee (including a subsequent Lessee) and the (NAME OF TRIBE/TDHE) shall conduct an inspection of the home as close as possible to, but not later than, the date the Lessee takes occupancy. (The record of this inspection shall be separate from the certificate of completion, but the inspections may, if feasible, be combined.)

5.5. Lessee Permission for Inspections; Participation in Inspections.

The Lessee shall permit the (NAME OF TRIBE/TDHE) to inspect the home at reasonable hours and intervals during the period of this Agreement in accordance with rules established by the (NAME OF TRIBE/TDHE). The Lessee shall be notified of the opportunity to participate in the inspection made in accordance with this section.

**ARTICLE VI
Lessee Payments**

6.1. Establishment of Payment.

- A.** Each Lessee shall be required to make a monthly payment ("required monthly payment") as determined by the (NAME OF TRIBE/TDHE).
- B.** The monthly payment calculated at initial determination of the Lessee's required monthly payment shall not exceed 30% of the Lessee's adjusted monthly income.

6.4. Adjustments In the Amount of the Required Monthly Payment. After the initial determination of the Lessee's required monthly payment, the (NAME OF TRIBE/TDHE) shall increase or decrease the amount of such payment to reflect changes in the Lessee's adjusted income or in any of the other factors affecting the computation of the Lessee's required monthly payment.

6.5. Lessee Payment Collection Policy. The (NAME OF TRIBE/TDHE) shall establish and adopt written policies, and use its best efforts to obtain compliance to assure the prompt payment and collection of required Lessee payments. A copy of the policies shall be posted prominently in the (NAME OF TRIBE/TDHE) office and shall be provided to the Lessee upon request.

After the inspection, the (NAME OF TRIBE/TDHE) representative shall give the Lessee a signed statement of the condition of the home and equipment and a full written description of all Lessees' responsibilities. The Lessee shall sign a copy of the statement, acknowledging concurrence or stating objections; and any differences shall be resolved by the (NAME OF TRIBE/TDHE) and a copy of the signed inspection report shall be kept at the (NAME OF TRIBE/TDHE).

- B. Within 30 days of commencement of occupancy of the home, the (NAME OF TRIBE/TDHE) shall furnish the Lessee with a list of applicable contractors', manufacturers' and suppliers' warranties indicating the items covered and the periods of the warranties, and stating the Lessee's responsibility for notifying the (NAME OF TRIBE/TDHE) of any deficiencies that would be covered under the warranties.

5.2. Inspections during contractors' warranty periods, responsibility for items covered by contractors', manufacturers' or suppliers' warranties.

In addition to inspection required under the previous section, the (NAME OF TRIBE/TDHE) will inspect the home periodically. However, it is the responsibility of the Lessee, during the period of the applicable warranties, to promptly inform the (NAME OF TRIBE/TDHE) in writing of any deficiencies arising during the warranty period (including manufacturers' and suppliers' warranties) so that the (NAME OF TRIBE/TDHE) may enforce any rights under the applicable warranties. If a Lessee fails to furnish such a written report in time, and the (NAME OF TRIBE/TDHE) is subsequently unable to obtain redress under the warranty, correction of the deficiency shall be the responsibility of the Lessee.

- 5.3. Inspections.** The (NAME OF TRIBE/TDHE) shall perform inspections periodically.

- 5.4. Inspection Upon Termination of Agreement.** If this Agreement is terminated for any reason after commencement of occupancy, the (NAME OF TRIBE/TDHE) shall inspect the home, after notifying the Lessee of the time for the inspection, and shall give the Lessee a written statement of the cost of any maintenance work required to put the home in satisfactory condition for the next occupant.

ARTICLE VII

Maintenance, Utilities, and Use of Home

- 7.1.** The (NAME OF TRIBE/TDHE) shall establish and adopt written policies to assure full performance of the respective maintenance responsibilities of the Lessee. A copy of such written policies shall be posted prominently in the (NAME OF TRIBE/TDHE) office and shall be provided to an applicant or Lessee upon entry into the program and upon request.
- 7.2. Maintenance Policy Provisions.** The written maintenance policies shall contain provisions on at least the following subjects:
- A.** The responsibilities of Lessees for maintenance and care of their dwelling homes and common property;
 - B.** Procedures for providing advice and technical assistance to Lessees and to enable them to meet their maintenance responsibilities;
 - C.** Procedures for (NAME OF TRIBE/TDHE) inspections of homes and common property;
 - D.** Procedures for (NAME OF TRIBE/TDHE) performance of Lessee maintenance responsibilities including procedures for charging the Lessee for the cost thereof;
 - E.** Special arrangements, if any, for obtaining maintenance services from outside workers or contractors; and
 - F.** Procedures for charging Lessees for damage for which they are responsible.
- 7.3. (NAME OF TRIBE/TDHE) Maintenance Responsibilities.** The (NAME OF TRIBE/TDHE) shall enforce those provisions of this Agreement under which the Lessee is responsible for maintenance of the home. Failure of a Lessee to meet the obligations for maintenance may result in the termination of this Agreement. Accordingly, the (NAME OF TRIBE/TDHE) shall conduct a complete interior and exterior examination of each home periodically and shall furnish a copy of the inspection report to the Lessee. The (NAME OF TRIBE/TDHE) shall take appropriate action, as necessary, to remedy conditions identified by the inspection, including steps to assure performance of the Lessee's obligations under this Agreement.
- 7.4. Lessee's Maintenance Responsibilities.**

A. The Lessee shall be responsible for routine and nonroutine maintenance of the home, including all repairs and replacements (including those resulting from damage from any cause). The (NAME OF TRIBE/TDHE) shall not be obligated to pay for or provide any maintenance of the home other than the correction of warranty items reported during the applicable warranty period.

B. Lessee's Failure to Perform Maintenance;

(1) Failure of the Lessee to perform the maintenance obligations constitutes a breach of this Agreement and grounds for its termination. Upon a determination by the (NAME OF TRIBE/TDHE) that the Lessee has failed to perform its maintenance obligations, the (NAME OF TRIBE/TDHE) shall require the Lessee to agree to a specific plan of action to cure the breach and to assure future compliance. The plan shall provide for maintenance work to be done within a reasonable time by the Lessee. If the Lessee fails to carry out the agreed-to plan, this Agreement shall be terminated.

(2) If the (NAME OF TRIBE/TDHE) determines that the condition of the property creates a hazard to the life, health or safety of the occupants, or if there is a risk of damage to the property if the condition is not corrected, the corrective work shall be performed promptly by the (NAME OF TRIBE/TDHE) and the Lessee shall be charged for the costs thereof.

(3) Any maintenance work performed by the (NAME OF TRIBE/TDHE) shall be accounted for through a work order stating the nature of and charge for the work.

7.5. Lessee's Responsibility for Utilities. The Lessee is responsible for the cost of furnishing utilities for the home. The (NAME OF TRIBE/TDHE) shall have no obligation for the utilities. Failure of the Lessee to furnish utilities for the home that result in damage to the home shall be grounds for termination of this Agreement.

7.6. Obligations with Respect to Home and Other Persons and Property.

A. The Lessee shall agree to abide by all provisions of this Agreement concerning Lessee responsibilities, occupancy and use of the home.

- 8.2. Notice of Termination of Agreement by (NAME OF TRIBE/TDHE), Right of Lessee to Respond.** Termination of this Agreement by the (NAME OF TRIBE/TDHE) for any reason shall be by written notice of termination. Such notice shall be in compliance with the terms of this Agreement and, in all cases, shall notify the Lessee that he/she has a right to grieve in accordance with the (NAME OF TRIBE/TDHE'S) Grievance Policy.
- 8.3. Termination of Agreement by Lessee.** The Lessee may terminate this Agreement by giving the (NAME OF TRIBE/TDHE) written notice in accordance with the Agreement. If the Lessee vacates the home without notice to the (NAME OF TRIBE/TDHE), the Lessee shall remain subject to the obligations of this Agreement including the obligation to make monthly payments, until the (NAME OF TRIBE/TDHE) terminates the Agreement in writing. Notice of the termination shall be communicated by the (NAME OF TRIBE/TDHE) to the Lessee to the extent feasible and the termination shall be effective on the date stated in the notice.
- 8.4. Charges to Lessee Upon Termination of the Agreement.** If this Agreement is terminated, the Lessee shall be charged as follows:
- A.** Any maintenance and replacement costs incurred by the (NAME OF TRIBE/TDHE) to prepare the home for the next occupant;
 - B.** Any amounts the Lessee owes the (NAME OF TRIBE/TDHE), including required monthly payments;
 - C.** The required monthly payment for the period the home is vacant, not to exceed 60 days from the date of receipt of the notice of termination, or if the Lessee vacates the home without notice to the (NAME OF TRIBE/TDHE), for the period ending with the effective date of termination by the (NAME OF TRIBE/TDHE); and
 - D.** The cost of securing a vacant home, the cost of notification and associated termination tasks, and the cost of storage and/or disposition of personal property.
 - E.** The cost of any delinquent utility charges to the home.

- B. The Lessee may request (NAME OF TRIBE/TDHE) to operate a small business in the home. The (NAME OF TRIBE/TDHE) may grant this authority where the Lessee provides the following assurances and may rescind this authority upon violation of any of the following assurances:
- (1) The home will remain the Lessee's principal residence;
 - (2) The business activity will not disrupt the basic residential nature of the housing site; and
 - (3) The business will not require permanent structural changes to the home that could adversely affect a future Lessee's use of the home.

7.7. Structural Changes.

- A. Lessee shall not make structural changes to the home unless the (NAME OF TRIBE/TDHE) has determined that such change would not:
- (1) Impair the value of the home, the surrounding homes, or the project as a whole; or
 - (2) Affect the use of the home for residential purposes.
- B. Additions to the home include, but are not limited to, energy-conservation items such as solar panels, wood-burning stoves, flues and insulation. Any changes made in accordance with this section shall be at the Lessee's expense, and in the event of termination of this Agreement the Lessee shall not be entitled to any compensation for such changes or additions.

ARTICLE XIII Termination of Agreement

- 8.1. Termination Upon Breach.** In the event the Lessee fails to comply with any of the obligations under this Agreement, the (NAME OF TRIBE/TDHE) may terminate the Agreement by written notice to the Lessee, enforced by eviction procedures described in the (NAME OF TRIBE/TDHE)'s Collection and Eviction Policy. (b) Misrepresentation or withholding of material information in applying for admission or in connection with any subsequent reexamination of income and family composition constitutes a breach of the Lessee's obligations under this Agreement. "Termination," as used in this Agreement does not include acquisition of ownership by the Lessee.

8.5. Settlement Upon Termination.

- A. Time for Settlement.** Settlement with the Lessee following a termination shall be made as promptly as possible after all charges have been determined and the (NAME OF TRIBE/TDHE) has given the Lessee a statement of such charges. The Lessee may obtain settlement before determination of the actual cost of any maintenance required to put the home in satisfactory condition for the next occupant, if the Lessee is willing to accept the (NAME OF TRIBE/TDHE)'s estimate of the amount of such cost as full and final payment.
- B. Disposition of Personal Property.** Upon termination, the (NAME OF TRIBE/TDHE) may dispose of any item of personal property abandoned by the Lessee in the home, in a lawful manner deemed suitable by the (NAME OF TRIBE/TDHE). Proceeds, if any, after such disposition, may be applied to the payment of amounts owed by the Lessee to the (NAME OF TRIBE/TDHE)

8.6. Responsibility of (NAME OF TRIBE/TDHE) to Terminate.

- A.** The (NAME OF TRIBE/TDHE) is responsible for taking appropriate action with respect to any noncompliance with this Agreement by the Lessee. In cases of noncompliance that are not corrected as provided further in this section, it is the responsibility of the (NAME OF TRIBE/TDHE) to terminate this Agreement in accordance with the provisions of this section and to institute eviction proceedings against the occupant.
- B.** As promptly as possible after a noncompliance comes to the attention of the (NAME OF TRIBE/TDHE), the (NAME OF TRIBE/TDHE) shall discuss the matter with the Lessee and give the Lessee an opportunity to identify any extenuating circumstances or complaints that may exist. A plan of action shall be agreed upon that will specify how the Lessee will come into compliance, as well as any actions by the (NAME OF TRIBE/TDHE) that may be appropriate. This plan shall be in writing and signed by both parties.
- C.** Compliance with the plan shall be monitored by the (NAME OF TRIBE/TDHE) at reasonable intervals. In the event of refusal by the Lessee to agree to such a plan or failure by the Lessee to comply with the plan, the (NAME OF TRIBE/TDHE) may issue a notice of termination of this Agreement and evict the Lessee in accordance with the provisions of this section on the basis of the noncompliance with this Agreement.

- D. A record of meetings with the Lessee, written plans of action agreed upon and all other related steps taken shall be maintained by the (NAME OF TRIBE/TDHE).
- E. Failure by the (NAME OF TRIBE/TDHE) to enforce or act on any alleged violation of this Agreement shall not establish a precedent or negate the ability or requirement to institute enforcement actions anytime in the future on any initial or subsequent violations.

8.7. Subsequent Use of Home. After termination of a Lessee's interest in the home, the home remains the property of the (NAME OF TRIBE/TDHE). The (NAME OF TRIBE/TDHE) must follow its policies for selection of a subsequent Lessee for the home under the Lease to Own Program.

ARTICLE IX

Succession (Note: This Article is optional)

9.1. Definition of "Event". Event means the death or mental incapacity or transference of occupancy of the home and all obligations of the Agreement by all of the persons who have executed this Agreement as Lessees.

9.2. Designation of Successor by Lessee.

A. A Lessee may designate a successor who, at the time of the event would assume the status of Lessee, provided that at that time he or she meets the conditions stated in the following section. The designation shall be made at the time of execution of this Agreement, and the Lessee may change the designation at any later time by written notice to the (NAME OF TRIBE/TDHE). The designated successor isn't required to be a co-lessee on this Agreement.

B. The designated successor as of the date of execution of this Agreement is:

First Name: _____ Middle Initial: _____

Last Name: _____

Street & Number: _____

City, State: _____

Relationship: _____

9.3. Succession by Person Designated by Lessee.

- A.** Upon occurrence of an "event" the person designated as the successor or assignee, shall succeed to the former Lessee's rights and responsibilities under this Agreement if the designated successor meets the following conditions:
- (1)** The successor or assignee is a family member and will make the home his or her primary residence.
 - (2)** The successor or assignee is willing and able to perform the obligations of a Lessee under this Agreement.
 - (3)** The successor or assignee satisfies program eligibility requirements; and
 - (4)** The successor or assignee executes an assumption of the former Lessee's obligations under this Agreement.
- B.** If a successor or assignee satisfies the described requirements, the successor may execute an outright purchase of the home.
- 9.4. Designation of Successor by (NAME OF TRIBE/TDHE).** If at the time of the event there is no successor or assignee designated by the Lessee, or if any of the conditions in the previous Section are not met by the designated successor, the (NAME OF TRIBE/TDHE) may designate, in accordance with its occupancy policy, any person who qualifies under the previous Section.
- 9.5. Occupancy by Appointee Guardian.** If at the time of the event there is no qualified successor designated by the Lessee or by the (NAME OF TRIBE/TDHE) in accordance with the foregoing provisions, and a minor child or children of the Lessee are living in the home, the (NAME OF TRIBE/TDHE) may, in order to protect their continued occupancy and opportunity for acquiring ownership of the home, approve as occupant of the home an appropriate adult who has been appointed legal guardian of the children with a duty to perform the obligations of this Agreement in their interest and behalf.
- 9.6. Succession and Occupancy on Trust Land.** In the case of a home on trust land subject to restrictions on alienation under federal (including federal trust or restricted land and land subject to trust or restriction under State law), or under State or Tribal law where such laws do not violate federal statutes, a person who is prohibited by law from succeeding to the (NAME OF TRIBE/TDHE)s interest on such land may, nevertheless, continue in occupancy with all the rights, obligations and benefits of this Agreement, modified to conform to these restrictions on succession to the land or must be eligible to occupy Trust land under Tribal law.

- 9.7. Termination In Absence of Qualified Successor or Occupant.** If there is no qualified successor or assignee in accordance with the (NAME OF TRIBE/TDHE)'s approved policy, the (NAME OF TRIBE/TDHE) may terminate this Agreement and select a subsequent Lessee from the top of the waiting list to occupy the home under a new Agreement.

ARTICLE X Miscellaneous

10.1. Insurance Before Transfer of Ownership, Repair or Rebuilding.

- A. Insurance.** The (NAME OF TRIBE/TDHE) shall carry all insurance required including fire and extended coverage insurance, upon the home.
- B. Repair or Rebuilding.** In the event the home is damaged or destroyed by fire or other casualty, the (NAME OF TRIBE/TDHE) shall use the insurance proceeds to have the home repaired or rebuilt unless there is good reason for not doing so.
- C. Suspension of Payments.** In the event of termination of this Agreement because of damage or destruction of the home, or if the home must be vacated during the repair period, the (NAME OF TRIBE/TDHE) will use its best efforts to assist in relocating the Lessee. If the home must be vacated during the repair period, required monthly payments may be suspended during the vacancy period.
- 10.2. Notices.** Any notices by the (NAME OF TRIBE/TDHE) to the Lessee required under this Agreement or by law shall be delivered in writing to the Lessee personally or to any adult member of the Lessee's family residing in the home, or shall be sent by certified mail, return receipt requested, properly addressed, postage prepaid. Notice to the (NAME OF TRIBE/TDHE) shall be in writing, and either delivered to an (NAME OF TRIBE/TDHE) employee at the office of the (NAME OF TRIBE/TDHE), or sent to the (NAME OF TRIBE/TDHE) by certified mail, return receipt requested, properly addressed, postage prepaid.

ARTICLE XI Counseling of Lessees

11.1. General. The (NAME OF TRIBE/TDHE) shall provide the opportunity for credit and homeownership counseling to Lessees in accordance with the Lease to Own program policies. The purpose of the counseling program shall be to develop:

- A.** A full understanding by Lessees of their responsibilities as participants in the Lease to Own Program.
- B.** Ability on their part to carry out these responsibilities, and
- C.** A cooperative relationship with the other Lessees. All Lessees will be required to participate in and cooperate fully in all official credit, pre-occupancy and post-occupancy counseling activities.

(Note: Depending on local State or Tribal law, if applicable, the Tribe/TDHE may choose to attach a land lease or a narrative as to the status of the land where the home is located to this agreement. The TRIBE/TDHE must have control of the land on which the home is developed or purchased.)

MODEL TDHE/TRIBE **LEASE TO OWN PROGRAM POLICY**

These policies and procedures were adopted by the (name of TDHE/TRIBE) by Resolution # _____ on _____, ____.

(Note: This is a model policy and the TDHE/TRIBE may choose to delete or add any sections or numbers used in this sample. Should the TDHE/TRIBE choose to make any changes, the TDHE/TRIBE should ensure that the policy remains in compliance with the Native American Housing Assistance and Self-Determination Act.)

Policy Statement

The (NAME OF TRIBE/TDHE) is aware that not all members of the (NAME OF TRIBE/TDHE) may qualify for home loan programs offered by private lenders. To overcome this obstacle for individuals or families in need of affordable housing, the Lease to Own Program has been developed. The Lease to Own Program has been designed to assist individuals or families that are truly committed to owning a home and meeting homeownership responsibilities. This program may be used for the purchase of an existing structure; modular constructed home (which is considered the same as a stick-built home), purchase and modernization of a home, and the construction of new homes. Purchase of homes also includes manufactured homes. The term manufactured home, in this policy, may be a mobile home. Manufactured homes must be constructed in conformance with the Federal Manufactured Home Construction and Safety Standards as evidenced by the affixed certification label.

1. General Information

- A.** The Lease to Own Program may be utilized on Trust, Individually Allotted, or Fee Simple Lands located within the (NAME OF TRIBE/TDHE)'s Indian area, which is the area where the (NAME OF TRIBE/TDHE) provides affordable housing assistance as identified in the Indian Housing Plan.
- B.** Individuals or families that meet low-income criteria but are unable to obtain a home loan due to credit issues may receive assistance from the (NAME OF TRIBE/TDHE) if they can demonstrate that these problems are curable within a (insert # of years, for example, 3) year period. The applicant, an approved Lender, and the (NAME OF TRIBE/TDHE) will determine how the credit issues will be addressed.

An approved Lender must be approved by the Secretary of Housing and Urban Development, Secretary of Agriculture, or the Secretary of Veterans' Affairs; or supervised, approved, regulated, or insured by an agency of the federal government. In the event the credit issues are not curable, the applicant will not be eligible for assistance in this program.

- C. The total cost of development or the purchase price of a house shall not exceed the HUD established total Development Cost (TDC) for the area where the house will be located. The TDC for the area shall be attached as an appendix to this policy.

2. Application Process

- A. Individuals or families must first have completed a tribally sponsored and/or TDHE approved homebuyer education program (preferably a nationally certified Pathways home trainer). This is required prior to the individual or family filing an application with a government-approved lender. Mortgage Loan Specialist) will work with the applicant in the areas that are inhibiting the individual or family in qualifying for mortgage financing.
- B. Once the individual meets all of the program criteria and it is apparent to all concerned that the applicant appears favorable, the application will be forwarded to the governing body for final approval. Upon being approved, the applicant and the (NAME OF TRIBE/TDHE) will enter into a Lease to Own Agreement.

(The following is optional depending upon whether the TRIBE/TDHE is simply using IHBG funds to develop or purchase the houses or whether the TRIBE/TDHE is borrowing the funds from a financial institution. For example, the TRIBE/TDHE may use the Section 184 or Title VI Guaranteed Loan programs to borrow the funds from a financial institution and then sell the houses through the Lease to Own Program.)

The (NAME OF TRIBE/TDHE) will then become the borrower, the Lender (Bank) will loan the funds to the (NAME OF TRIBE/TDHE) and the applicant will lease the unit from the (NAME OF TRIBE/TDHE) and become the Lessee. The Lessee will make house payments to the (NAME OF TRIBE/TDHE) during the term of the Lease to Own Agreement. The house payments will become part of the Lessee's payment and credit history.

- C. The amount of the monthly house payment will be determined by the terms of the loan.

(Note: It's up to the Tribe/TDHE to determine how the monthly payments are to be calculated. For example, payments may be calculated on a percentage of the Lessee's adjusted income or calculated based on the principal & interest from the unit's amortization schedule. It's important to note that however the monthly payment is calculated, the payment can't exceed 30% of the Lessee's monthly adjusted income.)

- D. If the applicant is requesting that the unit be placed on their own land, they will have to obtain a Title Search Report from the Bureau of Indian Affairs Realty Office to assure they have clear title to the property.
- E. If approved for this program, the applicant will sign and date a lease agreement with the (NAME OF TRIBE/TDHE), lender, and tribe securing the land as part of the mortgage.

3. Restrictions

- A. Individuals or families participating in this program will not be able to sell the house they are leasing or until such time as the rent to lease person/s has had a mortgage loan closed and they now are mortgagees, until then, the (NAME OF TRIBE/TDHE) owns the house.
- B. If an "Individual Development Account" (IDA) Program is established by the Tribe or the TDHE, the applicant may use these funds for down payment/closing costs, purchase of appliances, furniture or whatever the tribe or TDHE decides is appropriate. IHBG funds cannot be used for non-affordable housing activities that are not consistent with the tribe's/TDHE's Indian Housing Plan. Note: These are funds that are matched by whomever, and the applicant. Some lenders, foundations, tribes, and other interested entities partner up with the sponsoring party and they can match the funds with a one to one match or whatever everyone involved thinks is an appropriate amount. This usually gives the family an incentive to want to save knowing someone else is also assisting them with their dream.
- C. Individuals or families approved for this program by the (NAME OF TRIBE/TDHE) will not be eligible for the Down Payment Assistance Program, if applicable.

- D. Since this a home loan program with a private lender, there will not be a Monthly Equity Payment Account (MEPA).

4. Program guidelines

- A. The following criteria govern the program:

- (1) The (NAME OF TRIBE/TDHE) will be the borrower by securing a loan from a lender and may have the loan guaranteed by such programs as the HUD Section 184 or Title VI program or any other Federal Guarantee Loan Program.
- (2) Individuals or families will be selected based on their willingness and ability to make house payments, demonstrate appropriate behavior to participate in this housing assistance program, not have any outstanding debt to the (NAME OF TRIBE/TDHE), and are committed to improving their credit situation. Families selected to participate may be in this program for a period of (insert # of years, for example, 3).
- (3) After entering this program, individuals or families will be required to periodically file an application with a lender to learn if they qualify for a loan. If they are approved and receive the loan, they will assume the loan from the (NAME OF TRIBE/TDHE). If they do not qualify after making the second application to a lender, they will be allowed to stay in the program and re-apply to the lender until a lender approves them within the (insert # of years, for example, 3) year period.

- F. If the individual or family does not meet the program requirements and is unable to qualify for a home loan, they may be terminated from the program and be required to give up the house in accordance with the Lease-Purchase Agreement. Should the lessee refuse to honor the Lease-Purchase Agreement, they may be terminated from the program in accordance with the terms of the agreement.

- G.** While the family is in the program, they will be required to participate in (insert appropriate name of credit counseling program the TRIBE/TDHE has developed or uses such as the “Homebuyer Education” including a credit counseling (if necessary) and a financial planning section. Upon completing these programs, the program participant should receive a certificate or other form of certification that may be provided to the lender as proof they understand the principles of credit and homeownership.
- H.** The individual or family will be required to enter into a lease-purchase agreement with the (NAME OF TRIBE/TDHE). The terms of the agreement will include, but not limited to the following:
- (1) Length of lease.
 - (2) Amount of monthly house payment and payment date.
 - (3) Agree to follow occupancy guidelines and maintenance requirements.
 - (4) Agree to meet program requirements.
 - (5) Surrender the house in the event of default.

5. Eligibility Requirements

(Note: The TRIBE/TDHE should consider using the same criteria for assistance utilizing this program as those described in their respective adopted Eligibility, Admission & Occupancy Policies & Procedures. But, if the TRIBE/TDHE chooses to use other eligibility criteria, the TRIBE/TDHE needs to make sure that the criteria is in compliance with NAHASDA and its accompanying regulations.

The eligibility criteria for assistance utilizing the Lease to Own Program shall be the same as those described in the (NAME OF TRIBE/TDHE) adopted Eligibility, Admission & Occupancy Policies & Procedures.

In all cases, it shall be the policy of the (NAME OF TRIBE/TDHE) to only consider purchasing real property after the following conditions have been met:

1. An unmet need has been identified through the Indian Housing Plan (IHP).
2. Funding has been identified. (NAHASDA, non-restricted, grant funds, Tribal, other Federal)
3. No suitable Tribal Trust Land is currently available.
4. It is in the best interest of the (NAME OF TRIBE/TDHE).

1. **ACQUISITION REQUIREMENTS**

- a. **General Information.** The requirements of this chapter apply to any acquisition of real property for a project utilizing NAHASDA, non-restricted, Tribal, or other grant funds.
- b. **Less-Than-Full-Fee Interest in Real Property.** In addition to acquisitions of fee simple title, the provisions of this chapter apply to:
 - (1) the acquisition of fee title that is subject to retention of a life estate;
 - (2) a life use;
 - (3) acquisitions by leasing or purchasing a leasehold interest, including option(s) for extension;
 - (4) land held in Trust by the U.S. Government for a tribe or Indian individual;
 - (5) the acquisition of permanent easements;
- c. **Persons Acting as Agent of (NAME OF TRIBE/TDHE).** In some cases, the (NAME OF TRIBE/TDHE) may determine that a property meets the requirements for acquisition and acts through a non-related party to acquire the identified property. This may be a developer, or licensed real estate agent. In such cases, the person is performing as the agent of the (NAME OF TRIBE/TDHE) and the acquisition must be treated as a (NAME OF TRIBE/TDHE) acquisition that is subject to all provisions of these policies and procedures.

2. **Basic Acquisition Policies**

- a. **Expeditious Acquisition.** The (NAME OF TRIBE/TDHE) shall make every effort to acquire the real property expeditiously by good faith negotiation.
- b. **Notice to Owner.** As soon as a property has been identified through offer or inquiry by the (NAME OF TRIBE/TDHE), the owner or agent for the owner shall be given written notice of the (NAME OF TRIBE/TDHE) interest in acquiring the property. If the property is located on Trust or Restricted land or involves the purchase of Trust or Restricted Land, this notice is required to go through the local Bureau of Indian Affairs (BIA) office.
- c. **Appraisal and Invitation to Owner**
 - (1) All properties identified for acquisition shall be appraised by a qualified appraiser. If the acquisition involves the purchase of Trust or Restricted land or long-term leases on Trust or Restricted lands and related improvements, the BIA must conduct the appraisal. In all cases, the owner or his/her representative shall be given the opportunity to accompany the appraiser during the appraiser's inspection of the property, unless:
 - (a) The property is being donated; or
 - (b) The (NAME OF TRIBE/TDHE) determines, after reviewing the available data, that the valuation is uncomplicated and the fair market value of the property does not exceed \$25,000. The determination shall be based on a review by a person who is familiar with real estate values. If the owner requests an appraisal, the (NAME OF TRIBE/TDHE) shall obtain an appraisal subject to paragraph c. 1.
 - (2) The (NAME OF TRIBE/TDHE) recognizes that adequate market information necessary for balanced appraisals may not be available on the (name of Reservation or Indian Service Area) and will recognize the "replacement value approach" when it is determined that inadequate sales information exists.
 - (3) When acquiring commercial property and/or property with tenant-owned improvements, the (NAME OF TRIBE/TDHE) should provide the appraiser with the appropriate legal guidance with respect to the classification of the land, (Trust, Restricted Fee) ownership, documents and the necessary reviews subject to various ownership possibilities in Indian Country.

MODEL TDHE/TRIBE REAL PROPERTY ACQUISITION POLICIES AND PROCEDURES

These policies and procedures were adopted by the (name of TDHE/TRIBE) by
Resolution # _____ on _____, _____.

(Note: This is a model policy and the TDHE/TRIBE may choose to delete or add any sections or numbers used in this sample. Should the TDHE/TRIBE choose to make any changes, the TDHE/TRIBE should ensure that the policy remains in compliance with the Native American Housing Assistance and Self-Determination Act (NAHASDA) and any other applicable federal, state, local, or tribal laws or regulations.)

Policy Statement

The Board of Commissioners (or insert governing body of the [insert name of tribe]) of the (NAME OF TRIBE/TDHE) recognize that it is necessary to adopt and implement Real Property Acquisition Policies and Procedures in order to operate as a property management business. The governing body intends these policies to be applicable to the (NAME OF TRIBE/TDHE) programs developed or operated with or without funds provided through the Native American Housing and Self-Determination Act (NAHASDA).

The acquisition of real estate is an eligible activity under NAHASDA as described in section 202(2) under Development. The regulations implementing NAHASDA regarding real property acquisition are described at 24CFR Part 1000.14 that is included as an appendix (A) to this policy. The acquisition of real property for a NAHASDA assisted activity is also subject to 49CFR part 24, subpart B that is also included as an appendix (B) to this policy.

Note: The applicability of 49CFR Part 24, subpart B relates to acquisitions by agencies that acquire real property through condemnation. Very few TDHEs possess the power to condemn property.

Certain acquisitions may be in the interest of the (NAME OF TRIBE/TDHE) that will not meet the requirements of Federal Regulations. In those instances, non-restricted funds must be utilized. Often it is in the best interests of the (NAME OF TRIBE/TDHE) to utilize Tribally controlled Trust Property for it's development purposes. When suitable Trust property does exist it shall be the policy of the (NAME OF TRIBE/TDHE) to attempt to purchase needed property.

- d. **Establishment and Offer of Just Compensation.** Once the (NAME OF TRIBE/TDHE) determines the amount which it believes is just compensation, the (NAME OF TRIBE/TDHE) shall tender a written offer to the owner or in the case of restricted lands, the BIA.
- e. **Summary Statement.** In addition to the written offer to purchase, the owner shall be given a written statement of the basis for the offer and shall include:
- (1) A statement of the amount of the offer and the method of establishing the amount.
 - (2) A description and location of the real property and the interest in the property to be acquired.
 - (3) An identification of the buildings, structures, and other improvements (including building equipment and fixtures) that are considered to be part of the real property for which the offer includes. Where appropriate, the statement shall identify any separately held ownership in the property, e.g., a tenant-owned improvement, easement, etc. that is not covered by the offer.
- f. **Basic Negotiations.** The (NAME OF TRIBE/TDHE) shall contact the owner or the owner's representative (BIA) and discuss its offer to purchase. Whenever feasible, personal face-to-face contact and discussion will take place or an attorney may represent the (NAME OF TRIBE/TDHE) in negotiations. The owner shall be given reasonable opportunity to consider the offer and present material that the owner believes is relevant to determining the value of the property and may suggest modifications in the proposed terms and conditions of the purchase.
- g. **Updating Offer of Just Compensation.** If the information presented by the owner, or a material change of the character or condition of the property indicates a need for a new appraisal, or if a significant delay has occurred since the time of the appraisal(s) of the property, the (NAME OF TRIBE/TDHE) shall have the appraisal updated.
- h. **Settlement.** The purchase price for the property may exceed the amount offered as just compensation when reasonable efforts to negotiate an agreement at that amount have failed. This action requires the approval of the (Board of Commissioners or governing body of the TDHE). A written justification shall accompany the request.

- i. **Payment Before Taking Possession.** Before requiring the owner to surrender possession of the real property, the (NAME OF TRIBE/TDHE) shall pay the agreed price to the owner, or in the case of Restricted Lands, the BIA.
- j. **Fair Rental.** If the (NAME OF TRIBE/TDHE) permits a former owner or tenant to occupy the real property after acquisition for a short term or a period subject to termination by the (NAME OF TRIBE/TDHE) on short notice, the rent shall not exceed the fair market rent for such property.

3. **Appraisals**

- a. **Definition of Appraisal.** The term “appraisal” means a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.
- b. **Standards of Appraisal.** The (NAME OF TRIBE/TDHE) will recognize the Uniform Appraisal Standards or if the Tribe chooses, an alternate method of identifying and qualifying individuals familiar with the real property values on the (name of Tribe) Reservation (or Indian Service Area). Each appraisal will contain at a minimum, the following items:
 - (1) The purpose and/or the function of the appraisal, a definition of the property being appraised and a statement of the assumptions and limiting conditions affecting the appraisal.
 - (2) A description of the physical characteristics of the property, a statement of the known observed encumbrances, if any, title information, (title insurance, title status report if trust) location, zoning, present use, and an analysis of highest and best use.
 - (3) An analysis of reliable approaches consistent with Indian reservation land sales. In most cases, inadequate market sales will necessitate other approaches such as cost of replacement, or rental value if information exists.
 - (4) A statement of the value, in the opinion of the appraiser.
 - (5) The effective date of valuation, date of appraisal, signature and credentials/certification of the appraiser.

c. Qualifications of Appraisers.

- (1) The (NAME OF TRIBE/TDHE) shall establish criteria for determining the minimum qualification of appraisers. Appraiser qualifications shall be consistent with the level of difficulty of the appraisal assignment. A contract (fee) appraiser making a “detailed appraisal” under a contract executed after December 31, 1992 must be certified under State law implementing Title XI of the Financial Institutions Reform, Recovery and Enforcement Act of 1989 (FIRREA).
- (2) Usually, BIA Appraisers meet the necessary qualification and must be utilized on Trust and Restricted land appraisals.
- (3) Conflict of Interest. No appraiser shall have any interest, direct or indirect, in the real property being appraised for the (NAME OF TRIBE/TDHE) that would in any way conflict with the preparation or review of the appraisal. Compensation for making an appraisal shall not be based on the amount of the valuation.

d. Property Owner with Conflict of Interest.

- (1) A conflict of interest exists whenever the owner of an interest in real property that is to be acquired by a (NAME OF TRIBE/TDHE) serves as an officer of the (NAME OF TRIBE/TDHE) or it’s designated acquiring agent or exercises any other responsible function in connection with that acquisition. The (NAME OF TRIBE/TDHE) prohibits employees from using positions for a purpose that is, or gives the appearance of being, motivated by a desire for private gain for themselves or others, particularly those with whom they have family, business, or other ties.
- (2) Examples of Safeguards. Among the various measures which a (NAME OF TRIBE/TDHE) could adopt to prevent the possibility of undue personal enrichment by real property owners who may be in a conflict of interest position are:
 - (a) Disclosure. The (NAME OF TRIBE/TDHE) may require disclosure of any potential conflict of interest to the (Board of Commissioners or governing body of the TDHE), (NAME OF TRIBE/TDHE)’s Legal Counsel, and as otherwise may be appropriate.
 - (b) Review by BIA or separate Tribal agency.

