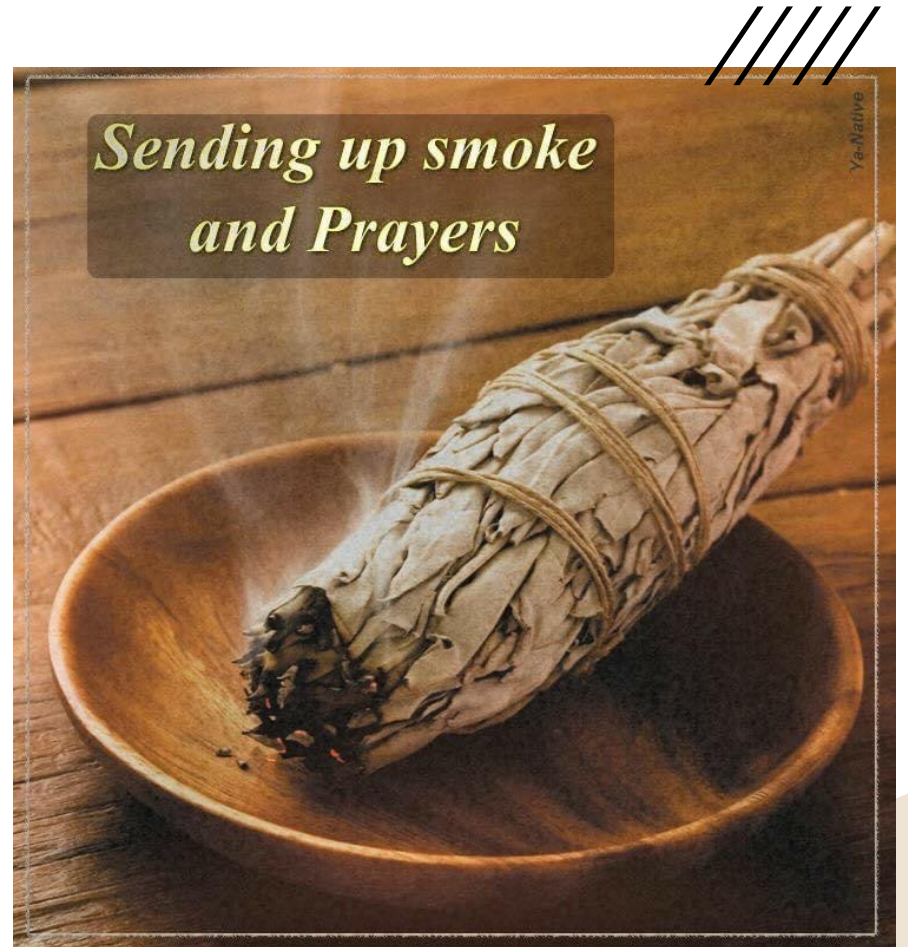




# NAHASDA Tribal Council Roles and Responsibilities Day 2

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WELCOME &  
GOOD  
MORNING!





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is being  
recorded.



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# Getting to know The Instructor

Greetings my name is Cheryl

My Anishinaabe name is Red Bird Woman

I am Loon Clan and I come from Gnoozhekaaning (Place of The Pike), Bay Mills

Bay Mills is a Reservation located in the Upper Peninsula of Michigan, we are at the top and our waters border Canada

I served as my Tribes Director of Housing for over 28 years

I was honored to serve as the Chairwoman of the National American Indian Housing Council (NAIHC) for Four years and on the Board of Directors as Vice-Chair and Secretary for an additional 12 years

I also served as The Chairwoman of the Great Lakes Indian Housing Association for 7 Years



# AGENDA DAY 2

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11:00 -11:15 A.M.

ZOOM SIGN IN & ROOM ENTRY

11:15 – 4:00 P.M.

Welcome, Introductions

Governance Documents- of your  
Housing Entity

Required Statutory & Regulatory Policies

Written Code of Standards of Conduct

COI in Admissions & The Administration of  
Contracts

Useful Life & Binding Commitments

Indian Housing Plan & Annual Performance  
Report

Key Roles of The Tribal Council

Grant Evaluation Oversight & Monitoring

Audit Requirements

1:00 – 2:00 P.M.

LUNCH BREAK

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# Appendix Items

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- Appendix # 1 NAHASDA STATUTE
- Appendix # 2 Regulations 24 CFR Part 1000
- Appendix # 3 Super Circular 2 CFR Part 200
- Appendix # 4 TRIBAL LEADERS' HANDBOOK ON HOMEOWNERSHIP
- Appendix # 5 Assisting Non-Low Income PIH Notice 2014-02
- Appendix # 6 Model Housing Ordinance
- Appendix # 7 Program Guidance 98-13 Board of Commissioners Stipends
- Appendix # 8 Program Guidance 2003-04 Tribal Wage Rates
- Appendix # 9 Program Guidance 2013-07 Indian Tribal Preference
- Appendix # 10 Program Guidance 2003-02 Local Cooperation Agreements
- Appendix # 11 Program Guidance 2014-05 R PII Protection
- Appendix # 12 Program Guidance 2020-02 Useful Life
- ~~Appendix # 13 Program Guidance 2014-09 Useful Life~~
- Appendix # 14 PIH 2014-02 Assisting Non-Low-Income Families
- Appendix # 15 HUD IHBG Monitoring Plans Template Links

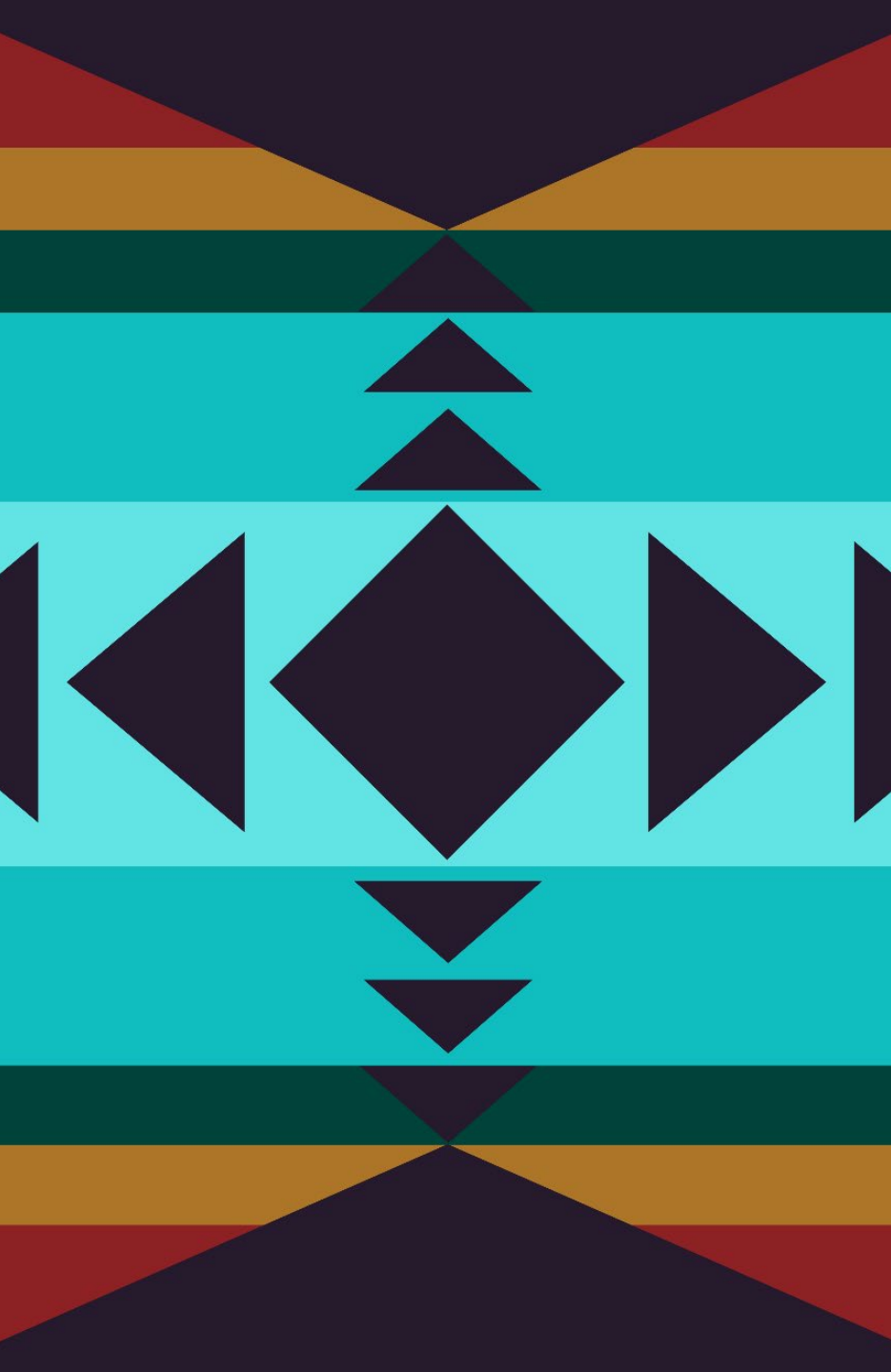




The following  
Governance  
Documents are  
Required and  
should be readily  
available:

- Tribal Ordinance creating the HA
- If you are a TDHE- The Tribal Resolution designating the HA as the TDHE
- By-Laws for the Board or Commissioners
- Mission Statement
- Organizational Chart





# Role of The Tribal Council & The Tribal Ordinance

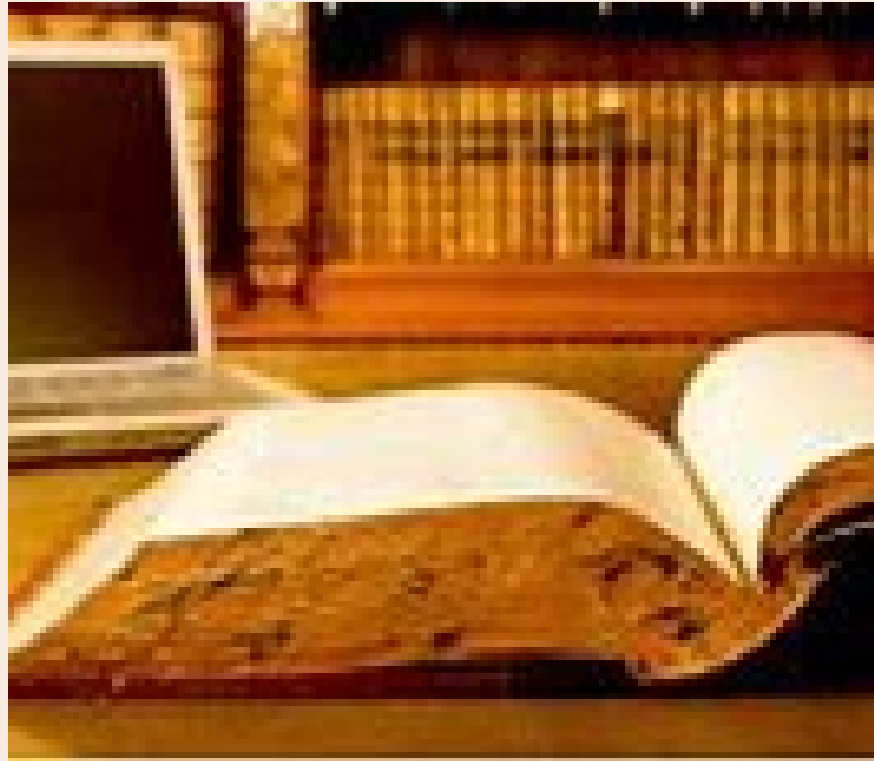
The Tribal Council by legislation, adopts or creates a Tribal Ordinance creating the Housing Authority- Tribally Designated Housing Entity (TDHE) who becomes the Grant Recipient by Resolution.

The Ordinance is the legal document establishing the TDHE unless the Tribe itself will administer the IHBG program through its Tribal Housing Department.

The Ordinance delegates certain powers and authorities to the Housing Board and the TDHE informing them how to use those powers & authorities.

The Tribal Council is the only body who may amend the Tribal Housing Ordinance and they may do so as they deem necessary.

# HOUSING ORDINANCE



- Tribes had to Adopt a Model Ordinance under the 1937 Housing Act
- It Created the Housing Authorities
- It offered extremely limited Flexibility
- Tribes under NAHASDA can adopt or amend their Housing Ordinances
- Many Tribes are still operating under the 1937 Housing Act, are you?

# What is usually found in the 1937 Model Housing Ordinance

## ARTICLE I. DECLARATION OF NEED

“That a shortage of decent, sanitary dwelling units”

## ARTICLE II. PURPOSE

“That the Authority shall be organized to remedy unsafe Housing and alleviate the shortage while providing employment opportunities through construction”

## ARTICLE III. DEFINITIONS

“Definitions for Council, area of operation, Housing Project, homebuyer, obligations, persons of low income, Obligee, and

“Internal Government” includes the United States of America, the Department of Housing and Urban Development, or any other agency or instrumentality, corporate or otherwise, of the United States of America.







# What is usually found in the 1937 Model Housing Ordinance

## ARTICLE IV

Board of Commissioners

*YOUR ORDINANCE SHOULD CLARIFY BOARD SIZE*

The Board Members shall be appointed, and maybe reappointed, by the Council. **A certificate of the Secretary of the Council** as to the appointment of any commissioner shall be conclusive evidence of the due and proper appointment of the commissioner.

**Anytime the Tribal Council** takes action regarding the Housing Authority/TDHE/Tribal Department it is important that a copy of the meeting minutes and Resolution if one is created be filed with the Housing Authority/TDHE/Tribal Department for Audit and Monitoring purposes.

## ARTICLE IV

Board of Commissioners

*THIS LANGUAGE IS COMMONLY FOUND* "A commissioner may be a member or non-member of the Tribe and may be a member or non-member of the **Tribal Council.**"

If you should appoint a **Tribal Council Liaison** it is important for you to spell out the rules of the appointment.

# What is usually found in the 1937 Model Housing Ordinance

## ARTICLE IV.

Board of Commissioners-*THIS LANGUAGE IS COMMONLY FOUND*

No person shall be barred from serving on the Board because he is a tenant or homebuyer in a housing project of the authority; and such commissioner shall be entitled to fully participate in all meetings concerning matters that affect all of the tenants or homebuyers, even though such matters affect him as well.

However, no such commissioner shall be entitled or permitted to participate in or be present at any meeting (except in his capacity as a tenant or homebuyer), or to be counted or treated as a member of the Board, concerning any matter involving his individual rights, obligations or status as a tenant or homebuyer.

*There should be Conflict of Interest, Confidentiality Statements and a Code of Ethics paperwork that they are required to sign. As well as Conflict of Interest protocol should **any family members of the Tribal Council, Board of Commissioners or Housing Staff** be selected for Housing Services.*

## ARTICLE IV

Board of Commissioners -LANGUAGE WILL SPELL OUT TERM LENGTHS and should also clarify if they are staggered terms.

# What is usually found in the 1937 Model Housing Ordinance

## ARTICLE IV.

Board of Commissioners- THE LANGUAGE SHOULD SPELL OUT TERMS OF OFFICE- As well as Executive Committee terms. **The Council shall name** one of the Commissioners as a Chairman of the Board. The Board shall elect from among its members a Vice-Chairman, a Secretary, and a Treasurer; and any member *may hold two of these positions*. In the absence of the chairman, the Vice-Chairman shall preside; and in the absence of both the Chairman and the Vice-Chairman, the Secretary shall preside.

## ARTICLE IV

Board of Commissioners- *Language Might Include terms for Removal-* d) A member of the Board **may be removed by the appointing power** for serious inefficiency or neglect of duty for misconduct in office, but only after a hearing before the appointing power and only after the member has been given a written notice of the specific charges against him at least 10 days prior to the hearing. At any such hearing, the member shall have the opportunity to be heard in person or by counsel and to present witnesses in his behalf. (it is common to call for removal of BOC member for missing Three consecutive meetings).

*In the event of removal of any Board member, a record of the proceedings, together with the charges and findings thereon, **shall be filed with the appointing power** and a copy thereof sent to the appropriate office of the Department of Housing and Urban Development.*





# What is usually found in the 1937 Model Housing Ordinance

ARTICLE IV. Board of Commissioners *It Should Include Language about Board Stipends.* (e) The Commissioners shall not receive compensation for their services but shall be entitled to compensation for expenses, including travel expenses, incurred in the discharge of their duties.

- If your Board is receiving a stipend, you should have a Board of Commissioners Stipend policy that includes language on:
- Right to Compensation
- Effective dates and amount of compensation
- Amendments (***Tribal Council Meeting Minutes***) of every time the Stipend amount or terms change
- Requirements of attendance
- Tax Implications –IRS Form 1099
- There is Program Guidance 98-13 Appendix # 2 Board of Commissioners Stipends and the language reads: The Commissioner must Be authorized or not prohibited under Tribal (or other applicable) law. This would mean that the law or Housing Ordinance governing the housing entity cannot prohibit the payment of stipends (which would be the case if the ordinance reflects the old HUD model for Indian housing authorities).

# Tribal Liaison

If you currently have a Board of Commissioner's but have placed a Tribal Council Board member on this Board as a Tribal Council Liaison you need to spell out in your by-laws the following.

- Do they have a vote
- Do you count them for quorum
- Do they receive a Stipend if the BOC receives one
- How long they will serve of the Housing BOC



# What is usually found in the 1937 Model Housing Ordinance

## ARTICLE IV. Board of Commissioners

- *It should speak to Board Quorum*
- It should spell out Board Duties
- It should speak about The Annual Report
- The Treasurer shall keep full and accurate financial records, make periodic reports to the Board, and submit a complete **annual report, in written form, to the Council** as required by Article XX, Section 1, of this ordinance.
- It should speak about Meeting Times, *Regular & Emergency*



# What is usually found in the 1937 Model Housing Ordinance

## Article V. POWERS

The Authority shall have perpetual succession in its corporate name.

2. The Council hereby gives its irrevocable consent to allowing the Authority to sue and be sued in its corporate name, upon any contract, claim or obligation arising out of its activities under this ordinance and hereby authorizes the Authority to agree by contract to waive any immunity from suit which it might otherwise have; but the Tribe shall not be liable for the debts or obligations of the Authority.

Is should speak about Immunity and Tribal Liability



# Article V

## POWERS

- (a) To adopt and use a corporate seal.
- (b) To enter into agreements, contracts and understandings with any governmental agency, Federal, State or Local (including the Council) or with any person, partnership, corporation or Indian Tribe, and to agree to any conditions attached to Federal financial assistance.
- (c) To agree, notwithstanding anything to the contrary contained in this ordinance or in any other provision of law, to any conditions attached to Federal financial assistance relating to the *determination of prevailing salaries or wages or payment of not less than prevailing salaries or wages or compliance with labor standards* in the development or operation of projects; and the Authority may include in any contract let in connection with a project stipulations requiring that the *contractor and any subcontractors comply with requirements as to maximum hours of labor*, and comply with the conditions which the Federal government may have attached to its financial aid to the project.





# Article V POWERS

(d) To obligate itself, in any contract with the Federal government for annual contributions to the Authority, to convey to the Federal government possession of or title to the project to which such contract relates, upon the concurrence of a substantial default.

(AL)

(e) To lease property from the Tribe and others for such periods as are authorized by law, and to hold & manage or to sublease the same.

(f) *To borrow or lend money*, to issue temporary or long- term evidence of indebtedness, and to repay the same. Obligations shall be issued and repaid in accordance with the provisions of Article VI of this ordinance.

(g) *To pledge the assets and receipts of the Authority as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein.*

# Article V POWERS

(h) **To purchase land** or interests in land or take the same by gift; to lease land or interests in land to the extent provided by law.

(I) **To undertake and carry out studies and analyses of housing needs**, to prepare housing needs, to execute the same to operate projects and to provide for the construction, reconstruction, improvement, extension, alteration, or repair of any project of and part thereof.

(J) With respect to any dwellings, accommodations, lands, buildings, or facilities embraced within any project (including individual cooperative or condominium units) **To lease or rent, sell, enter into lease-purchase agreements or leases with option to purchase; to establish and revise rents or required monthly payments; to make rules and regulations concerning the selection of tenants or homebuyers, including the establishment of priorities, and concerning the occupancy, rental, care and management of housing units**; and so to issue further rules and regulations as the Board deem necessary and desirable to effectuate the powers granted by this ordinance.

(K) **To finance purchasing of a home by an eligible homebuyer** in accordance with regulations and requirements of the Department of Housing and Urban Development.

# Article V POWERS



(L) **To terminate any lease or rental agreement or lease-purchase agreement** when the tenant or homebuyer has violated the terms of such agreement or failed to meet any of its obligations there under, or when such termination is otherwise authorized under the provisions of such agreement; and to bring action for eviction against such tenant or Homebuyer.

(M) **To establish income limits for admission** that ensures that dwelling accommodations in a housing project shall be made available only to persons of low income.

(N) **To purchase insurance** from any stock or mutual company for any property or against any risk hazards.

(O) **To invest** such **funds** as are not required for immediate disbursement.

(P) **To establish and maintain** such **bank accounts** as may be necessary or convenient.

# Article V

## POWERS

(Q) **To employ an executive director, technical and maintenance personnel** and such other officers and employees, permanent or temporary, as the Authority may require; and to delegate to such officers and employees such powers or duties as the Board shall deem proper.

(R) To take such further actions as are commonly engaged in by public bodies of this character as the Board may deem necessary and desirable to effectuate the purposes of the Authority.

(S) To join or cooperate with any other public housing agency or agencies operating under the laws or ordinances of a State or another Tribe in the exercise, either jointly or otherwise, for the purpose of financing (including but not limited to the issuance of notes or other obligations and giving security therefor), planning, undertaking, owning, constructing, operating or contracting with respect to the housing project or projects of the Authority or such other public housing agency or agencies, so joining or cooperating with the Authority, to act on the Authority's behalf with respect to any or all powers, as the Authorities agent or otherwise, in the name of the Authority or in the name of such agency or agencies.

# Article V POWERS

(t) **To adopt such by-laws** as the Board deems necessary and appropriate.

(u) It is the purpose and intent of this ordinance to authorize the Authority to do any and all things necessary or desirable to secure the financial aid or cooperation of the Federal government in the undertaking, construction, maintenance or operation of any project by the Authority,

(v) No ordinance or other enactment of the Tribe with respect to the acquisition, operation, or disposition of Tribal property shall be applicable to the Authority in its operations pursuant to this ordinance.

# Article VI OBLIGATIONS



1) **The Authority may issue obligations from time to time in its discretion** for the purpose of paying or retiring obligations previously issued by it. The Authority may issue such types of obligations on which the principal and interest are payable:

- (a) Exclusively from the income and revenues of the project financed with the proceeds of such obligations, or with such income and revenues together with a grant from the Federal government in aid of such project.
- (b) Exclusively from the income and revenues of certain designated projects whether or not they were financed in whole or in part with the proceeds of such obligations; or
- (c) From its secured by a pledge of any revenues of any project or other property of the authority.

# Article VI OBLIGATIONS



(2) Neither the commissioners of the Authority nor any person executing the obligations **shall be liable personally on the obligations** by reason of issuance thereof.

# Article VI

## OBLIGATIONS

- 3) **The notes and other obligations of the Authority shall not be a debt of the Tribe and the obligations shall so state on their face**
- (4) Obligations of the Authority are declared to be issued for an essential public and governmental purpose and to be public instrumentalities and, together with interest thereon and income there from, shall be exempt from taxes imposed by the Tribe. The tax exemption provisions of this ordinance shall be considered part of the security for the repayment of obligations and shall constitute, by virtue of this ordinance and without necessity of being restated in the obligations, a contract between (a) the Authority and the Tribe, and (b) the holders of obligations and each of them, including all transferees of the obligations from time to time.
- (5) Obligations shall be issued and sold in the following manner:





# Article VI

## OBLIGATIONS

- (a) Obligations of the Authority shall be authorized by a resolution adopted by the vote of a majority of the full Board and may be issued in one or more series.
- (b) The obligations shall bear such dates, mature at such dates, mature at such rates, be in such denominations, be in such form, either coupon or registered, carry such conversion or registration privileges, have such rank or priority, be executed in such manner, be payable in such medium of payment and at such places, and be subject to such terms of redemption, with or without premium, as such resolution may provide.
- (c) The obligations may be sold at public or private sale at not less than par.
- (d) In case any of the commissioners of the Authority whose signatures appear on any obligations cease to be commissioners before the deliver of such obligations, the signatures shall, nevertheless, be valid and sufficient for all purposes, the same as if the commissioners have remained in office until delivery.

# Article VI

## OBLIGATIONS

(e) Obligations of the Authority shall be fully negotiable. In any suit, action or proceeding involving the validity or enforceability or any obligation of the Authority or the security therefore, any such obligation reciting in substance that is/has been issued by the Authority to aid in financing a project pursuant to this ordinance shall be conclusively deemed to have been issued for such purpose, and the project for which such obligation was issued to be conclusively deemed to have been planned, located and carried out in accordance with the purpose and provisions of this ordinance.

(f) In connection with the issuance of obligations or incurring of obligations under leases, and to secure the payment of such obligations, the Authority, subject to the limitations in this ordinance, may:

(g) Pledge all or any part of its gross or net rents, fees or revenues to which its right then exists or may thereafter come into existence.

Sections A through S discuss all the Covenants. (Please Read thoroughly)

(Covenant (Law), a promise to engage in or refrain from a specified action.)

# Article VII

## Miscellaneous

(1) The Authority shall submit an annual report, signed by the Chairman of the Board, to the Council showing: (a) a summary of the year's activities, (b) the financial condition of the Authority, (c) the condition of the properties, (d) the number of units and vacancies, (e) any significant problems and accomplishments, (f) plans for the future, and (g) such other information as the Authority or the Council shall deem pertinent.

# Article VII

## Miscellaneous-Conflict of Interest

(2) During his tenure and for one year thereafter, no commissioner, officer or employee of the Authority, **or any member of any governing body of the Tribe**, or any other public official who exercises any responsibilities or functions with regard to the project, shall voluntarily acquire any interest, direct or indirect, in any project or in any property included or planned to be included in any project, or in any contract or proposed contract relating to any project, unless prior to such acquisition, he disclosed his interest in writing to the Authority and such disclosure is entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest. If any commissioner, officer or employee of the Authority involuntarily acquires any such interest, or voluntarily or involuntarily acquired any such interest prior to appointment or employment as a commissioner, officer or employee, the commissioner, officer or employee, in any such event, shall immediately disclose his interest in writing to the Authority; and such disclosure shall be entered upon the minutes of the Authority, and the commissioner, officer or employee shall not participate in any action by the Authority relating to the property or contract in which he has any such interest. Any violation of the foregoing provisions of this section shall constitute misconduct in office. This section shall not be applicable to the acquisition of any interest in obligations of the Authority issued in connection with any project, or to the execution of agreements by banking institutions for the deposit or handling of funds in connection with a project or to act as a trustee under any trust indenture, or to utility services the rates for which are fixed or controlled by a governmental agency, or to membership on the Board.

# Article VII

## Miscellaneous

- 3) **Each project developed or operated under a contract providing for Federal financial assistance shall be developed and operated in compliance with all requirements of such contract and applicable Federal legislation**, and with all regulations and requirements prescribed from time to time by the Federal government in connection with such assistance.
- 4) **The Authority shall obtain or provide for the obtaining of adequate fidelity bond coverage** of its officers, agents, or employees handling cash or authorized to sign checks or certify vouchers.
- (5) **The Authority shall not construct or operate any project for profit.**
- (6) The property of the Authority is declared to be public property used for essential public and governmental purposes and such property and the Authority **are exempt from all taxes and special assessments of the Tribe.**
- (7) **All property including funds acquired or held by the Authority** pursuant to this ordinance shall be exempt from lieu and sale by virtue of an execution, and **no execution or other judicial process shall issue against the Authority to be charge or lien upon such property.** However, the provisions of this section shall not apply to or limit the right of obliges to pursue any remedies for the enforcement of any pledge or lien given by the Authority on its rents, fees or revenues or the right of the Federal government to pursue any remedies conferred upon it pursuant to the provisions of this ordinance or the right of the Authority to bring eviction actions in accordance with Article V, Section 3 (1).

## Article VIII

### Cooperation in Connection with Projects (The Tribe Agrees that:)

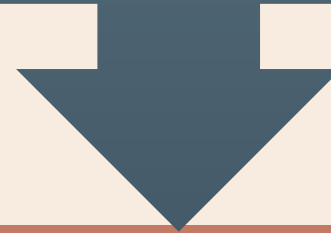
(1) For the purpose of aiding and cooperating in the planning, undertaking, construction or operation of projects, the Tribe hereby agrees that:

(a) **It will not levy or impose any real or personal property taxes or special assessments upon the Authority or any project of the Authority.**

(b) It will furnish or cause to be furnished to the Authority and the occupants of projects all services and facilities of the same character and to the same extent as the Tribe furnishes from time to time without cost or charge to other dwellings and inhabitants.

# Article VIII Cooperation in Connection with Projects

(C) Insofar as it may lawfully do so, it will grant such deviations from any present or future building or housing codes of the Tribe as are reasonable and necessary to promote economy and efficiency in the development and operation of any project, and at the same time safeguard health and safety, and make such changes in any zoning of the site and surrounding territory of any project as are reasonable and necessary for the development and protection of such project, and the surrounding territory.



(D) It will do any and all things, within its lawful powers, necessary or convenient to **aid and cooperate in the planning, undertaking, construction or operation of projects.**

## Article VIII

### Cooperation in Connection with Projects

(e) **The Tribal Government hereby declares that the powers of the Tribal Government shall be vigorously utilized to enforce eviction** of a tenant or homebuyer for nonpayment or other contract violations including action through the appropriate courts.

(f) **The Tribal Government shall have jurisdiction to hear and determine an action for eviction of a tenant or homebuyer.** The Tribal Government hereby declares that its powers shall be vigorously utilized to enforce eviction of a tenant or homebuyer for nonpayment or other contract violations.



## Article VIII

### Cooperation in Connection with Projects

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(2) **The provisions of this Article shall remain in effect with respect to any project, and said provisions shall not be abrogated, changed, or modified without the consent of the Department of Housing and Urban Development**, so long as (a) the project is owned by a public body or governmental agency and is used for low-income housing purposes.

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(b) **Any contract between the Authority and the Department of Housing and Urban Development for loans or annual contributions, or both, in connection with such project, remains in force and effect , or** (c) any obligations issued in connection with such project or any monies due to the Department of Housing and Urban Development in connection with such project remain unpaid, whichever period ends the latest. If at any time title to or possession of any project is held by any public body or governmental agency authorized by law to engage in the development or operation of low-income housing including the Federal government, the provisions of this section shall inure to the benefit of and be enforced by such public body or governmental agency.

## Article IX

### **Approval by Secretary of Interior**

With respect to any financial assistance contract between the Authority and the Federal government, the Authority shall obtain the approval of the Secretary of the Interior or his designee.



# Required Statutory & Regulatory Policies



# Policies and Procedures

Policies and procedures provide for consistent and cohesive action on the part of an organization. Policies generally establish the broad parameters of a particular function of the TDHE or tribal housing division. A procedure establishes the specific way a function is to be performed, assigns responsibility, and describes specific actions, including forms and documents, and report preparation. A formal record of the latest APPROVED policies should be kept as well as all Policy filed in one area with only the newest adopted versions. These policies are public documents and copies should be provided upon request.

Sections 203 and 207 of NAHASDA and implementing regulations at 24 CFR Part 1000 and 2 CFR Part 200 require that IHBG recipients adopt written policies in the following areas:





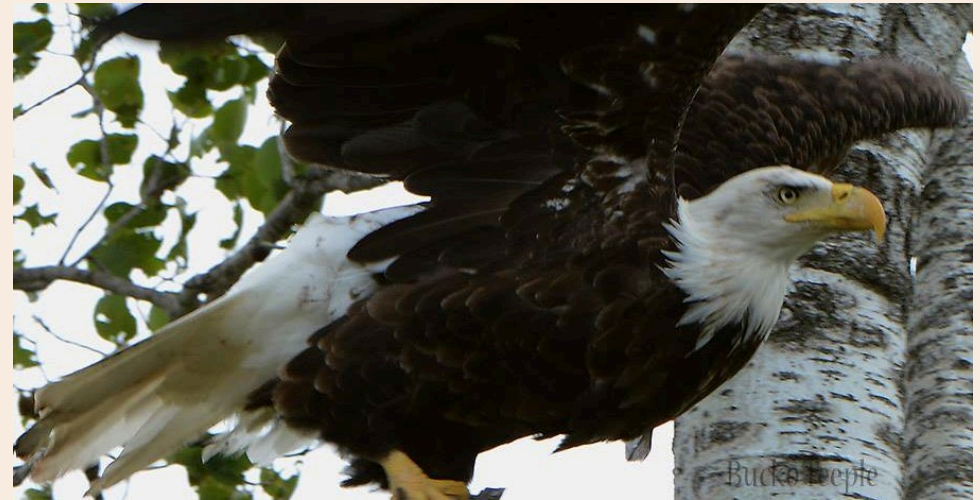
# Required Policies

- **Section 203 of NAHASDA requires that certain policies be adopted.**
- Rent
- Insurance
- A&O
- Maintenance
- Inspections
- Conflict of Interest



# NAHASDA POLICY ISSUES

- ❖ Eligible Families
- ❖ Tribal Preference in Selection
- ❖ Applicable Income Limits
- ❖ Definition of Low-Income
- ❖ Definition of Gross Annual Income
- ❖ Eligible Activities
- ❖ Required Policies



# NAHASDA POLICY ISSUES

- 
- ❖ Maintenance
  - ❖ Inspections
  - ❖ Useful Life
  - ❖ Uniform Relocation Assistance
  - ❖ Conflict of Interest
  - ❖ Procurement
  - ❖ Total Development Costs (TDC)
  - ❖ Financing
  - ❖ Personnel







# Required Policies

1. Admission, Eligibility & Occupancy
2. Collections
3. Grievance
4. Personnel
5. Travel
6. Drug-Free Workplace Policy
7. Criminal Background Check \*
8. Program Policies
9. Maintenance
10. Procurement
11. Capitalization
12. Disposition
13. Inventory
14. Investment
15. Finance
16. Cash Management



# Importance of Policies:

- Policies are approved by your Governing body, responsible for oversight
  - Your Tribal Council or Housing Board of Commissioners
- Policies outline the courses of action needed to comply with complex laws and rules
- Policies are useful to guide in the decision-making process
- Policies ensure consistency of staff actions in implementation of rules and regulations
- Policies can be amended to reflect changes in Tribal Ordinances, Regulations & Statute
- Formal record of approval of policies should be kept with the policies in a designated depository.
- All policies should be available to the public.
- Policies should be reviewed often.



**POLICY STATUS TABLE**

| <b>GOVERNING DOCUMENTS</b>                 | <b>REQUIRED BY</b>             | <b>CURRENT STATUS</b>              | <b>COMMENTS</b> |
|--|--------------------------------|------------------------------------|-----------------|
| Tribal Ordinance creating the HA           | 1937 Housing Act               | Ordinance adopted by Res. # on     |                 |
| HA designated as TDHE                      | NAHASDA                        | Tribal Res. # adopted on           |                 |
| By-laws for BOC                            | Tribal Ordinance               | Adopted by Res. # on               |                 |
| Organization Chart                         |                                |                                    |                 |
| <b>POLICY</b>                              |                                |                                    |                 |
| Rent & Homebuyer Payments                  | NAHASDA 203(a)(1)              | Included in the E, A & O Policy    |                 |
| Eligibility, Admissions & Occupancy        | NAHASDA 203(d)                 | Adopted by Res. # on               |                 |
| Maintenance                                | NAHASDA 203(e)                 | Adopted by Res. # on               |                 |
| Tenant & Homebuyer Selection               | NAHASDA 207(b)                 | Included in the E, A & O Policy    |                 |
| Procurement                                | 24CFR 1000.26 & 2CFR 200       | Adopted by Res. # on               |                 |
| Indian Preference                          | 24CFR 1000.52                  | Included in the Procurement Policy |                 |
| Conflict of Interest                       | 24CFR 1000.30 & 2CFR 200       | Included in the Procurement Policy |                 |
| Drug Free Workplace                        | 24CFR 1000.46 & 24 CFR Part 21 | Adopted by Res. # on               |                 |
| Cash Management                            | 24CFR 1000.26 & 2CFR 200       | Adopted by Res. # on               |                 |
| HUD Section 3                              | No longer required             |                                    |                 |
| Investment & Internal Control              | PIH Notice 2015-08             | Adopted by Res. # on               |                 |
| Self-Monitoring & Evaluation               | 24CFR 1000.502                 | Adopted by Res. # on               |                 |
| Real Property acquisition & relocation     | 24 CFR 1000.14                 | Adopted by Res. # on               |                 |
| Rehab                                      |                                |                                    |                 |
| Lease with Option to Purchase              |                                |                                    |                 |
| Housing Counseling                         |                                |                                    |                 |
| <b>OTHER POLICIES</b>                      |                                |                                    |                 |
| Grievance <b>(Adopted or Recommended)</b>  |                                | Adopted by Res. # on               |                 |
| Travel - <b>(Adopted or Recommended)</b>   |                                | Adopted by Res. # on               |                 |
| Personnel <b>(Adopted or Recommended)</b>  |                                | Adopted by Res. # on               |                 |
| Collection <b>(Adopted or Recommended)</b> |                                | Adopted by Res. # on               |                 |
| Housing Quality Standards                  |                                | Adopted by Res. # on               |                 |
| Code of Conduct                            |                                | Adopted by Res. # on               |                 |
| Capitalization                             |                                | Adopted by Res. # on               |                 |
| Disposition                                |                                | Adopted by Res. # on               |                 |
| Investment                                 |                                | Adopted by Res. # on               |                 |
| Vehicle Use                                |                                | Adopted by Res. # on               |                 |

**By signing the IHP, you certify that you have all required policies and procedures in place in order to operate any planned IHBG programs.**

SECTION 7: INDIAN HOUSING PLAN CERTIFICATION OF COMPLIANCE  
NAHASDA § 102(b)(2)(D)



# Policies and Procedures

Policies and procedures provide for consistent and cohesive action on the part of an organization. Policies generally establish the broad parameters of a particular function of the TDHE or tribal housing division. A procedure establishes the specific way a function is to be performed, assigns responsibility, and describes specific actions, including forms and documents, and report preparation. Sections 203 and 207 of NAHASDA and implementing regulations at 24 CFR Part 1000 and 2 CFR Part 200 require that IHBG 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/TDHE's procedures for how and when tenants/homebuyers shall make payments, along with the requirements for collection of payments.



# Annual Income –Definitions (24 CFR 1000.10)

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Section 8 Definition (24 CFR Part 5)

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Census Definition

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IRS Definition (IRS Form 1040 AGI)

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**Policy must state which definition(s) you are using; often stated as “will use definition most advantageous to the family”.**

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## 2. Eligibility, admission, and occupancy policies.

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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.



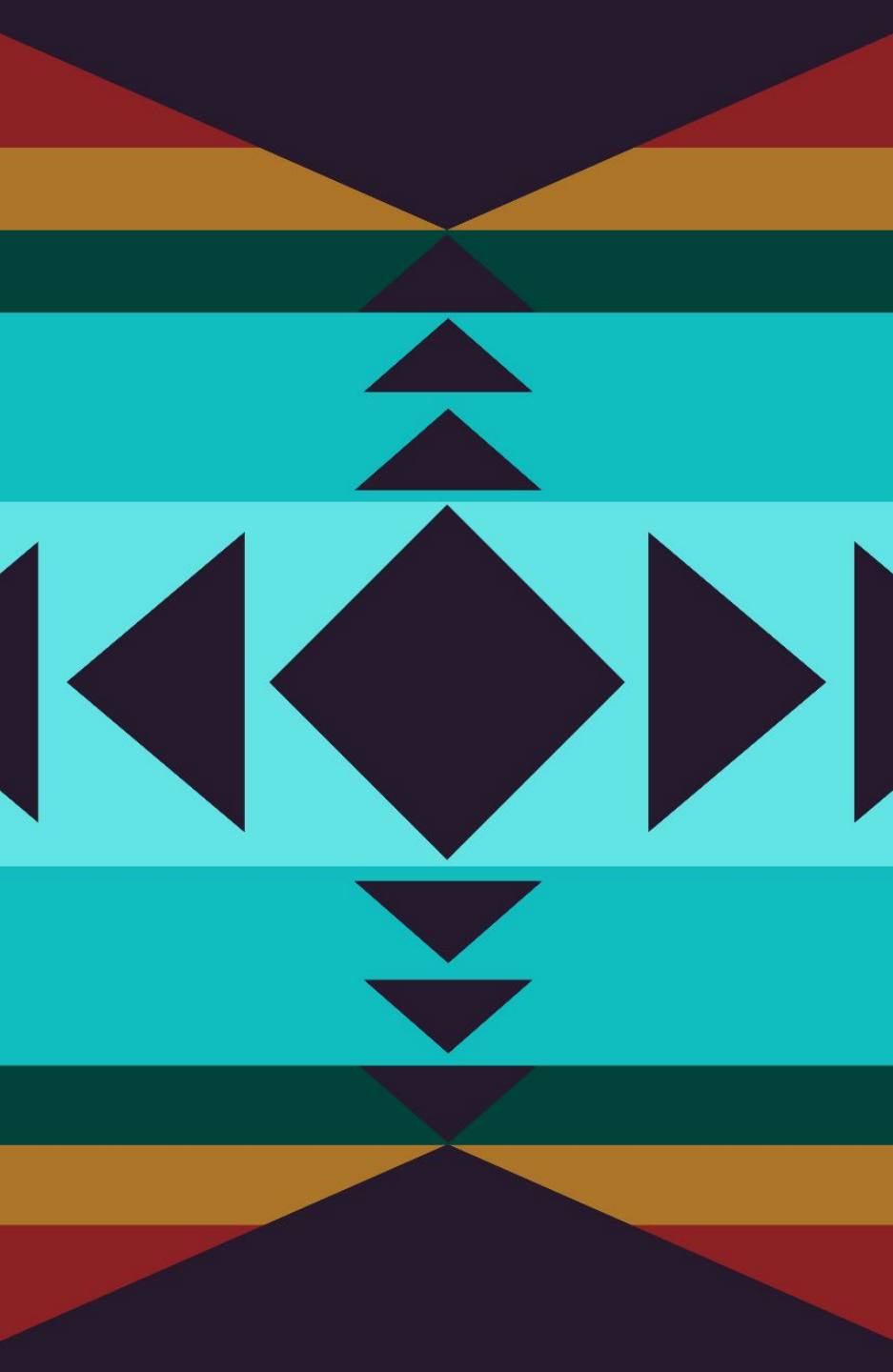
Bucks People  
Copyright 2013



## 2. Eligibility, admission, and occupancy policies.

- Eligibility Policies - Address the three types of eligible participants, including low-income Indian families, non-low-income Indian families, and non-Indian families.
- Admission Policies - 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. 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.
- Occupancy Policies - Requirements for continued occupancy and grounds for termination of a housing lease or sales contract.





# The IHA should include in its A&O Policy: IHA Succession Policy:

- A description of any circumstances in addition to death or mental incapacity that would require a successor;
- The qualifications that the successor must meet in order to be accepted by the IHA;
- The actions the IHA will take if no successor has been designated by the homebuyer.
- Conversations need to take place about Incarceration of tenants, Sexual Offenders, Banned Tribal Members.

# Life Estate

A. Death of Homeowner: In the event of the death of the homeowner, the provisions of the following Life Estate Code may apply.

Enrolled members of the ATIHA Tribe may bequeath by a Will a life estate to their non-enrolled spouse and or their non-enrolled children. The non- enrolled spouse and or the non-enrolled children shall be permitted to use and occupy the home during the course of their lifetime subject to the same terms and conditions of the enrolled deceased member, which may include any outstanding mortgage. The non-enrolled spouse and or non- enrolled children can never inherit the land or any improvements thereon.

Upon the expiration of these life estates the leasehold interest in the land and any improvements thereon shall be transferred and conveyed to an enrolled member pursuant to the terms of the deceased enrolled Members Will.

In the event that an enrolled member dies intestate (without a will), his non-enrolled surviving spouse and or non-enrolled children may elect to take a life estate in the home and any improvements thereon. The non-enrolled spouse and or the non-enrolled children shall be permitted to use and occupy the home during the course of their lifetime subject to the same terms and conditions of the enrolled deceased member, which may include any outstanding mortgage.

The non-enrolled spouse and or non-enrolled children can never inherit the land or any improvements thereon. Upon the expiration of these life estates the home and any improvements thereon shall be transferred, conveyed and sold to ATIHA pursuant to 43 CFR Part 4 at the appraised value. The non-enrolled spouse and or non-enrolled children may decline to take a life estate in the home and sell to ATIHA the home pursuant to 43 CFR Part 4, Tribal Purchase of Interests Under Special Statutes.

# 3. 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
- Provide for:
  - a) the selection of tenants and homebuyers from a written waiting list in accordance with the policies and activities in the IHP for the tribe that is the grant beneficiary of such grant amounts; and
  - b) the prompt written notification to any rejected applicant of the rejection and the grounds for the rejection.



# Tenant and Homebuyer Selection Policy- Conflict of Interest

- (A) In order to ensure fair and equitable treatment for all eligible participants of any of the Any Tribal Indian Housing Authority programs, the following policy is designed to eliminate any undisclosed conflicts of interest and preferential treatment on the part of Housing Authority staff and anyone else who participates in the decision-making process or who gains inside information with regard to housing activities.
- (B) This policy prohibits anyone from benefiting from their position personally, financially or through receipt of special benefits other than payment of their salary and/or administrative expenses. This does not prevent housing staff, their family members and/or business associates from receiving housing benefits for which they qualify as low-income individuals.
- (C) Any exceptions to this Conflict-of-Interest Policy must be in accordance with applicable HUD regulations. See [§1000.30(c)].

# Tenant and homebuyer selection policy- Conflict of Interest

- (D) Low-income individuals to whom the conflict-of-interest provisions would normally apply (e.g., Any Tribal Indian Housing Authority Staff, Board of Commissioners and **Tribal Council members**), but who qualify for assistance under the Any Tribal Housing Authority 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 assistance for which they qualify. However, the Any Tribal Indian Housing Authority must make public disclosure of the nature of the assistance to be provided such individuals and the specific basis for the selection of the person.
- (1) The Housing Division must provide ONAP with a copy of the public disclosure before the assistance is provided to the person.
- (2) The Housing Division must post a copy of the public disclosure on the Any Tribal Indian Housing Authority official notice board and the **Tribal Council official notice board**.



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





## 4. 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 should include policies such as:

Personnel

Grievance- You need two separate Policies  
Employee/Tenant

Capitalization

Disposition



# Capitalization Policy

The capitalization policy shall provide all parties associated with the housing programs of ATHA with a comprehensive statement of policy and actions which will be used as the criteria for governing the control and accountability of capitalized property of the housing authority.





# Inventory Records for Capitalized Equipment

ATHA shall establish and maintain complete and accurate inventory records for all capitalized equipment. The records will provide the following information:

- a. Description of item
- b. Serial and/or model number
- c. Purchase price of item
- d. Purchase date of item
- e. Quantity of item
- f. Location of item
- g. Sale or disposal date of item.

# Annual Inventory of Capitalized Equipment

ATHA shall take a physical inventory of all capitalized equipment at least once each fiscal year. The physical inventory shall be compared with the accounting inventory records and reconciled to the property accounts. Any differences between the inventory records and physical inventory shall be investigated and appropriate entries made in the books of account to correct or adjust the differences.



## 5. Fiscal and Financial Management

Refer to 2 CFR Part 200 Post Federal Award Requirements Standards for Financial and Program Management §200.300-309

Financial Management & Internal Controls Policy required by 200.302

Refer to NAHASDA §1000.26 Administrative Requirements for NAHASDA specific requirements



## 6. Procurement and Contract Administration.

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The regulations at §1000.26 require compliance with 2 CFR 200.317 through 326. The language at 2 CFR 200.318(a), requires grantees and subgrantees to use their own procurement procedures that reflect applicable state and local laws and regulations, provided that the procurements conform to applicable Federal laws and standards identified in this section. The regulations at 2 CFR 200.318(c)(1) also requires that grantees and subgrantees maintain a written code of standards of conduct governing the performance of employees engaged in the award and administration of contracts.



## 7. Tribal or Indian preference

This may be incorporated into the procurement policy or may be a separate policy. IHBG recipients are subject to section 7(b) of the Indian Self-Determination and Education Assistance Act and Section 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.





# Indian Preference

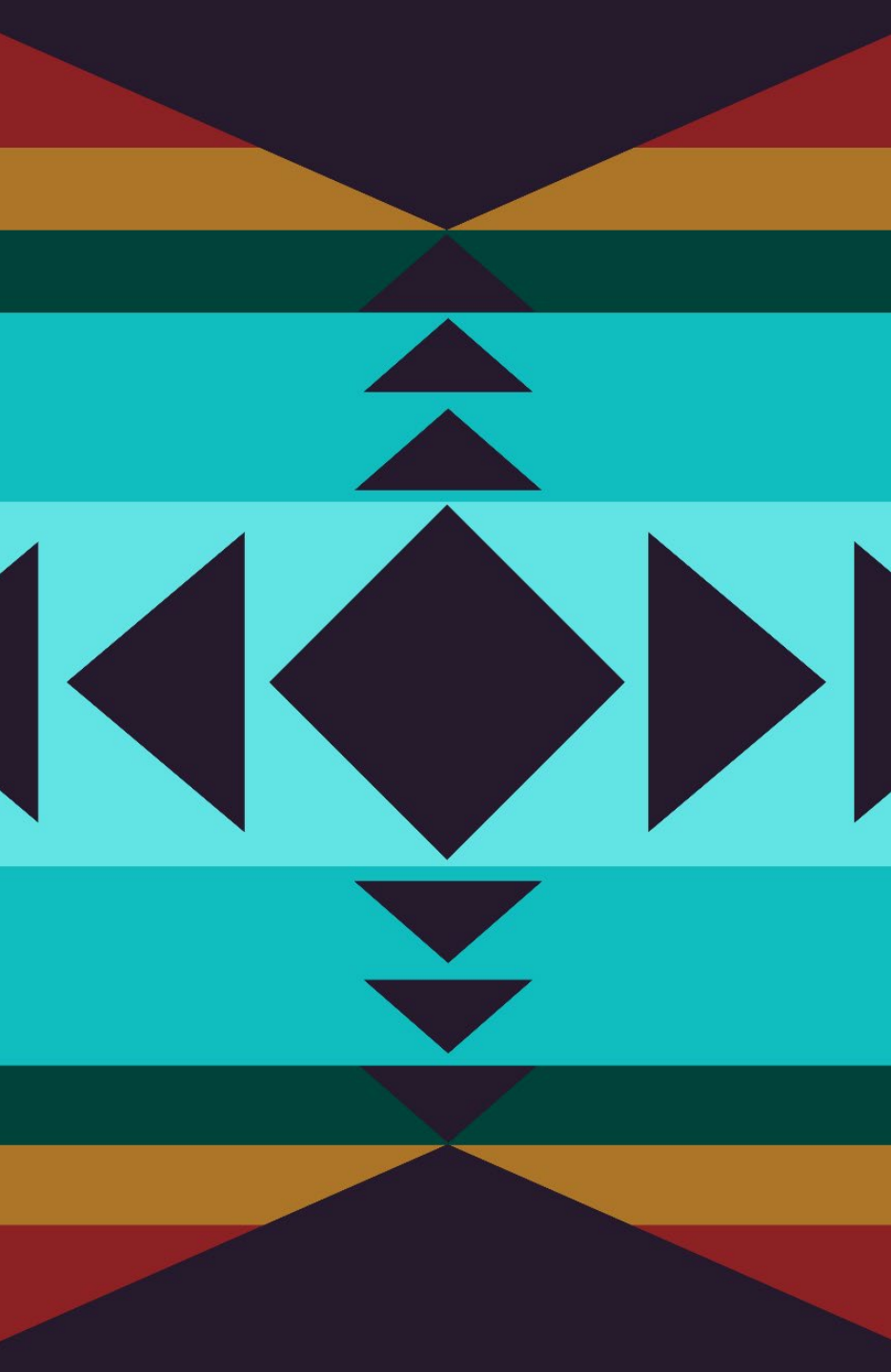
You should have the following Documents in place regarding Indian Preference:

Your Indian Preference Policy

Your Indian Preference Qualification Application

Your Indian Preference Determination Letter

Your Indian Preference Complaint Procedure



# Indian Preference Complaint Procedure

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

The following procedures are applicable to complaints arising out of any methods of providing Indian preference:

*The burden of proof shall be on the complainant to demonstrate a violation of the policy(ies) or procedure(s).*

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

## 8. Real property acquisition and relocation

IHBG recipients are subject to real property acquisition and relocation policies at §1000.14 and 49 CFR Part 24, Uniform Relocation Assistance and Real Property Acquisition for Federal and Federally Assisted Programs.

The regulations at §24.103 (a) and (d), respectively, require grantees to develop minimum standards for appraisals, as well as criteria for determining the minimum qualifications of appraisers.







# Real Property Acquisition and Relocation

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

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





## 9. Section 3.

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

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

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

## 9. Section 3

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



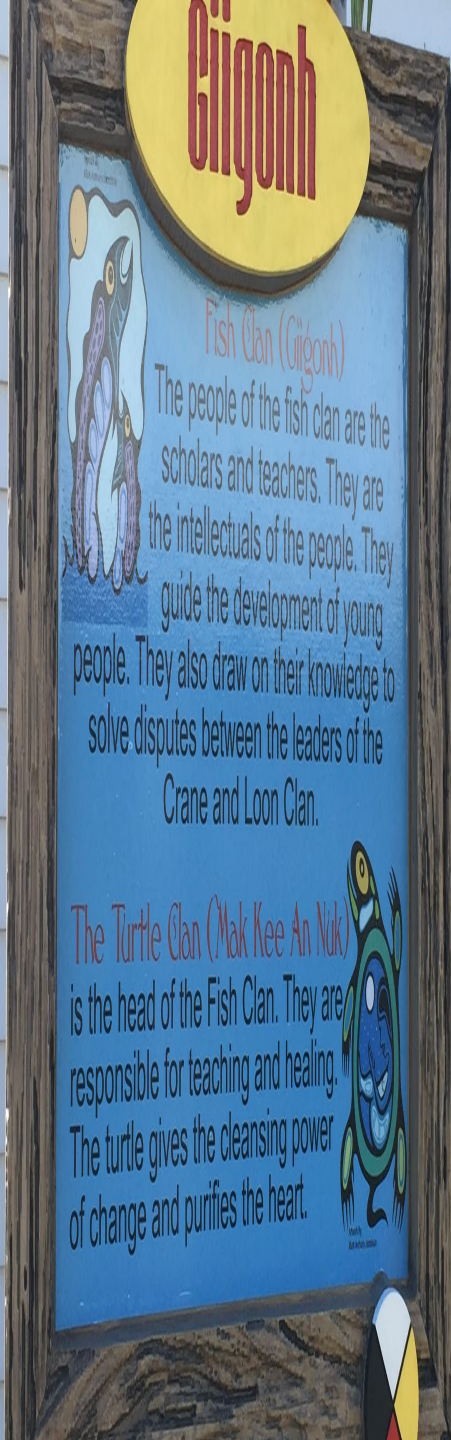
## 9. Section 3

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



## 10. Cash Management

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







## 11. Travel

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



## 11. Travel

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



## 12. Drug-free workplace

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

# Drug-free workplace

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



# Drug-Free Workplace Written Statement

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

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







# Investment and Internal Control

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

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

# Housing Standards

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

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



# SOME MORE SPECIFICITY:

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NAHASDA Sec. 102(b)(2)(D) – required Certifications of Compliance

Eligibility, admissions, and occupancy - NAHASDA, Section 203(d)

Rents charged and methods of calculation - NAHASDA, Sec. 203(a)

Management and maintenance of assisted housing - NAHASDA, Sec. 203(b) and (e)

2 CFR 200.318(a) – Procurement Procedures

2 CFR 200.318(c) – Conflicts of Interest in Procurement

2 CFR 200.318(k) – Settlement of any Procurement Contractual/Administrative Issues





## SOME MORE SPECIFICITY:

2 CFR 200.474.(d) – Travel

24 CFR 1000.14 – Relocation and Property Acquisition

24 CFR 1000.26 – Overarching Administrative Requirements

24 CFR 1000.42 – Section 3 –See Appendix 1-2

24 CFR 1000.46 – Drug-Free Requirements

24 CFR 1000.158 – Moderate Housing Standards and (c) = Total Development Costs

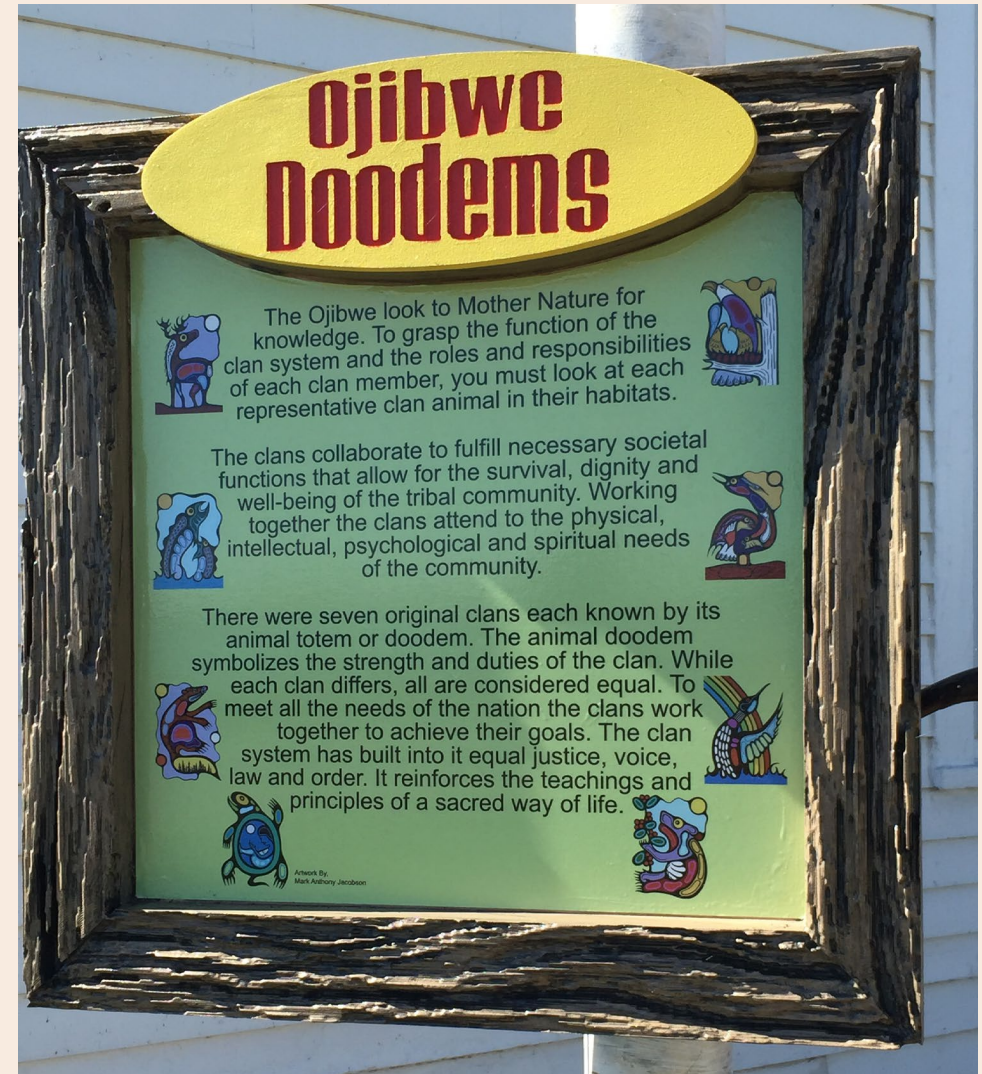
24 CFR 1000.30, 32, .34 and 36 - Conflicts of Interest:

24 CFR 1000.54 – Complaints/Issues stemming from Indian Preference

## INDIAN OR TRIBAL PREFERENCE REFERENCES:

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

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





# INDIAN OR TRIBAL PREFERENCE

## REFERENCES:

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- 24 CFR 1000.48 – Indian or Tribal Preference applicable to IHBG-assisted activities
- 24 CFR 1000.50 - Indian or Tribal Preference applicable to IHBG-assisted administrative activities
- 24 CFR 1000.52 - Indian or Tribal Preference applicable to IHBG-assisted procurement activities
- PG 2013–07 – Preference 2013-07: Indian and Tribal Preference in Employment and Contracting in IHBG



# INDIAN OR TRIBAL PREFERENCE REFERENCES:

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

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



# Cooperation Agreements

Section 101 of NAHASDA & Program Regulations at 24 CFR  
1000.240

(c) LOCAL COOPERATION AGREEMENT- The Secretary may not make any grant under this Act on behalf of an Indian tribe unless the governing body of the locality within which any affordable housing to be assisted with the grant amounts will be situated has entered into an agreement with the recipient for the tribe providing for local cooperation required by the Secretary pursuant to this Act.

Notwithstanding any other provision of this Act, grant amounts provided under this Act on behalf of an Indian tribe may not be used *for rental or lease-purchase homeownership units* that are owned by the recipient for the tribe unless the governing body of the locality within which the property subject to the development activities to be assisted with the grant amounts is or will be situated has entered into an agreement with the recipient for the tribe providing for local cooperation required by the Secretary pursuant to this Act.

The Secretary may waive the requirements of this subsection and subsection (d) if the recipient has made a good faith effort to fulfill the requirements of this subsection and subsection (d) and agrees to make payments in lieu of taxes to the appropriate taxing authority in an amount consistent with the requirements of subsection (d)(2) until such time as the matter of making such payments has been resolved in accordance with subsection (d).



No. 2003-02  
February 05, 2003

**GUIDANCE**

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**PROGRAM:** Indian Housing Block Grant (IHBG)

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

**FROM:** Rodger Boyd, Deputy Assistant Secretary, PN

**TOPIC:** Local Cooperation Agreements

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**Purpose:** This Guidance is intended to provide information regarding the submission of waiver requests to Indian Housing Block Grant (IHBG) recipients that have been unable to obtain a cooperation agreement and tax-exempt status from a local government for existing or proposed housing.

# OTHER GUIDANCES:

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



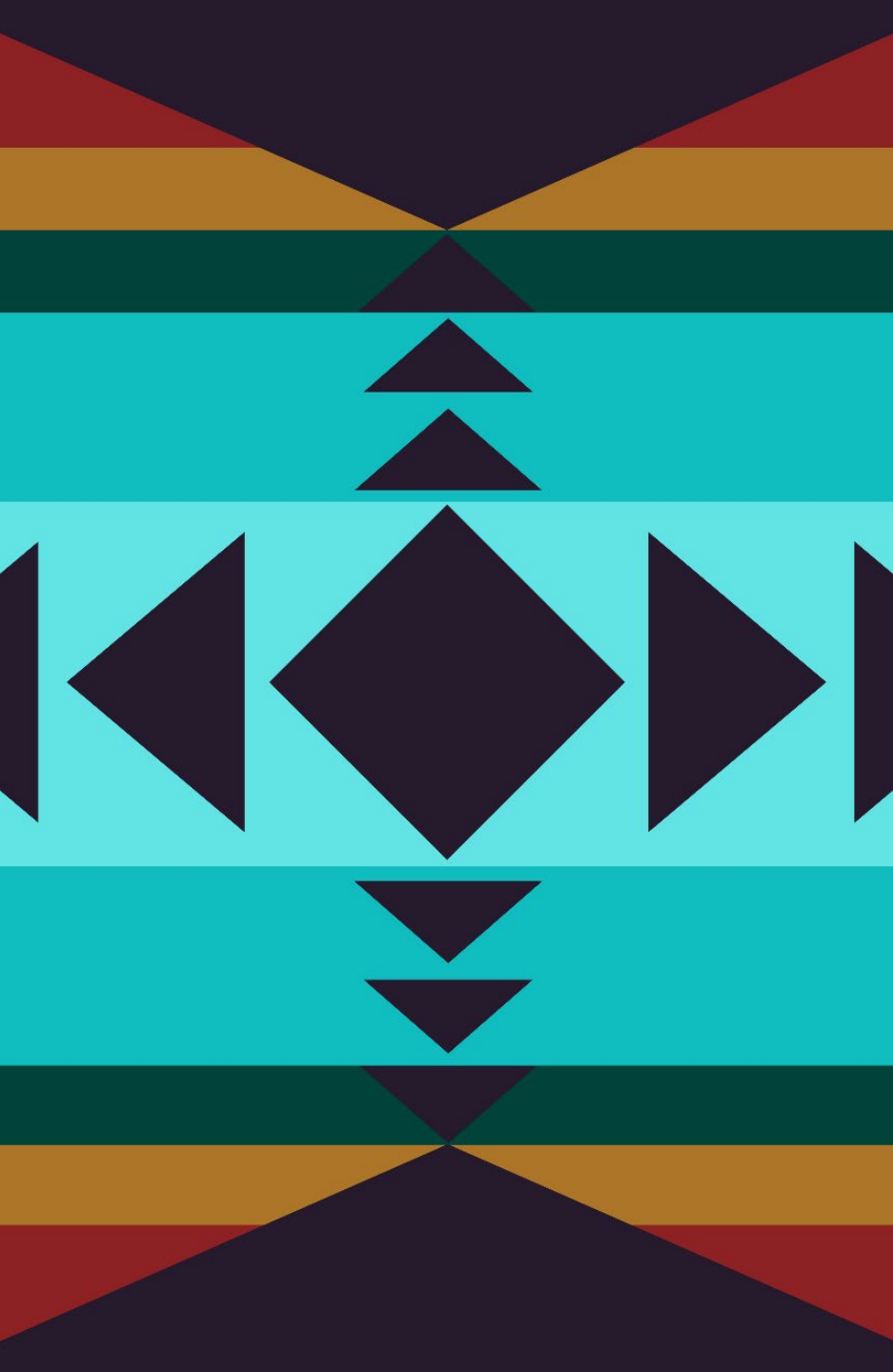
Break Time

The image features the text "Break Time" in a stylized, cursive font. The letters are rendered in a gradient of brown and tan colors, giving them a three-dimensional appearance. The text is set against a white background and is enclosed within a large, dark brown circular border. A thick, dark brown diagonal line crosses the text from the bottom left to the top right, passing behind the letters. The overall design is clean and modern.

# Written Code of Standards of Conduct







# Conflicts Prohibited: 2 CFR 200.211

Grantees and subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged in the award and administration of contracts. No employee, officer, or agent shall participate in the selection or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.



## Written Code of Standards of Conduct Conflict of Interest

### Conflicts Prohibited:

No person who exercises or has exercised any functions or responsibilities with respect to activities funded by the Authority or who is in a position to participate in a decision-making process or gain inside information with regard to these activities, may obtain a financial interest or benefit for an Authority-assisted activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter. Such conflict would arise when a financial or other interest in a firm selected for award is held by:



# Written Code of Standards of Conduct Conflict of Interest

## Persons Covered:

- ❖ Any person who is an employee, agent, consultant, officer, or elected, appointed official of the Tribe or the Authority or subrecipient of Authority funds, An officer, employee, or agent involved in making the award; Family member defined as: His or her relative, including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, and half-sister;
- ❖ His or her partner; or,
- ❖ An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

# Written Code of Standards of Conduct

## Conflict of Interest

### Exceptions:

Upon a written request to the Board of Commissioners, approved by the Executive Director and Board of Commissioners, and the Tribal Executive Council who has final review authority (except in cases requiring the approval of another agency such as the federal government). Reviews shall be performed on a case-by-case basis when it is determined that the exception will serve to further the purposes and mission of the Authority and the effective and efficient administration of the program or project. All requests to the Board of Commissioners will be accompanied by:

- 1) a disclosure of the nature of the conflict, accompanied by an assurance that there has been public disclosure of the conflict description and of how the public disclosure was made; and
- 2) an opinion from the Authority attorney that the interest for which the exception is sought does not violate tribal laws or the rules and laws governing the source of funds.





# Written Code of Standards of Conduct Conflict of Interest

## Factors to Be Considered:

- 1) whether the exception would provide a significant cost benefit or an essential degree of expertise to the program or project which would otherwise not be available.
- 2) whether the person affected is a member of a group or class of persons intended to be the beneficiary of the assisted activity, and the exception will permit such person to receive generally the same interests or benefits as are being made available or provided to the group or class.
- 3) whether the affected person has withdrawn from his, her functions or responsibilities, or the decision-making process with respect to the specific assisted activity in question.
- 4) whether the interest or benefit was present before the affected person was in a position affected by the Standards of Conduct.
- 5) whether undue hardship will result either to the Authority or the person affected when weighed against the public interest served by avoiding the prohibited conflict; and
- 6) any other relevant considerations.





## Written Code of Standards of Conduct Conflict of Interest

### Gifts, Gratuities, and Use of Confidential Information:

The Housing Authority prohibits its officers, employees, and agents from soliciting or accepting gratuities, favors, or anything of monetary value (other than unsolicited items of nominal intrinsic value) from contractors, potential contractors, or parties to subcontracts, and the knowing use of confidential information for actual or anticipated personal gain.

### Violations:

Disciplinary action will be taken to remedy violations of this code and may include verbal or written warning, formal reprimand, suspension, or dismissal. The level of disciplinary action will depend on the severity of the violation, the individual's prior behavior, and the nature of the individual's position. Notice the Tribal Indian Housing Authority communicates the requirements of this code during orientation, at trainings, in the bylaws of the Board of Commissioners, and in its personnel and procurement policies.

Conflict Of  
Interest in  
Admissions and  
the  
Administration  
of Contracts.

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# What Is A Conflict Of Interest

When someone in a position of trust has competing professional and personal interests

When someone makes a decision in an official capacity, and they stand to profit personally

When your interests have the potential to conflict with the best interest of the organization or those you represent

# Conflict of Interest Requirements

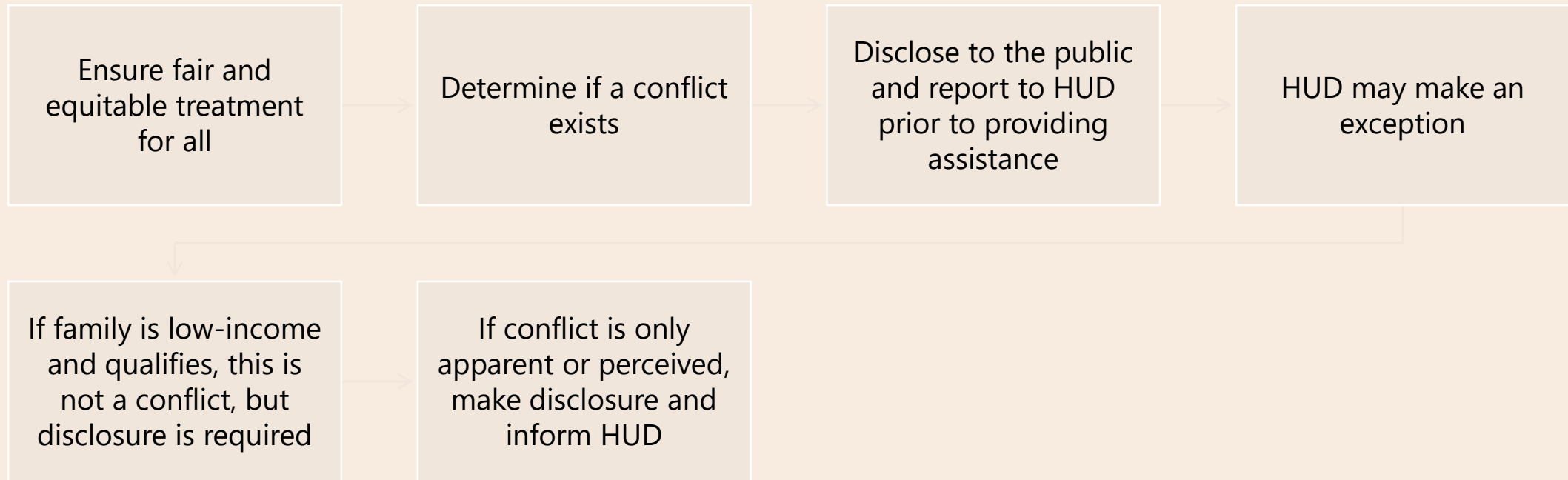


Report a potential conflict of interest to ONAP



Disclose to the public the conflict of interest, the nature of the assistance to be provided the individual, and the specific basis for which there is no conflict.

# Conflicts in Admissions







# Conflicts in Admissions

There may be several ways to make the public disclosure. One such way is to make the information available in the same manner that you would provide any other public information, such as posting it in a prominent place. Some programs include a "*public disclosures*" section on their monthly meeting agendas. HUD must be provided with a copy of the disclosure. If the recipient is a TDHE, the disclosure may be provided to the tribe as well.



No. 2002-13  
July 25, 2002

# PROGRAM GUIDANCE

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**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

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**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 Conflict of Interest in IHBG Housing Admissions

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.



# Program Guidance 2002-13

## Conflict of Interest in IHBG Housing Admissions

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### 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 individual's business associates.

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 In following slides.)



Your Applications should ask..

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Do you or any member of your household have a family or business relationship with an employee of the ATHA Housing Authority, Board of Commissioners of the Any Tribal Housing Authority, or a Tribal Council Member?





# Application Conflict Of Interest Disclosure

Conflict of Interest Disclosure. The Any Tribal Housing Authority takes seriously any actual or potential conflicts of interest. As we wish to avoid even the appearance of a conflict, we ask all applicants to disclose any immediate family members, or other significant persons, which could potentially cause a conflict of interest. (ATHA Staff, Tribal Council, Housing Board Of Commissioners,) For this purpose, immediate family member includes, but is not limited to, spouse, children, parents and siblings. Please list any relationship here (please print):

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## Program Guidance 2002-13 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.



PROCEDURE FOR DETERMINATION OF CONFLICT OF INTEREST  
IN ADMISSIONS



PROCEDURE FOR DETERMINATION OF CONFLICT OF INTEREST IN  
ADMISSIONS

The purpose of the Conflict-of-Interest provisions are to assist managing those situations where Conflicts of Interest arise within the ATIHA housing programs governed by the NAHASDA statute and regulations, and to ensure fair and equitable treatment for all eligible participants of the ATIHA programs (Reference 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; IHBG Program Guidance No. 2002-13).

1. Conflict of Interest Requirements:

a. The conflict-of-interest provisions apply to anyone who participates in the decision-making process or who gains inside information with regards to NAHASDA assisted activities. Such persons include anyone with an interest in any contract, subcontract or agreement or proceeds there under, either for themselves or others with whom they have business or immediate family ties.

1) Such individuals are, but are not necessarily limited to Housing Staff, Housing Board of Commissioners or Tribal Council Members, members of their immediate

## Program Guidance 2002-13

### 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.



## Program Guidance 2002-13 Exceptions to the Requirements:

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)].

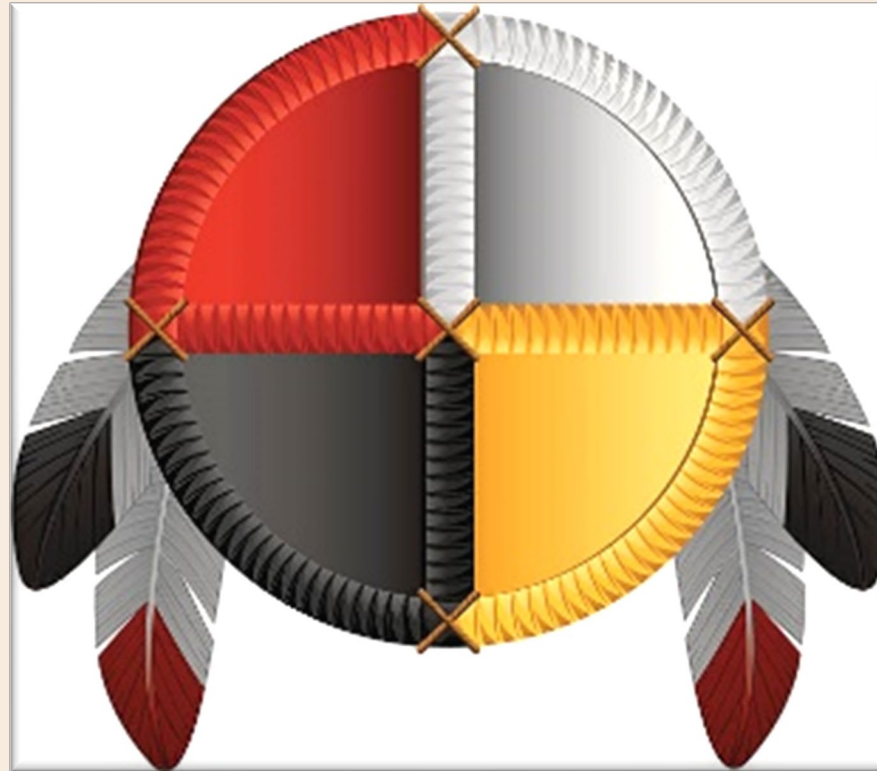
However, the recipient must make a public disclosure of the nature of the assistance to be provided such individuals and the specific basis for the selection of the person. The recipient must also provide its Area ONAP with a copy of the disclosure before the assistance is provided to the person.





# Sample Public Disclosure Form

**PUBLIC DISCLOSURE NOTICE:** In accordance with 24 CFR 1000.30, the following public disclosure is made in accordance with the (ATHA) Any Tribal Housing Authority of the ANY TRIBE's Conflict of Interest Policy:



To: Tribal Members of Any Tribal Housing Authority

Date: Today's date

Re: Potential Conflict of Interest

Staff:

Board:

Council: Immediate family member of a Tribal Council Member

The above has applied and has been determined eligible for services. The nature and basis of the assistance to be provided is as follows:

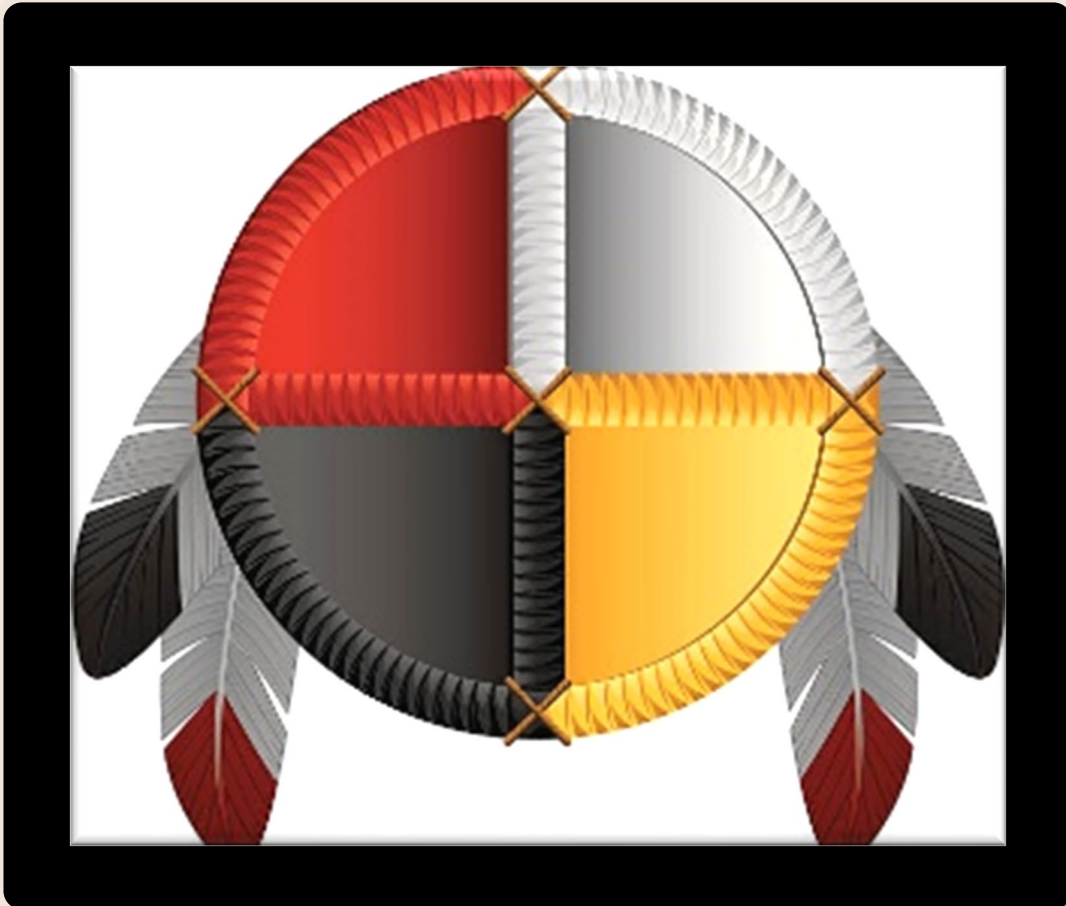
Rental Assistance-Selection for Rental Unit



## Sample Public Disclosure Form

PUBLIC DISCLOSURE NOTICE: In accordance with 24 CFR 1000.30, the following public disclosure is made in accordance with the (ATHA) Any Tribal Housing Authority of the ANY TRIBE's Conflict of Interest Policy:

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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 Any Tribal Housing Authority, "Conflict of Interest Comment", 1111 S 22nd Avenue, Any Tribal Place, BR549. Comments that are received will be reviewed at the next regularly scheduled ATHA Board meeting. The Board will not consider any comments received after the end of the comment period. 12/12/2021 AT 8:05 am EST

This Notice was posted on December 5<sup>th</sup>, 2021, at this time of 8:00 AM EST at the location: ATHA Office Lobby.

On this day \_\_\_\_ of \_\_\_\_\_, 2021, at this time of \_\_\_\_\_. This Notice was taken down by: \_\_\_\_\_

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

This Notice was posted on December 5<sup>th</sup>, 2021, at this time of 8:06 AM EST at the location: ATHA Office Lobby.

On this day 12<sup>th</sup> of December 2021, at this time of 8:06 AM. This Notice was taken down by: Jane Doe, The Best front Office Staff ever.



# Sample ONAP Disclosure Form Notification of Potential or Appearance of Conflict of Interest

To: Office of Native American Programs

From: Any Tribal Housing Authority

Date: Today's Date

Regarding the following applicant: Vice-  
Chairman's Hunkadunks Sister



# Sample ONAP Disclosure Form Notification of Potential or Appearance of Conflict of Interest

Per 24 CFR 1000.30 and the Any Tribal Housing Authority's Conflict of Interest Policy, this is to notify your office that the applicant named above will be provided assistance through the Any Tribal Housing Authority program:

This person is considered a potential conflict of interest for the following reason:

- Employee of Any Tribal Housing Authority
- Member of the Board of Commissioners of the Any Tribal Housing Authority
- Member of the Tribal Council of Any Rez, Indian Nation
- Immediate family member of Any Tribal Housing Authority staff
- Immediate family member of a Board of Commissioners member of the Any Tribal Housing Authority
- Immediate family member of a Tribal Council Member of the Any Rez, Indian Nation Tribe



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Clipboard Font Paragraph Styles Editing Voice

Find Replace Select Dictate



Any Rez, Indian Nation  
BR549

Sample ONAP Disclosure Form

Notification of Potential or Appearance of Conflict of Interest

To: Office of Native American Programs

From: Any Tribal Housing Authority

Date: Today's Date

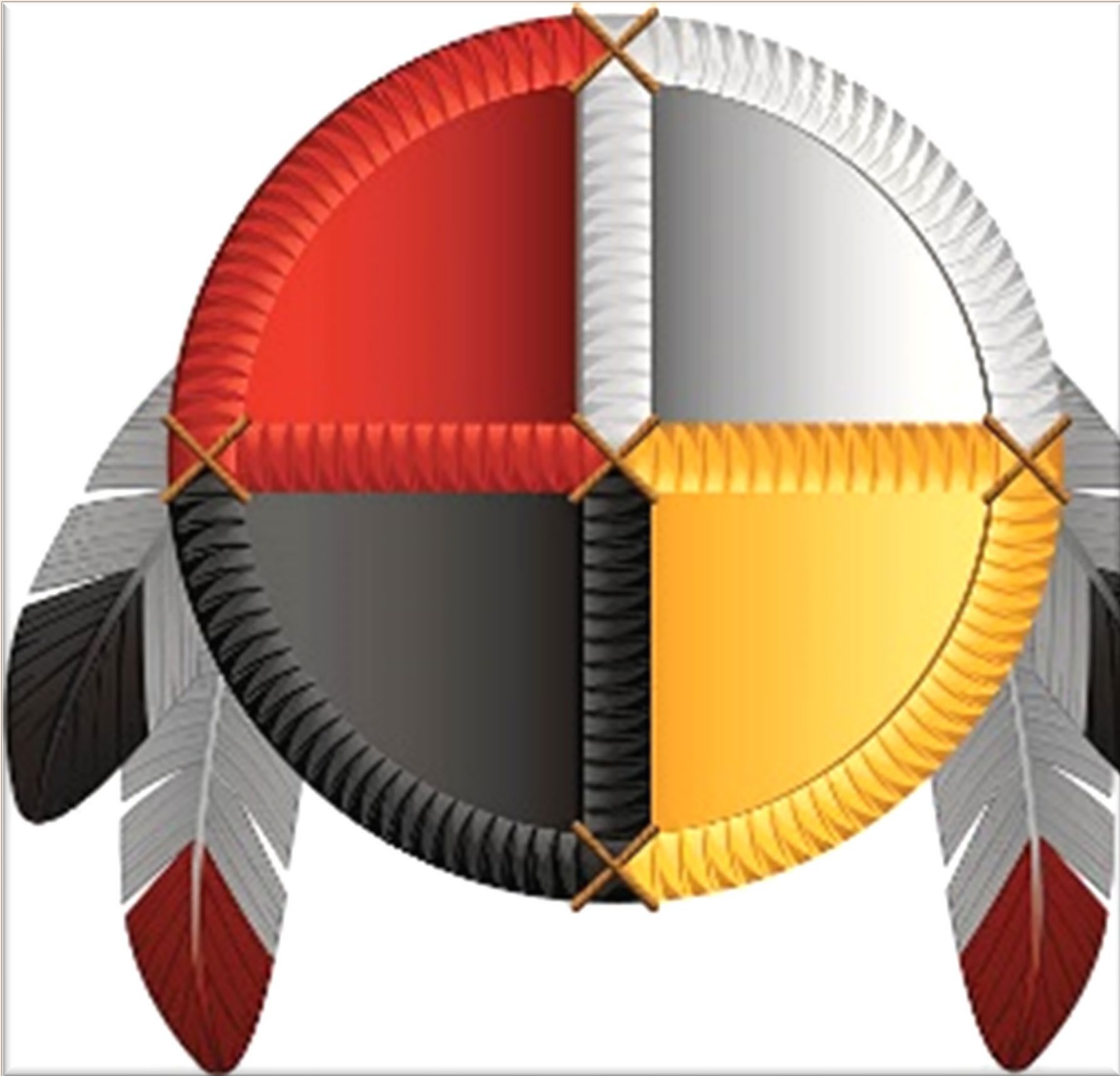
Regarding the following applicant: Vice-Chairman's Hunkadunks Sister

Per 24 CFR 1000.30 and the Any Tribal Housing Authority's Conflict of Interest Policy, this is to notify your office that the applicant named above will be provided assistance through the Any Tribal Housing Authority program:

This person is considered a potential conflict of interest for the following reason:

- Employee of Any Tribal Housing Authority
- Member of the Board of Commissioners of the Any Tribal Housing Authority
- Member of the Tribal Council of Any Rez, Indian Nation
- Immediate family member of Any Tribal Housing Authority staff
- Immediate family member of a Board of Commissioners member of the Any Tribal Housing Authority
- Immediate family member of a Tribal Council Member of the Any Rez, Indian Nation Tribe





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

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- Per the Department of Housing and Urban Development (HUD) NAHASDA regulations at 24 CFR §§1000.30 – 1000.36, Any Tribal Housing Authority (ATHA) 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 Housing Assistance being provided to immediate family members of Staff or Housing Commissioners or Tribal Council members of The ATHA Tribe, Vice-Chairman Scott Hunkadunks Applicant Suzy Hunkadunks (Sister) have applied for and met the requirements for participating in the Low Rent Program in Lakeside Apartments, Any Tribal Place. Participant will be provided assistance with Rental Assistance-Selection for Rental Unit #1234 .



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

The following applicants have met all requirements for participation:

Applicant: Suzy Hunkadunks  
Relationship to Board Member or ATHA: Sister of Vice Chairman Scott Hunkadunks

Specific Basis for the selection:

- X American Indian or Alaskan Native
- X Low-income as determined by HUD
- X Primary residence
- X Applicant met all criteria and was next on waiting list

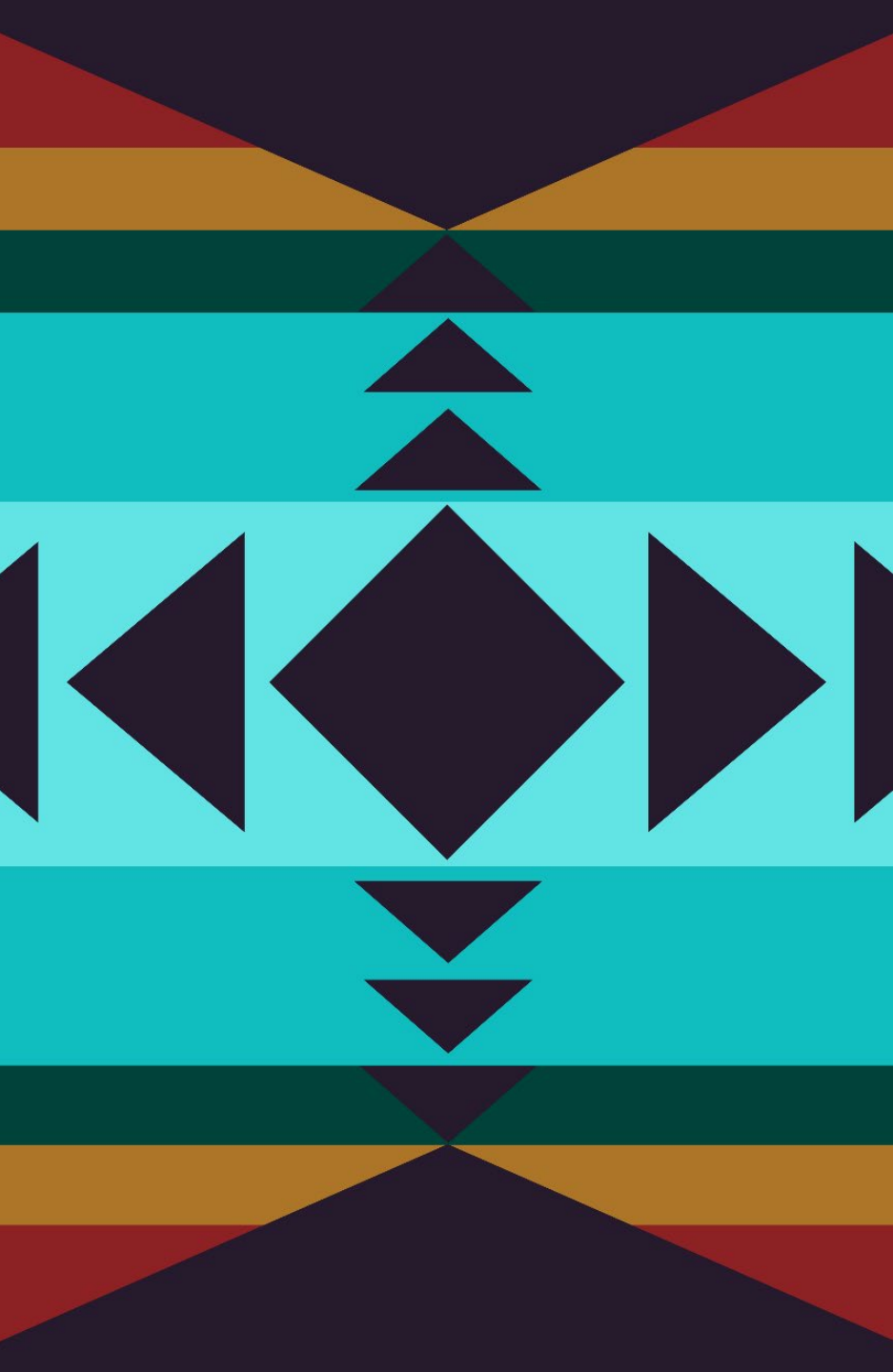


## Program Guidance 2002-13

### 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.





## Program Guidance 2002-13

### Actions to be Taken:

They should also be reviewed to ensure that they do not contain provisions that inherently allow conflicts of interest. If the housing entity 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.

## Program Guidance 2002-13 HUD Approval:

If the person receiving assistance is 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.



# What REQUIREMENTS regarding conflict of interest are applicable?

2 CFR 200.318 Govern procurement of supplies, equipment, other property, construction and services by recipients and subrecipients

01

24 CFR 1000.30, §1000.32 , §1000.34 , §1000.36 govern all other cases

02

Program Guidance  
2002-13  
Conflict of Interest in IHBG  
Housing Admissions






## 24 CFR 1000.30 What prohibitions regarding conflict of interest are applicable?

(a) Applicability. In the procurement of supplies, equipment, other property, construction and services by recipients and subrecipients, the conflict-of-interest provisions of 2 CFR 200.318 shall apply. In all cases not governed by 2 CFR 200.318, the following provisions shall apply.

## 24 CFR 1000.30 What prohibitions regarding conflict of interest are applicable?

(b) Conflicts prohibited. No person who participates in the decision-making process or who gains inside information with regard to NAHASDA assisted activities may obtain a personal or financial interest or benefit from such activities, except for the use of NAHASDA funds to pay salaries or other related administrative costs. Such persons include anyone with an interest in any contract, subcontract or agreement or proceeds thereunder, either for themselves or others with whom they have business or immediate family ties. Immediate family ties are determined by the Indian tribe or TDHE in its operating policies.





## 24 CFR 1000.30 What prohibitions regarding conflict of interest are applicable?

(c) The conflict-of-interest provision does not apply in instances where a person who might otherwise be included under the conflict provision is low-income and is selected for assistance in accordance with the recipient's written policies for eligibility, admission and occupancy of families for housing assistance with IHBG funds, provided that there is no conflict of interest under applicable tribal or state law. The recipient must make a public disclosure of the nature of assistance to be provided and the specific basis for the selection of the person. The recipient shall provide the appropriate Area ONAP with a copy of the disclosure before the assistance is provided to the person.

## §1000.32 May exceptions be made to the conflict-of-interest provisions?

(a) Yes. HUD may make exceptions to the conflict-of-interest provisions set forth in §1000.30(b) on a case-by-case basis when it determines that such an exception would further the primary objective of NAHASDA and the effective and efficient implementation of the recipient's program, activity, or project.

(b) A public disclosure of the conflict must be made and a determination that the exception would not violate tribal laws on conflict of interest (or any applicable state laws) must also be made.

§1000.34 What factors must be considered in making an exception to the conflict-of-interest provisions?

In determining whether to make an exception to the conflict-of-interest provisions, HUD must consider whether undue hardship will result, either to the recipient or to the person affected, when weighed against the public interest served by avoiding the prohibited conflict.



# CODE OF ETHICS

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Create and  
Adopt a Board  
of Directors  
Code of Ethics

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File Home Insert Draw Design Layout References Mailings **Review** View Help Search

Share Comments

Check Document Thesaurus Word Count Read Aloud Check Accessibility  
 Proofing Speech Accessibility Language

New Comment Delete Previous Next Show Comments Ink Comment Pen Eraser  
 Comments

Track Changes All Markup Show Markup Reviewing Pane  
 Tracking

Accept Reject Previous Next  
 Changes

Compare Block Authors Restrict Editing Hide Ink Resume Assistant  
 Compare Protect Ink Resume



**The Any Tribal Housing Authority Board of Directors Code of Ethics**

**Members of the ATHA Board Will ....**

Listen carefully to teammates, and those served by ATHA

- Respect the opinion of other board members.
- Respect and support the majority decisions of the board.
- Recognize that all authority is vested in the board when it meets in legal session and not with individual board members.
- Keep well-informed of developments that are relevant to issues that may come before the board.
- Participate actively in board meetings and actions.
- Call to the attention of the board any issues that will have an adverse effect on ATHA or those we serve.
- Attempt to interpret the needs of constituents to ATHA and interpret the action of ATHA to its constituents.
- Refer constituent or staff complaints to the proper level on the chain of command.
- Recognize that the board member's job is to ensure that ATHA is well managed, not to manage ATHA.
- Vote to hire the best possible person to manage ATHA.
- Represent all constituents of ATHA and not solely a particular geographic area or special interest group.
- Consider themselves each a "trustee" of ATHA and do their best to ensure that ATHA is well maintained, financially secure, growing and always operating in the best interests of constituents.
- Always work to learn about the board member's job and how to do it better.
- Declare any conflict of interests between their personal life and their position on the ATHA board and avoid voting on issues that appear to be a conflict of interest.

**Members of the ATHA Board will not...**

- Be critical, in or outside of the board meeting, of other board members or their opinions.
- Use ATHA or any part of ATHA for personal advantage or the personal advantage of friends or relatives.
- Discuss the confidential proceedings of the board outside the board meeting.
- Promise prior to a meeting how each will vote on any issue in the meeting.
- Interfere with duties of the executive director or undermine the executive director's authority.
- Be involved in self-dealing that provides personal gain.

Windows taskbar with search bar, taskbar icons (ANY TRIBAL HOUSI..., NAHASDA ESSENTI..., ATHA Board Of Dir...), and system tray (7:12 AM 6/25/2019).

# The Any Tribal Housing Authority Board of Directors Code of Ethics

Members of the ATHA Board Will ....

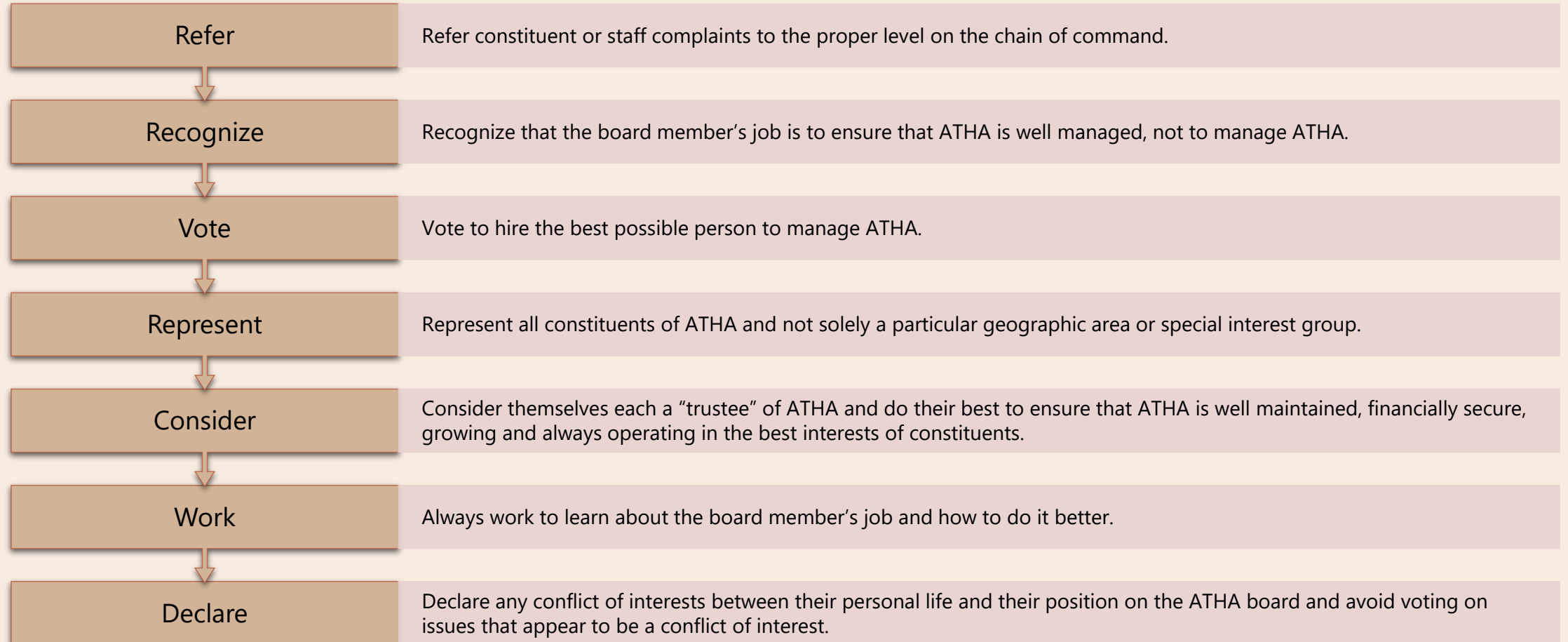
Listen carefully to teammates, and  
those served by ATHA



# Members of the ATHA Board Will ....

|                     |   |
|---------------------|---|
| Respect             | Respect the opinion of other board members.   |
| Respect and support | Respect and support the majority decisions of the board.  |
| Recognize           | Recognize that all authority is vested in the board when it meets in legal session and not with individual board members. |
| Keep                | Keep well-informed of developments that are relevant to issues that may come before the board.                            |
| Participate         | Participate actively in board meetings and actions.   |
| Call                | Call to the attention of the board any issues that will have an adverse effect on ATHA or those we serve.                 |
| Attempt             | Attempt to interpret the needs of constituents to ATHA and interpret the action of ATHA to its constituents.              |

# Members of the ATHA Board Will ....



# Members of the ATHA Board will not...



Be critical, in or outside of the board meeting, of other board members or their opinions.



Use ATHA or any part of ATHA for personal advantage or the personal advantage of friends or relatives.



Discuss the confidential proceedings of the board outside the board meeting.



Promise prior to a meeting how each will vote on any issue in the meeting.



Interfere with duties of the executive director or undermine the executive director's authority.



Be involved in self-dealing that provides personal gain.



# Mitigation Measures



Recusal – declare yourself disqualified to participate



Code of Ethics – policies that prohibit certain activities or conduct



Third-parties – independent, well-qualified individual outside the organization



Disclosure – sharing information not previously known



## 2 CFR 200.318 (C) (1)

The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest.

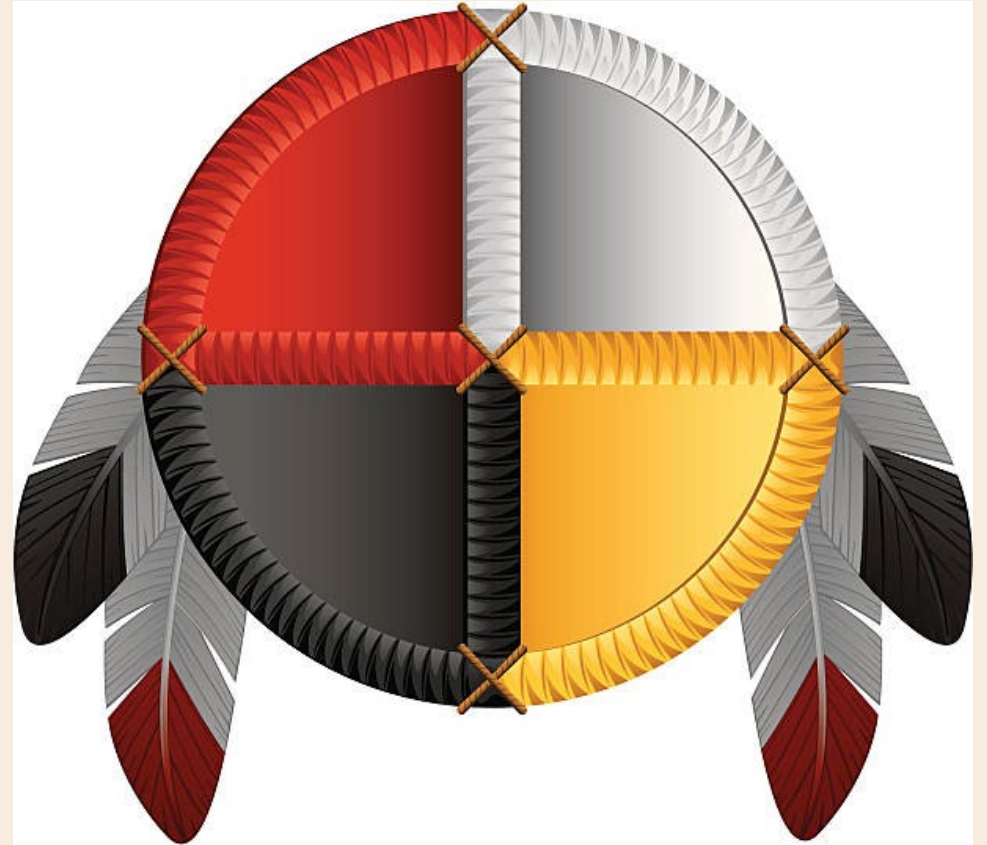
## 2 CFR 200.318 (C) (1)

Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts.



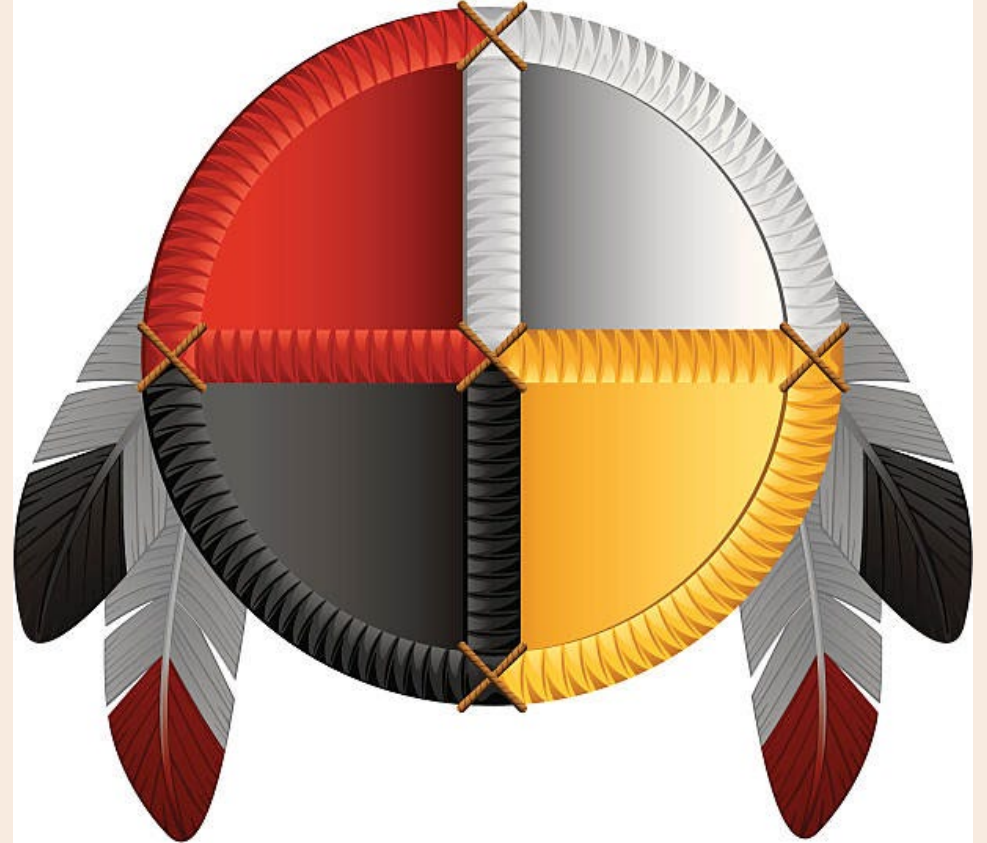
# Gifts, Entertainment and Gratuities

An employee shall not solicit or accept directly or indirectly any gift exceeding \$100.00 value, gratuity, favor, loan or any other thing of monetary value from a person or organization who has (in the past, or tends to seek to obtain) a contractual, business or financial relation with ATHA or who has interests which may be affected by the performance or nonperformance of the employee's official duty, except as allowed in paragraph 2 below.



## Gifts, Entertainment and Gratuities

An employee may accept food or refreshments of nominal value on infrequent occasions in the ordinary course of a breakfast, luncheon or dinner meeting, or other meeting where an employee may properly be in attendance; or may accept unsolicited advertising materials such as pens, calendars or other items of a nominal value.



File Home Insert Draw Design Layout References Mailings Review View Help Search

Clipboard Font Paragraph Styles Editing Voice

Find Replace Select Dictate



Any Tribal Housing Authority (ATHA)  
 1234 Any Tribal Place  
 Any Rez, Indian Nation  
 BR549

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### Gifts, Entertainment and Gratuities

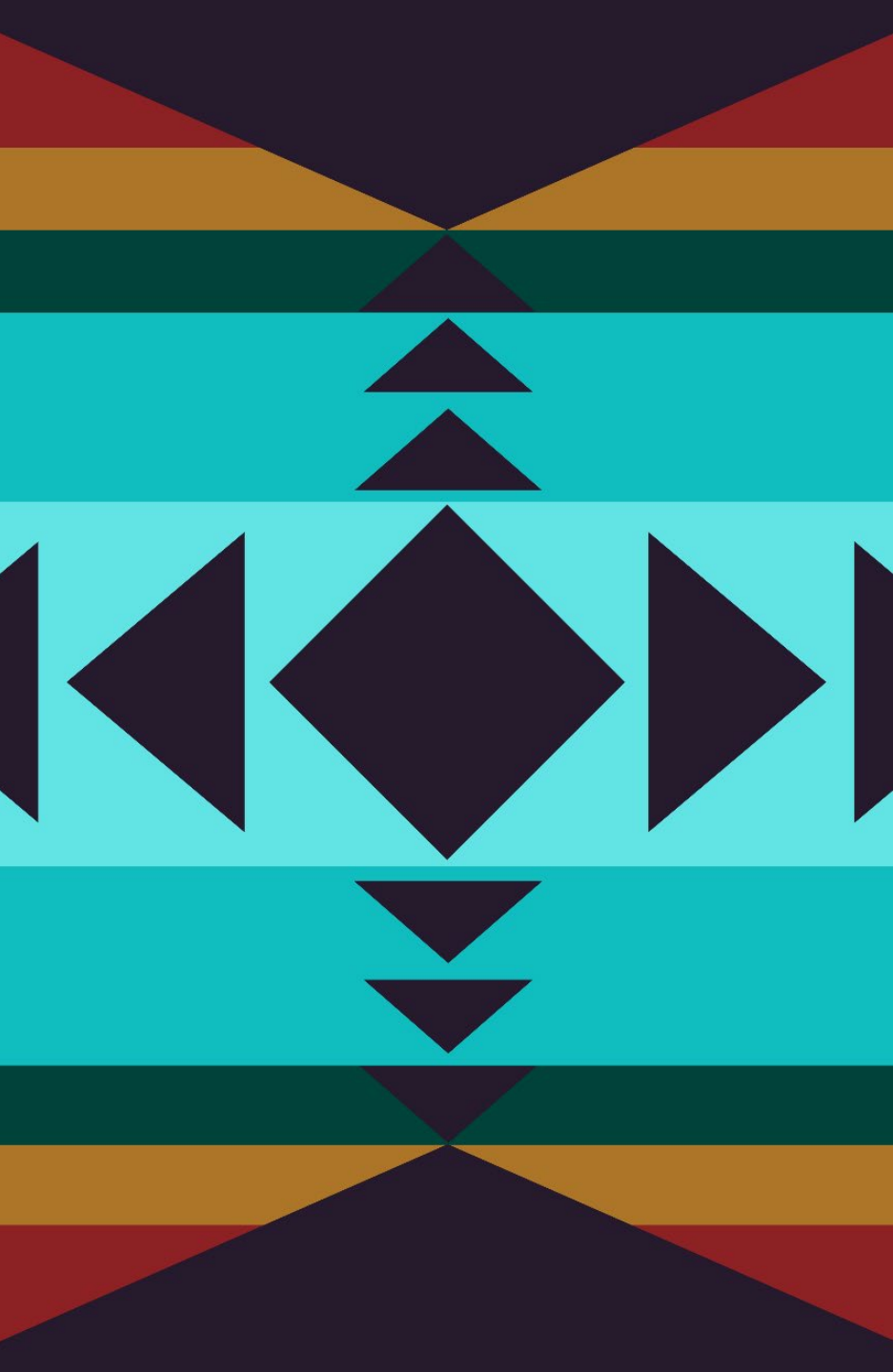
An employee shall not solicit or accept directly or indirectly any gift exceeding \$100 value, gratuity, favor, loan or any other thing of monetary value from a person or organization who has (in the past, or tends to seek to obtain) a contractual, business or financial relation with ATHA or who has interests which may be affected by the performance or nonperformance of the employee's official duty, except as allowed in paragraph 2 below.

An employee may accept food or refreshments of nominal value on infrequent occasions in the ordinary course of a breakfast, luncheon or dinner meeting, or other meeting where an employee may properly be in attendance; or may accept unsolicited advertising materials such as pens, calendars or other items of a nominal value.

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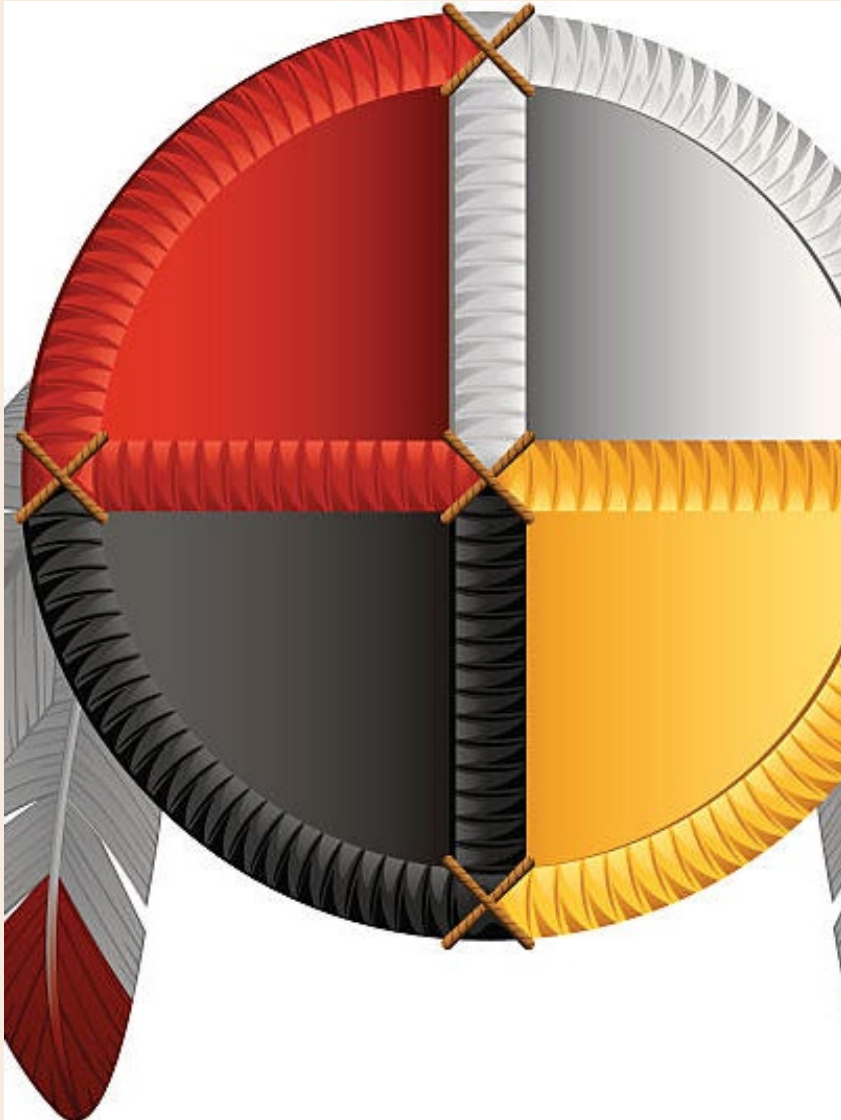




## 2 CFR 200.318 (C) (1)

However, non-Federal entities may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.





# CODE OF CONDUCT

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- **Conflict of Interest**

- The Any Tribal Indian Housing Authority prohibits its officers, employees, and agents from participating directly or indirectly in the selection or in the award or administration of any contract if a conflict, real or apparent, would be involved. Such conflict would arise when a financial or other interest in a firm selected for award is held by:
  - An officer, employee, or agent involved in making the award;
  - His/her relative, including father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, and half-sister;
  - His/her partner; or,
  - An organization which employs, is negotiating to employ, or has an arrangement concerning prospective employment of any of the above.

## *Gifts, Gratuities, and Use of Confidential Information*

The Any Tribal Indian Housing Authority prohibits its officers, employees, and agents from soliciting or accepting gratuities, favors, or anything of monetary value (other than unsolicited items of nominal intrinsic value) from contractors, potential contractors, or parties to subcontracts, and the knowing use of confidential information for actual or anticipated personal gain.



# Violations

Disciplinary action will be taken to remedy violations of this code and may include verbal or written warning, formal reprimand, suspension, or dismissal. The level of disciplinary action will depend on the severity of the violation, the individual's prior behavior, and the nature of the individual's position. Notice the Any Tribal Indian Housing Authority communicates the requirements of this code during orientation, at trainings, in the bylaws of the Board of Commissioners, and in its personnel and procurement policies.



# Mitigation Measures



Recusal – declare yourself disqualified to participate



Code of Ethics – policies that prohibit certain activities or conduct

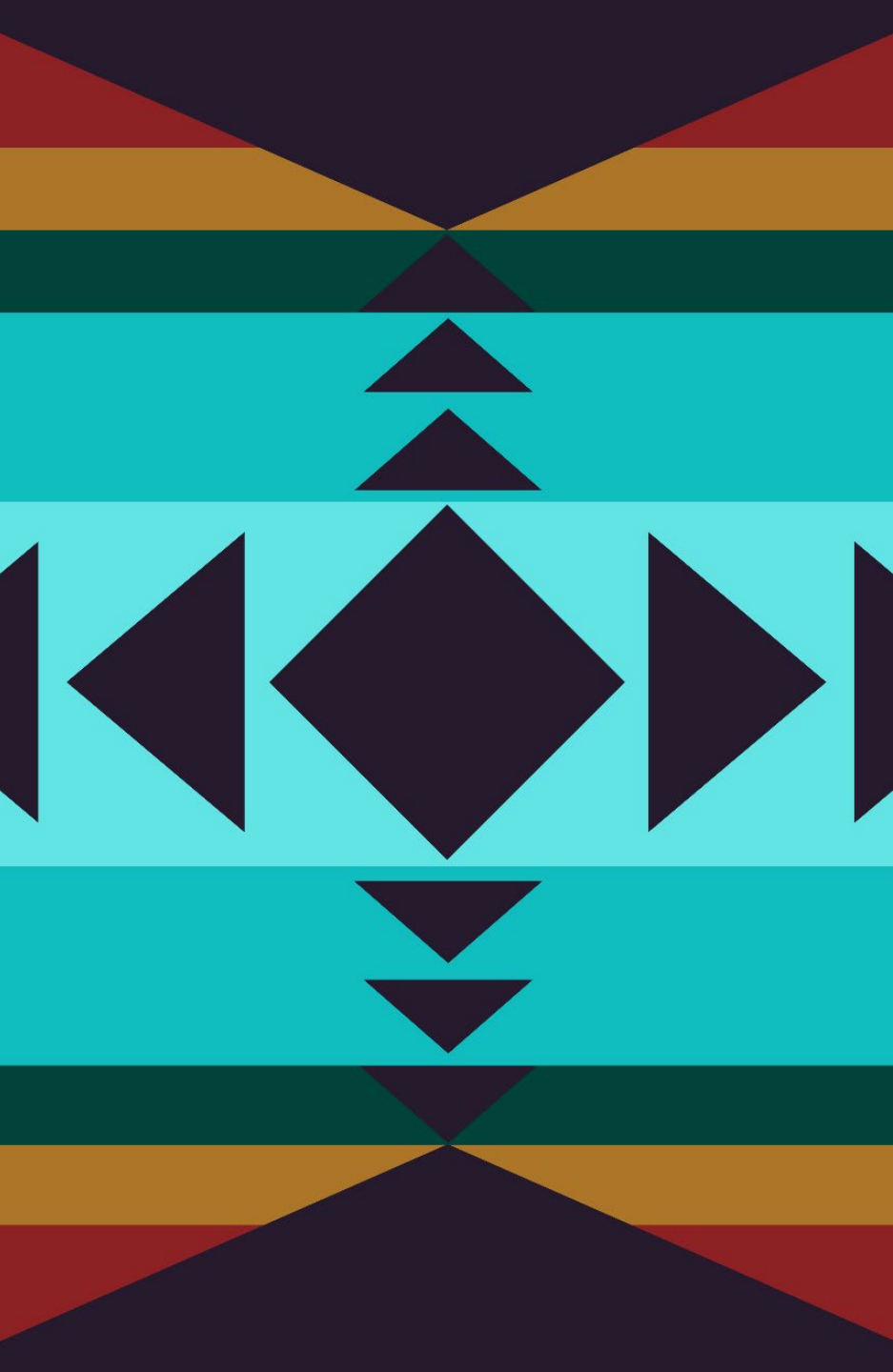


Third-parties – independent, well-qualified individual outside the organization



Disclosure – sharing information not previously known





§1000.36 How long must a recipient retain records regarding exceptions made to the conflict-of-interest provisions?

A recipient must maintain all such records for a period of at least 3 years after an exception is made.



# Program Guidance 2002-13 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.

LUNCH TIME:  
1:00 To 2:00 EST



Hanna-Barbera and Warner Bros. Entertainment





# Useful Life & Binding Commitments |



No. 2020-02  
September 9, 2020

# PROGRAM GUIDANCE

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**PROGRAM:** Indian Housing Block Grant (IHBG)

**FOR:** Tribal Government Leaders and Tribally Designated Housing Entities

**FROM:** Heidi Frechette, Deputy Assistant Secretary for Native American Programs, PN

**TOPIC:** Useful Life and Binding Commitments

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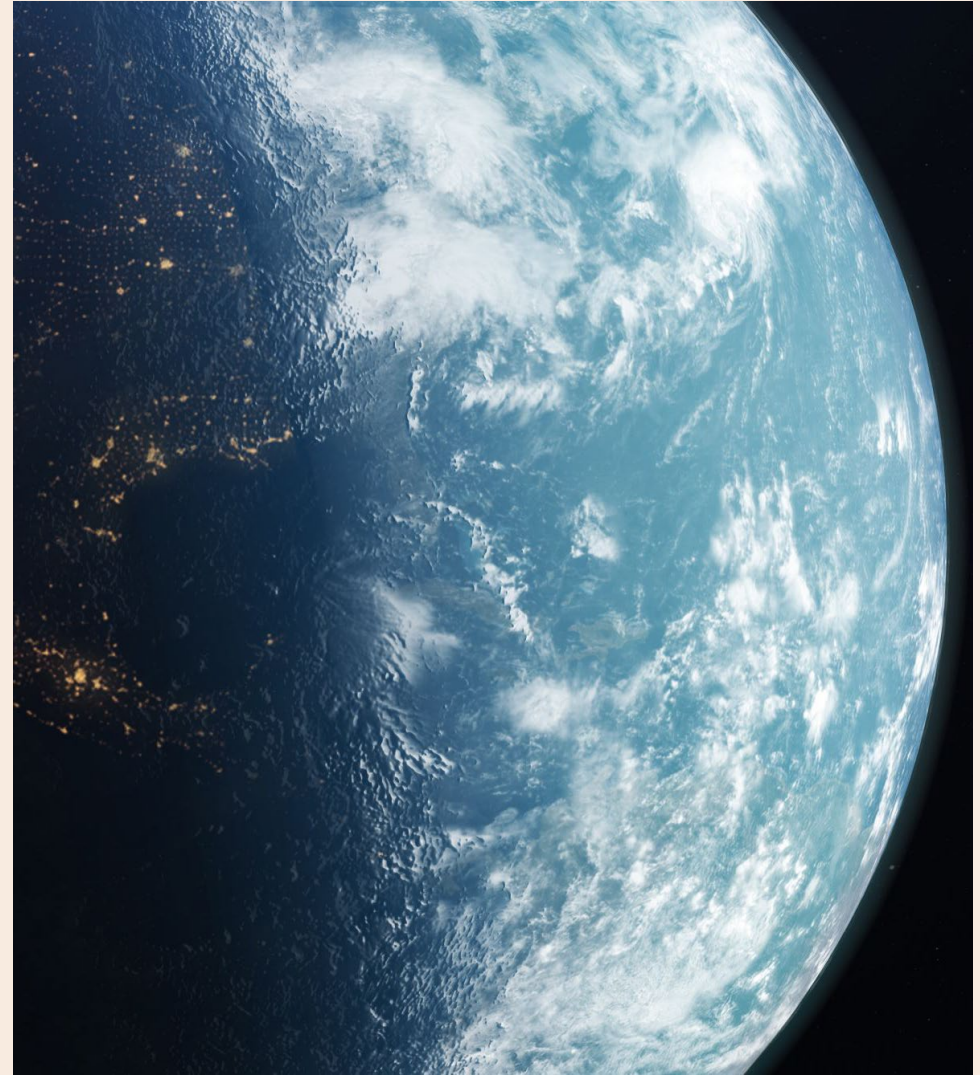
**Purpose:** The intent of this guidance is to give IHBG recipients information about maintaining IHBG-assisted housing and non-housing projects for the useful life of the property. It will clarify (1) what will be considered “satisfactory to the Secretary”; and (2) what constitutes an acceptable binding commitment. This Program Guidance has been updated to include a [FHA Loan Rider to NAHASDA](#), and replaces Program Guidance 2014-09.

**Background:** Section 205(a)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), requires that housing units remain affordable for either (1) the remaining useful life of the property (as determined by the Secretary) or (2) for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purpose of NAHASDA. Useful life is the time period during which an assisted property must remain affordable.

NAHASDA gives the Secretary the authority to determine the housing units’ useful life or other period of time during which the units must remain affordable. The IHBG regulation at 24 CFR § 1000.142, states that to the extent required in the Indian Housing Plan (IHP), each IHBG recipient shall describe its determination of the useful life of the assisted housing units in its developments in accordance with the local conditions of the Indian area of the recipient. By finding the IHP to be in compliance with the statute, the Department would be determining the useful life to be in accordance with NAHASDA.

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

**Purpose:** The intent of this guidance is to give IHBG recipients information about maintaining IHBG-assisted housing and non-housing projects for the useful life of the property. It will clarify (1) what will be considered "satisfactory to the Secretary"; and (2) what constitutes an acceptable binding commitment. This Program Guidance has been updated to include an FHA Loan Rider to NAHASDA and replaces Program Guidance 2014-09.

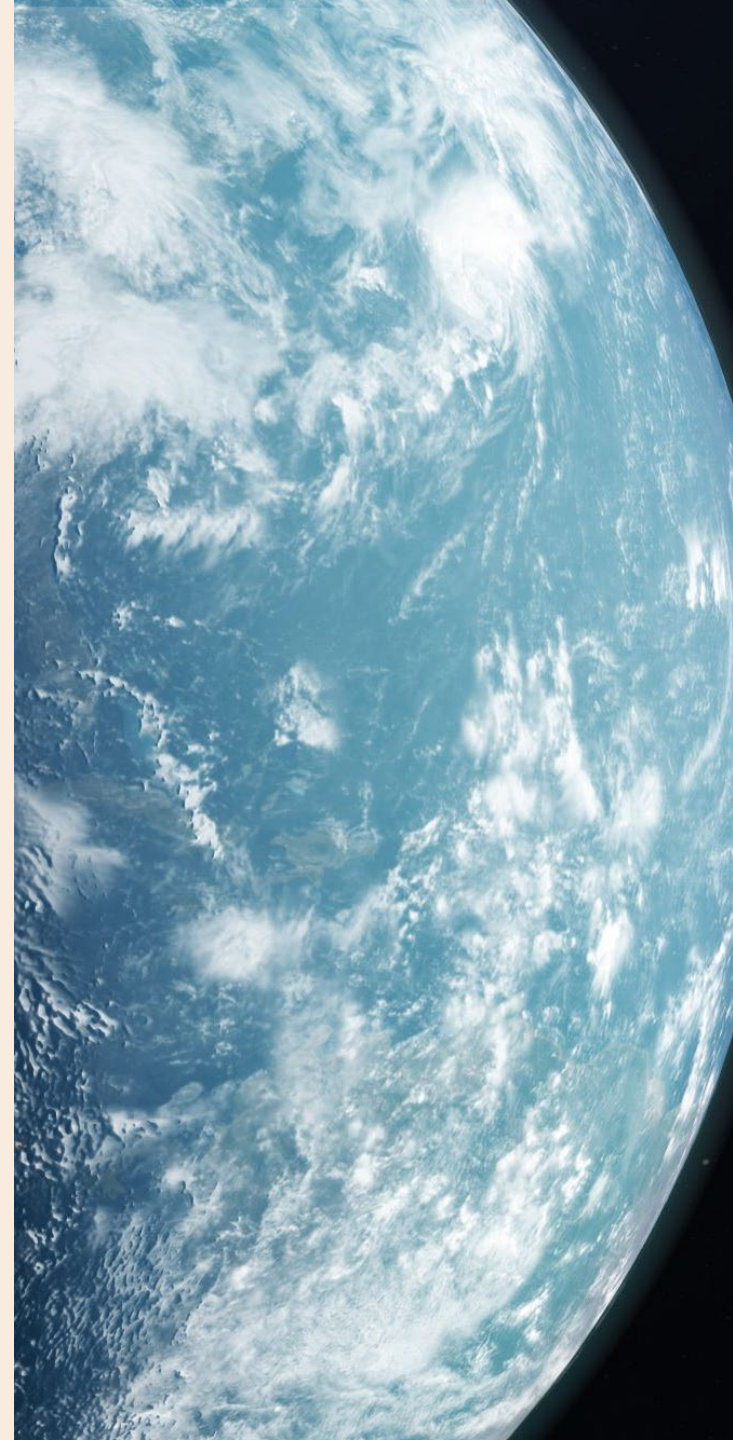




# TOPIC: Useful Life and Binding Commitments No. 2020-02 September 9, 2020

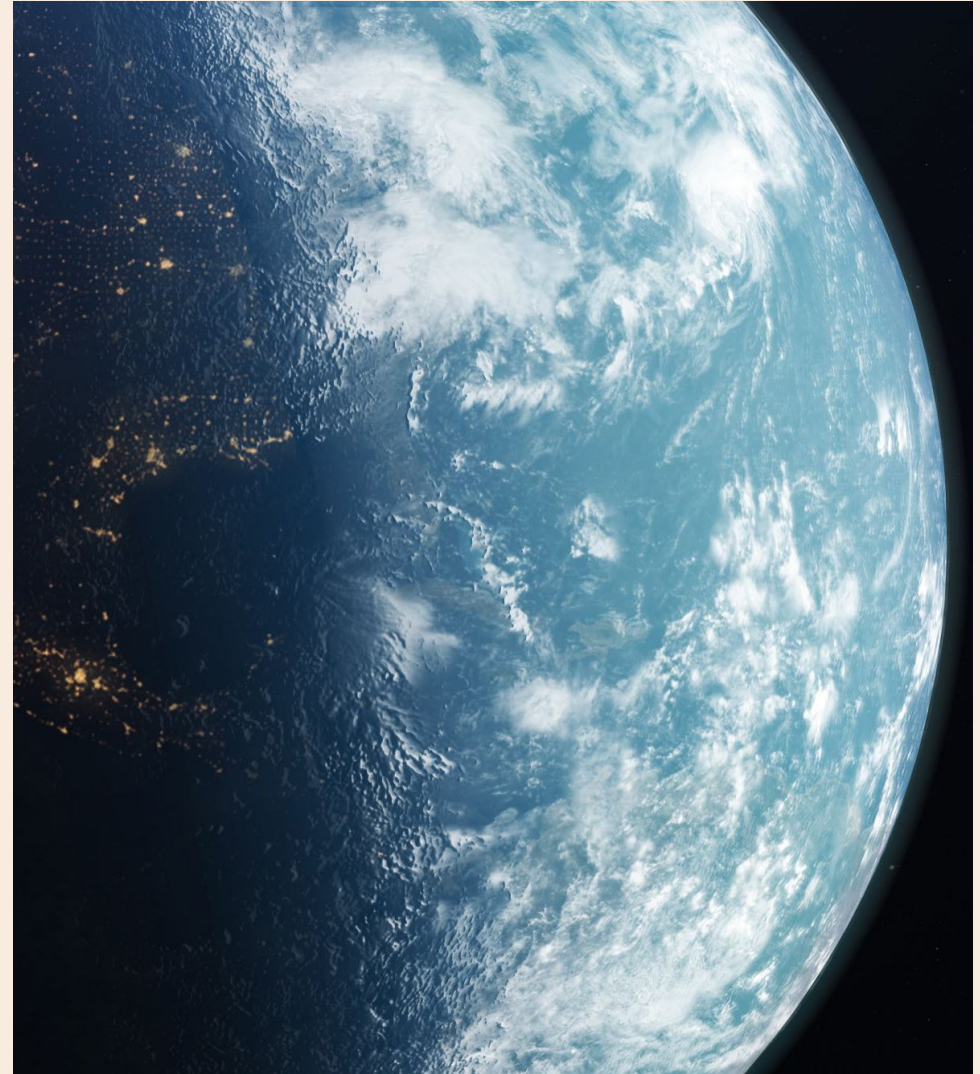
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- **Background:** Section 205(a)(2) of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), requires that housing units remain affordable for either (1) the remaining useful life of the property (as determined by the Secretary) or (2) for such other period that the Secretary determines is the longest feasible period of time consistent with sound economics and the purpose of NAHASDA. Useful life is the time period during which an assisted property must remain affordable.



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

NAHASDA gives the Secretary the authority to determine the housing units' useful life or other period of time during which the units must remain affordable. The IHBG regulation at 24 CFR § 1000.142, states that to the extent required in the Indian Housing Plan (IHP), each IHBG recipient shall describe its determination of the useful life of the assisted housing units in its developments in accordance with the local conditions of the Indian area of the recipient. By finding the IHP to be in compliance with the statute, the Department would be determining the useful life to be in accordance with NAHASDA.

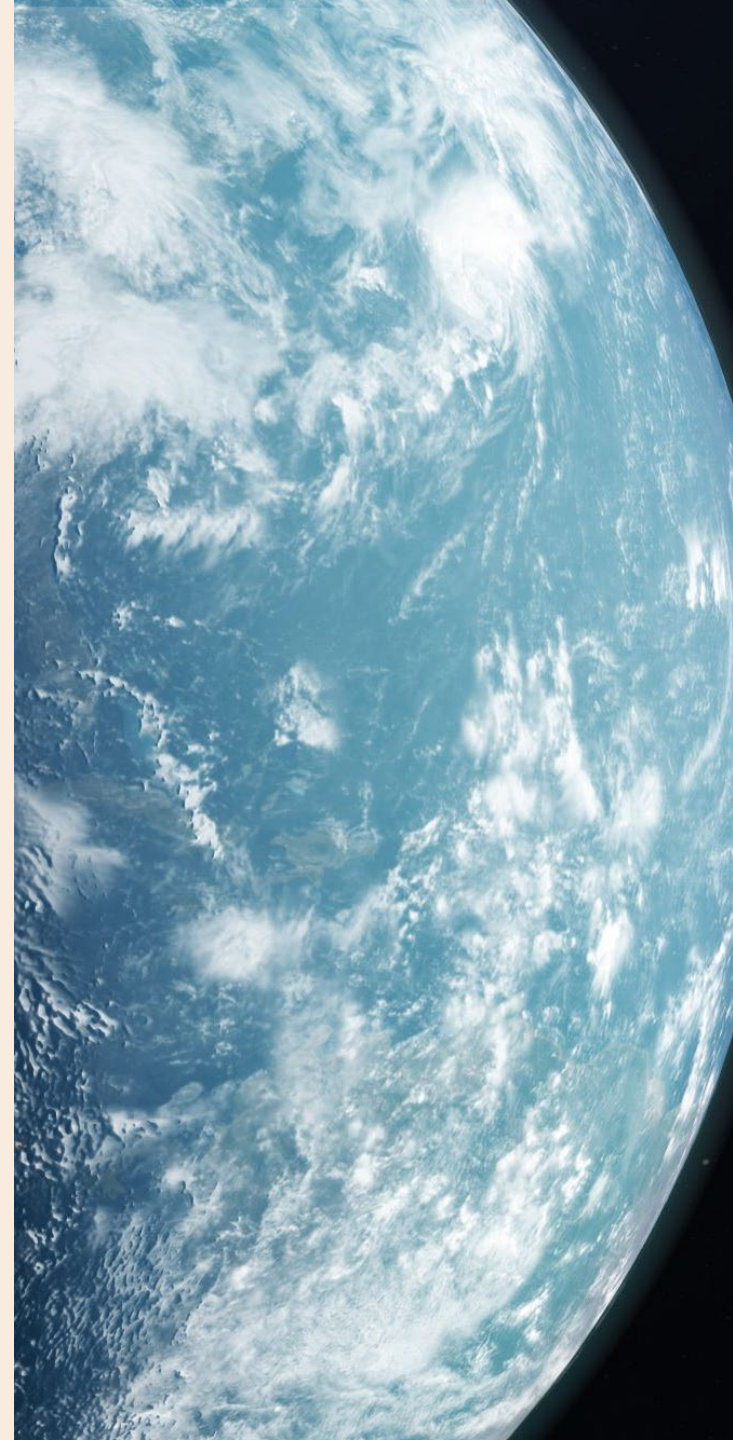




# TOPIC: Useful Life and Binding Commitments No. 2020-02 September 9, 2020

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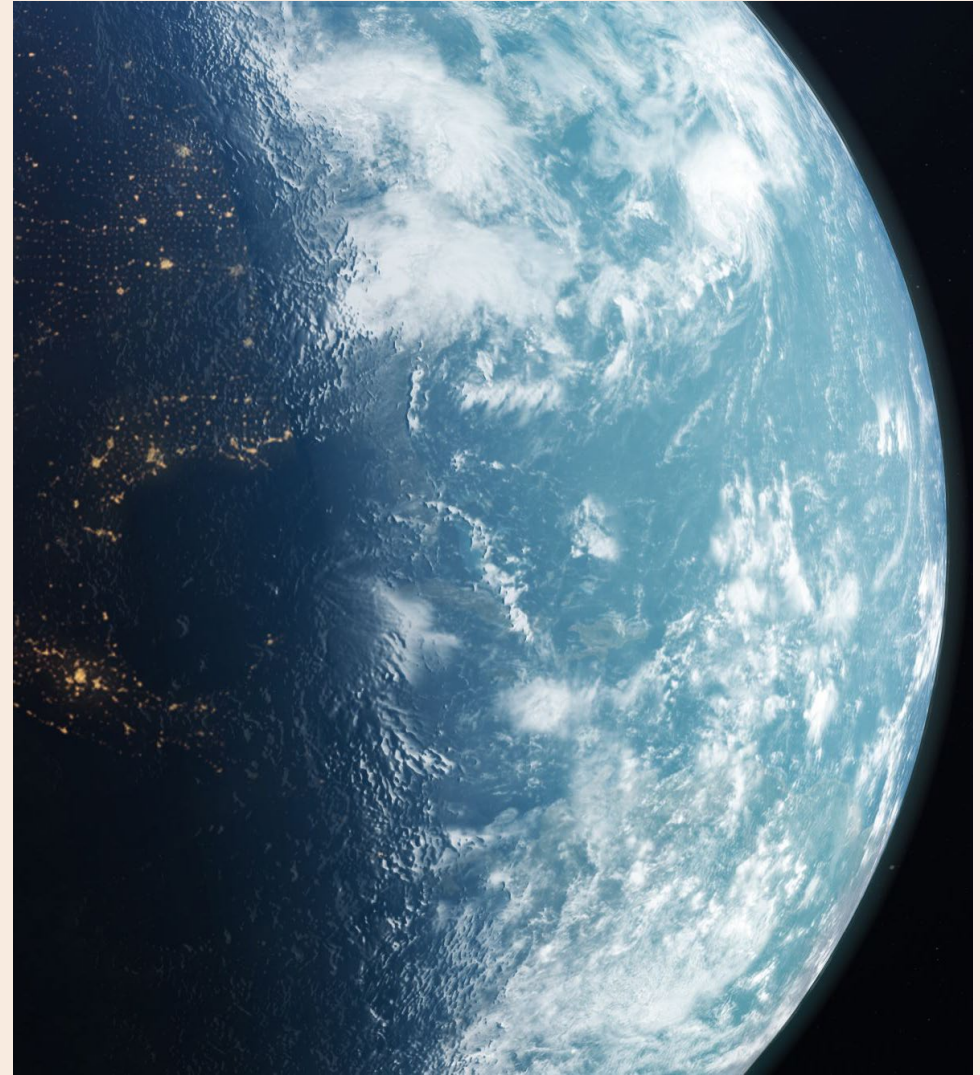
The NAHASDA statute and regulations also require that this affordability period be secured through binding commitments satisfactory to the Secretary. The purpose and intent of requiring binding commitments is to guarantee that the housing will remain affordable for its useful life (affordability period). The binding commitment requirement under NAHASDA not only applies to the parties, but it also applies to the property. The purpose and intent of requiring binding commitments is to guarantee that the housing will remain affordable for its useful life regardless of who may have entered into a contractual agreement or who may be in possession. The binding commitment required cannot be satisfied solely with a contract between the parties. Pursuant to 24 CFR § 1000.144, in order for it to be satisfactory to HUD, a written use restriction that is placed on the assisted property and must run with the land; hence, binding commitments must be recorded.



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

**Affordability Period:** The first primary objective of NAHASDA, as stated in Section 201(a)(1), is: "...to develop, maintain, and operate affordable housing...for occupancy by low-income Indian families." Every time IHBG funds are spent on a property, an investment is made in low-income families in the community. The return on that investment is the period of continued future use during which the property will be available for use by low-income families. That period of future use is the affordability period or useful life for that property.

Housing units that are constructed, developed, and/or rehabilitated using IHBG funds must establish a useful life to ensure the property will remain available to low-income families.





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

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- **Determination of Affordability Period:** Generally, the affordability period is the period of time during which the property will be available for use by low-income families. It should be the remaining useful life of the property, as approved by HUD, or the longest feasible period of time consistent with sound economics and the purposes of NAHASDA, as approved by HUD.
- In determining a property's affordability period or useful life, a recipient could use a tiered schedule similar to that used in the Department's HOME program to determine the affordability period. This would specify a number of years during which the housing must remain affordable, dependent upon the amount of IHBG funds being invested in the property per occurrence. For example:

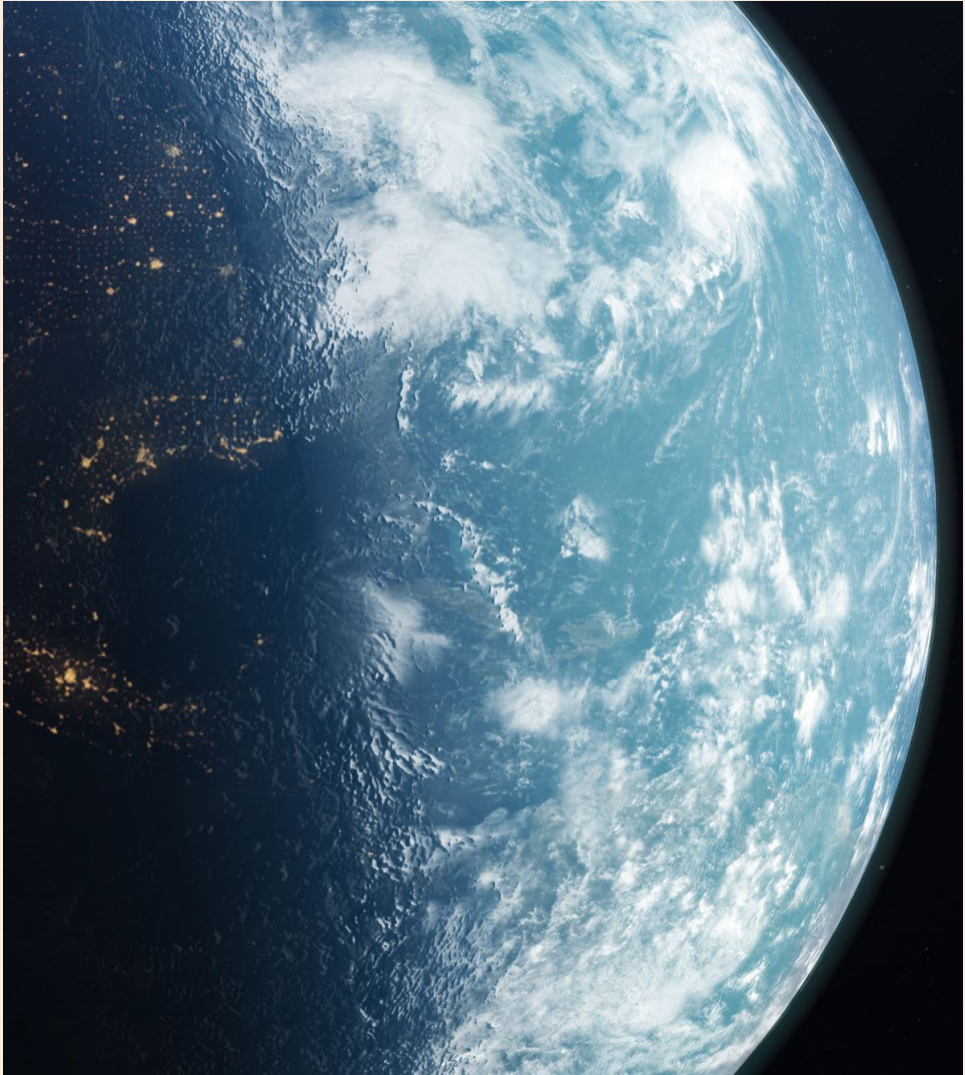


# TOPIC: Useful Life and Binding Commitments No. 2020-02

## September 9, 2020

IHBG Funds Invested Affordability Period\*

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





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

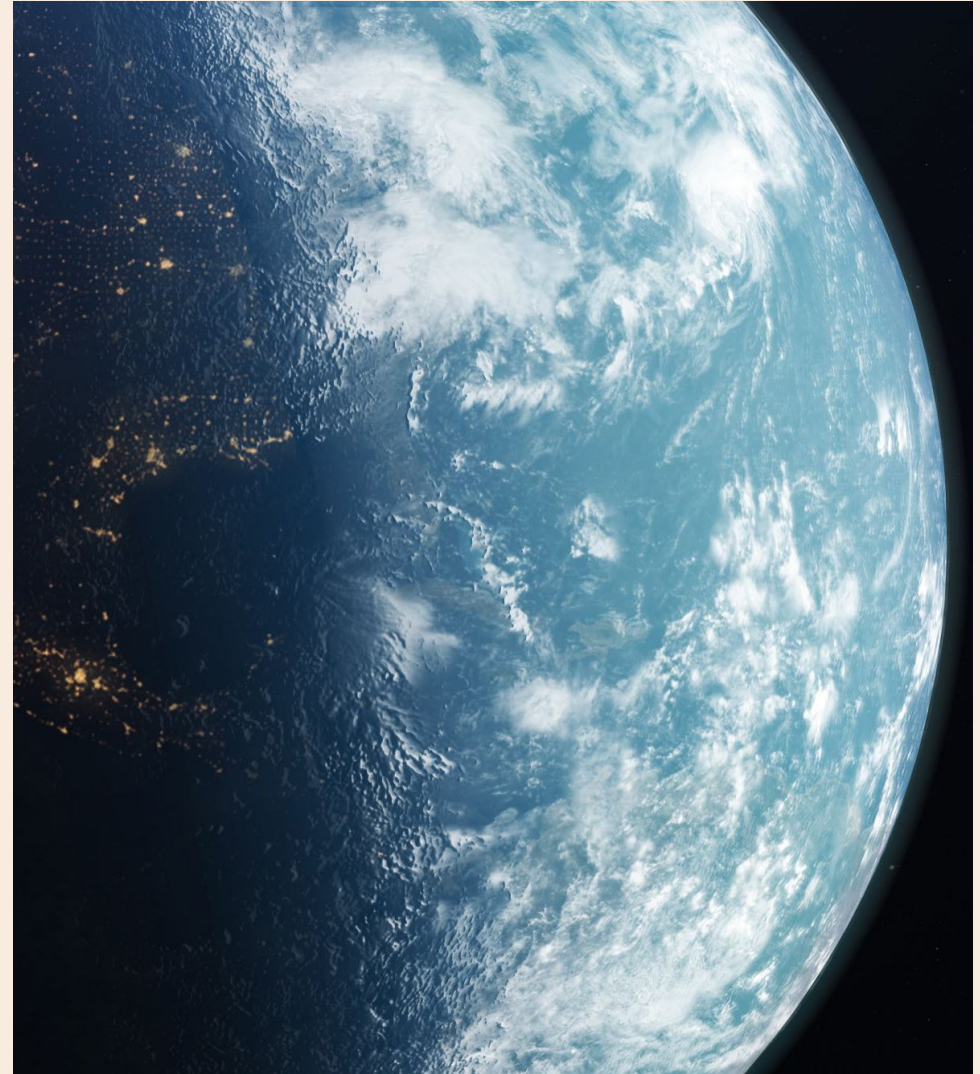
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- NOTE: For relatively minor investments, the designated affordability period can be some nominal period of time, but NAHASDA requires that some period be designated, and that it be secured with a binding commitment. Additionally, if the reasonable affordability period is less than one year, a binding commitment is required; however, it is not necessary to record the written use restriction for purposes of complying with NAHASDA. It is good business practice,
- However, to record the written use restriction for purposes of giving notice to subsequent purchasers. The dollar ranges and/or the corresponding number of years may differ from those shown depending upon local conditions. The recipient may choose to assign a longer affordability period in order to ensure the availability of a larger continuing affordable housing supply for low-income families.



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If the recipient chooses to use some other method of assigning the affordability period, the IHP should describe how the method provides for an affordability period with appropriate consideration given to any unique local conditions. In setting a useful life, a specific number of years should be given for the affordability period, not a range of years (e.g., 30 to 40 years) or a general statement. The number of years should also be without ambiguous qualification (e.g., "about," "approximate," "if properly maintained," "planned," "expected," "estimated," etc.). Similarly, the designated affordability period should in no way be contingent upon the continuation of IHBG funding.





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

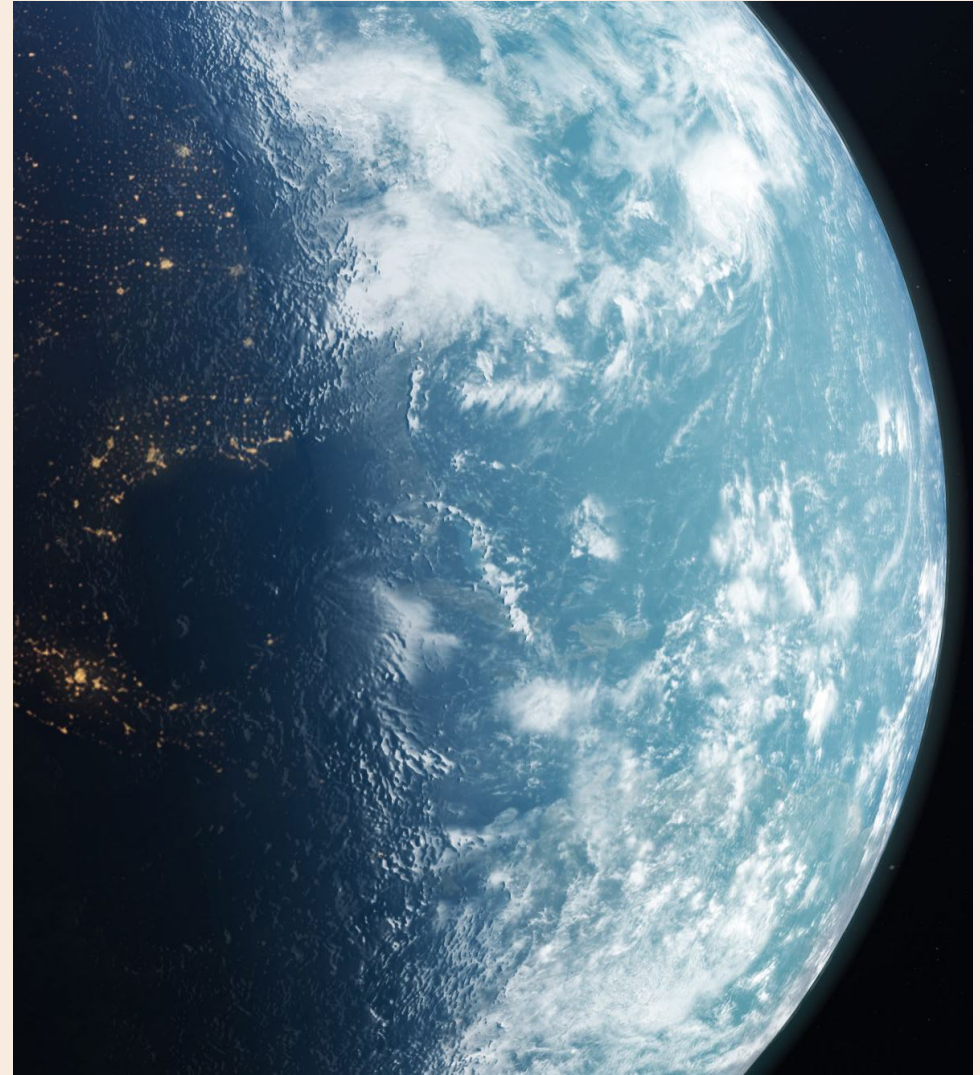
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- **Reporting Useful Life:** A description of the recipient's plan or system for determining the useful life of the housing it assists with IHBG funds must be provided in the IHP. A record of the current, specific useful life for housing units assisted with IHBG funds should be maintained in the recipient's files and be available for review.
- **Types of Properties and Assistance Covered:** The useful life provisions apply to all housing units and non-housing units assisted with IHBG funds except for Mutual Help homes developed under the U.S. Housing Act of 1937 (see 24 CFR § 1000.145).



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**Housing Units:** The initial homebuyer, and any subsequent owners that purchase the property during the period of its useful life, need only qualify as low-income at the time of their purchase. In other words, if the initial owner seeks to sell the property while it still has a remaining useful life or affordability period assigned to it, the new buyer must qualify as an eligible family at the time of his or her purchase; however, the transfer of a homeownership unit to a family member or household member is not subject to a binding commitment for the remaining useful life of the property. Thus, if a homeownership unit has been transferred to a family member or household member, then the written use restriction will not terminate, even though it will not apply.

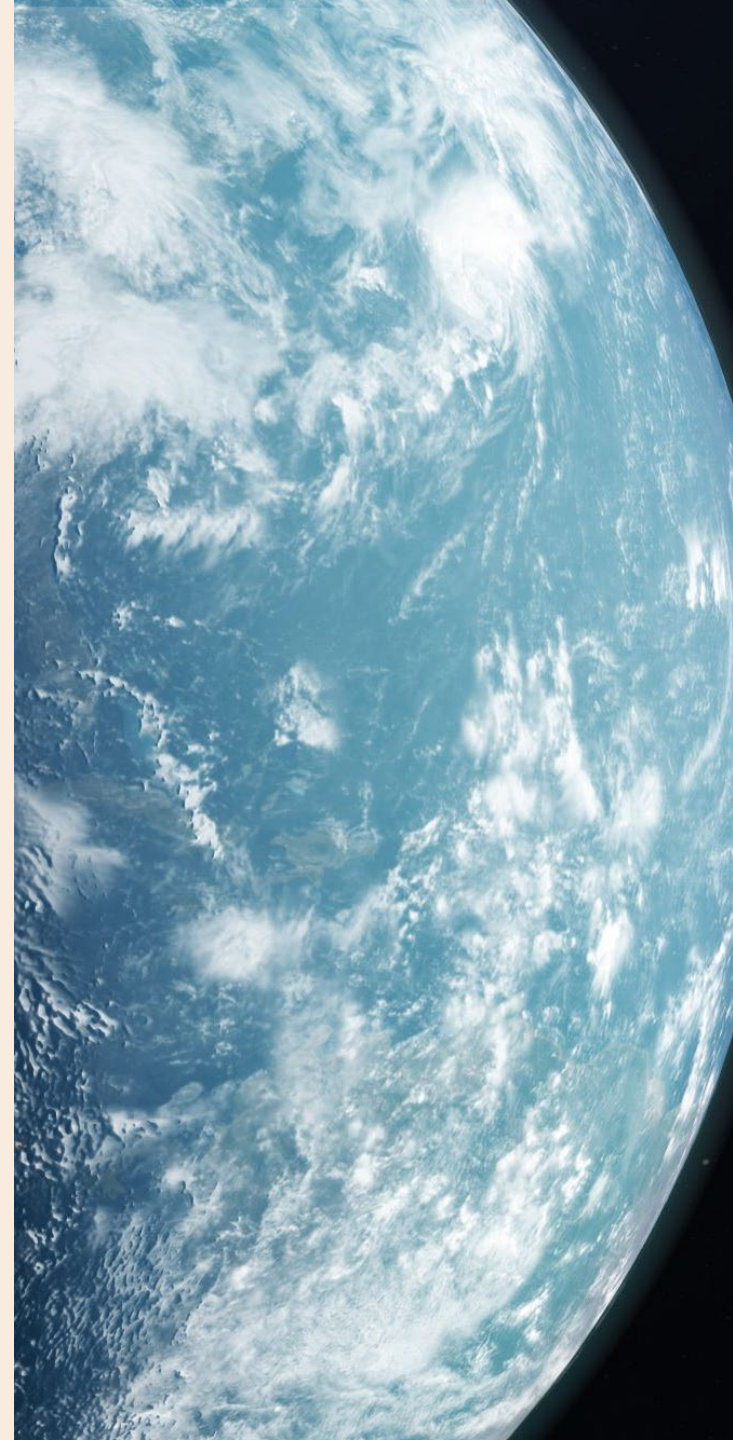




# TOPIC: Useful Life and Binding Commitments No. 2020-02 September 9, 2020

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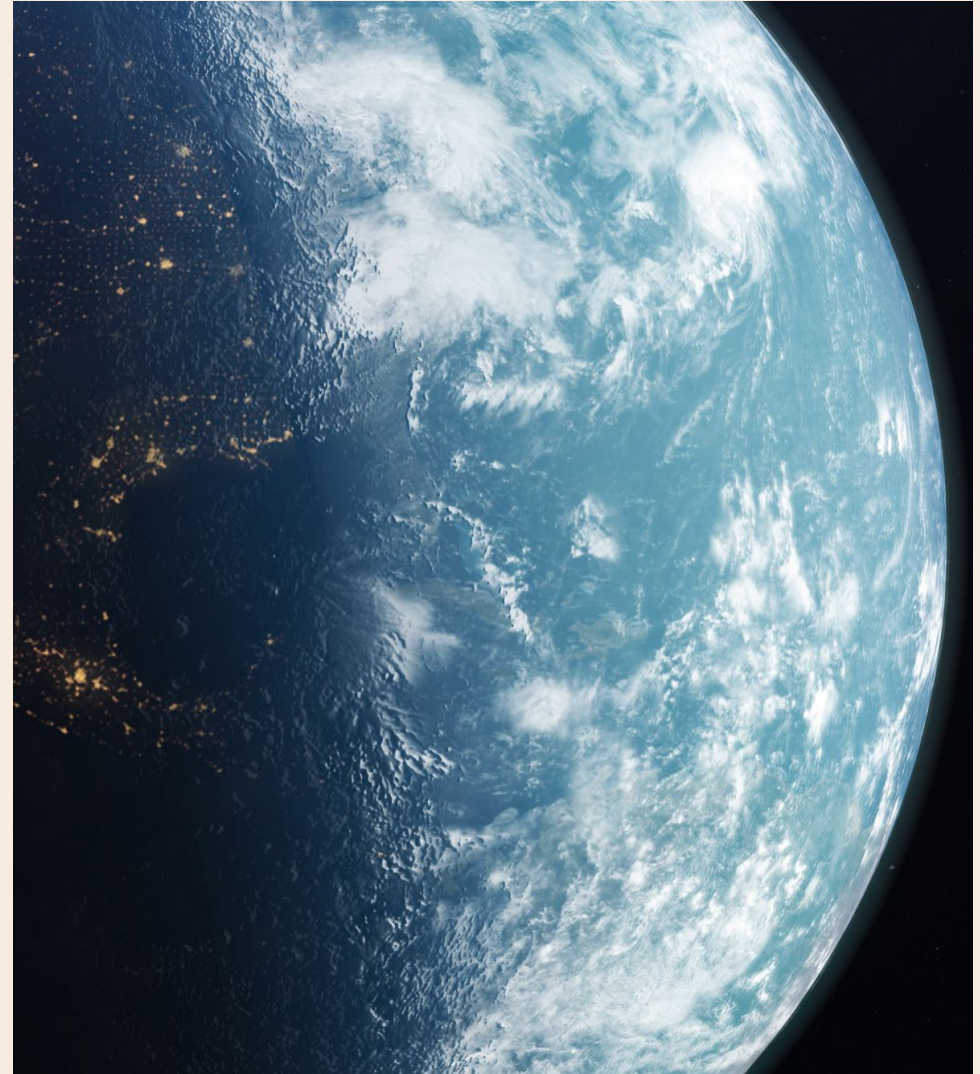
- **Housing Units:** However, any subsequent transfer by the family member or household member to a third party (not a family member or household member) is subject to any remaining useful life or affordability period under a recorded binding commitment. Should the home be sold during its useful life period to a new purchaser that does not qualify as a family member, household member, or an eligible family and funds are not repaid to the recipient's IHBG program in accordance with its useful life plan, the Secretary will take appropriate action against the IHBG recipient in accordance with section 401(a) of NAHASDA.





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**Housing Units:** Similarly, low-income owner/occupants of privately owned housing that receive IHBG funded assistance, whether in the form of a loan or a grant, for moderate or substantial rehabilitation, need only be low-income at the time the assistance is provided. However, there should be a binding commitment accompanying the assistance that guarantees an appropriate useful life or affordability period and provides for remedies for the breach of such useful life provision upon transfer of ownership during the assigned useful life. The useful life and binding commitment requirements apply to all housing units assisted with IHBG funds, including units developed through NAHASDA's Title VI Loan Guarantee program.



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

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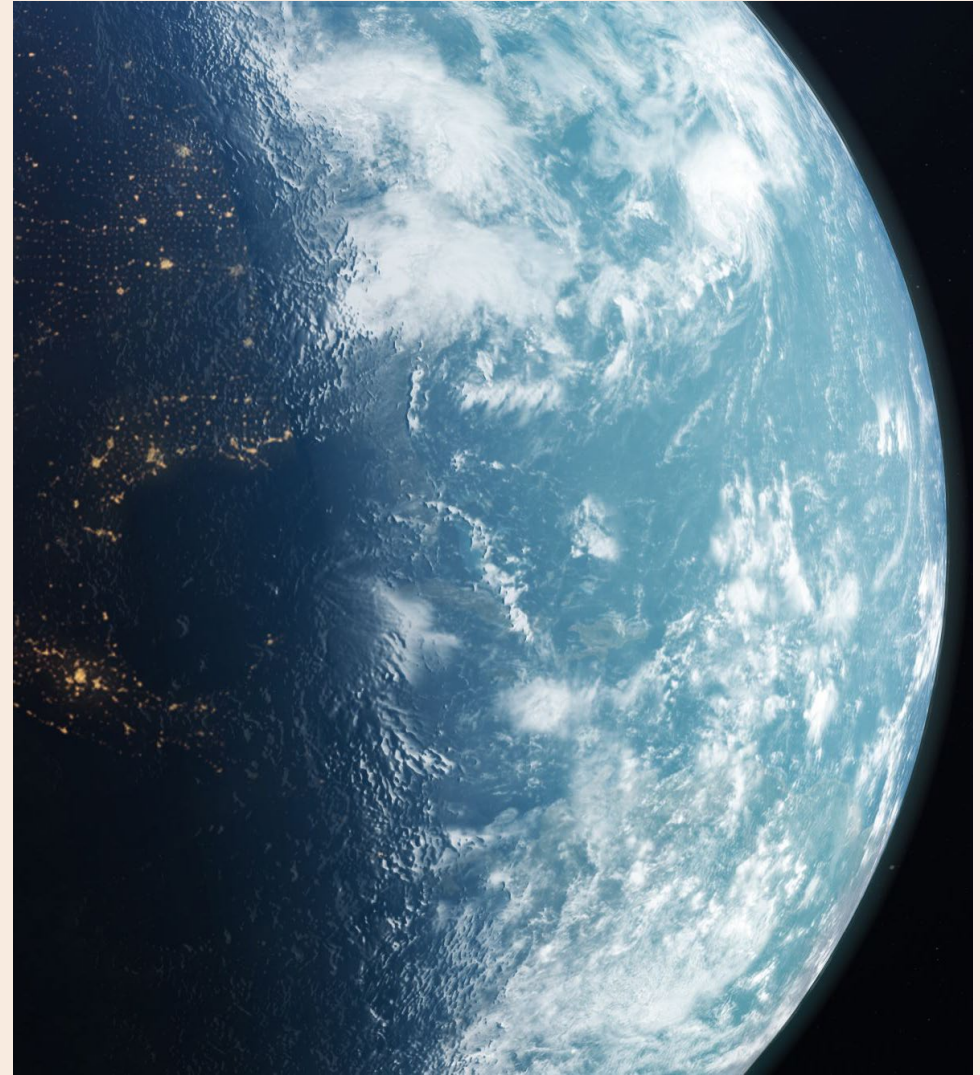
- **2. Model Activities/Non-housing:** The useful life provisions apply to all model activities and non-housing projects constructed, developed, or acquired with IHBG funds to ensure the remaining useful life of the property will be maintained for affordable housing activities. Non-housing projects include community centers and model activities established to provide affordable housing activities.
- **Record of Use Restrictions:** Records must be kept for all use restrictions. There is a sample Record of Use Restrictions form with the guidance that can be used by recipients to record both NAHASDA and other affordability or use restrictions. Restrictions can vary both in how they are imposed, and model reporting form is designed to be the registry of all of the various use restrictions that are placed on recipient properties.





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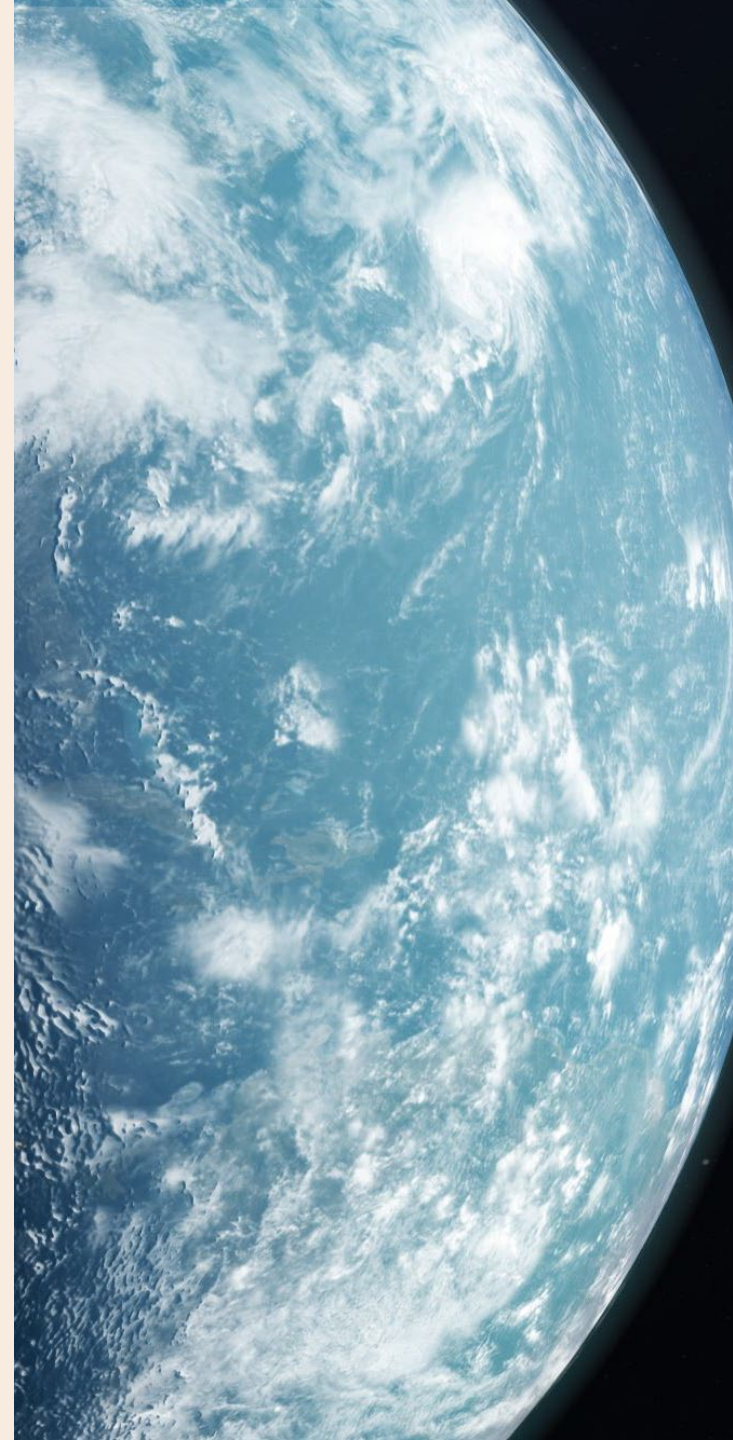
**Acceptable Binding Commitments:** As mentioned earlier, NAHASDA requires that there be binding commitments satisfactory to the Secretary in place to ensure that a housing unit will remain affordable for its useful life. When IHBG funds are used, either in the form of a grant or a loan, to purchase, construct, or rehabilitate a residence, there must be a written agreement in place between the IHBG recipient and the individual who is being assisted with the IHBG funds. These written use agreements must include provisions for the IHBG recipient's useful life or affordability period restrictions as specified in its IHP.



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

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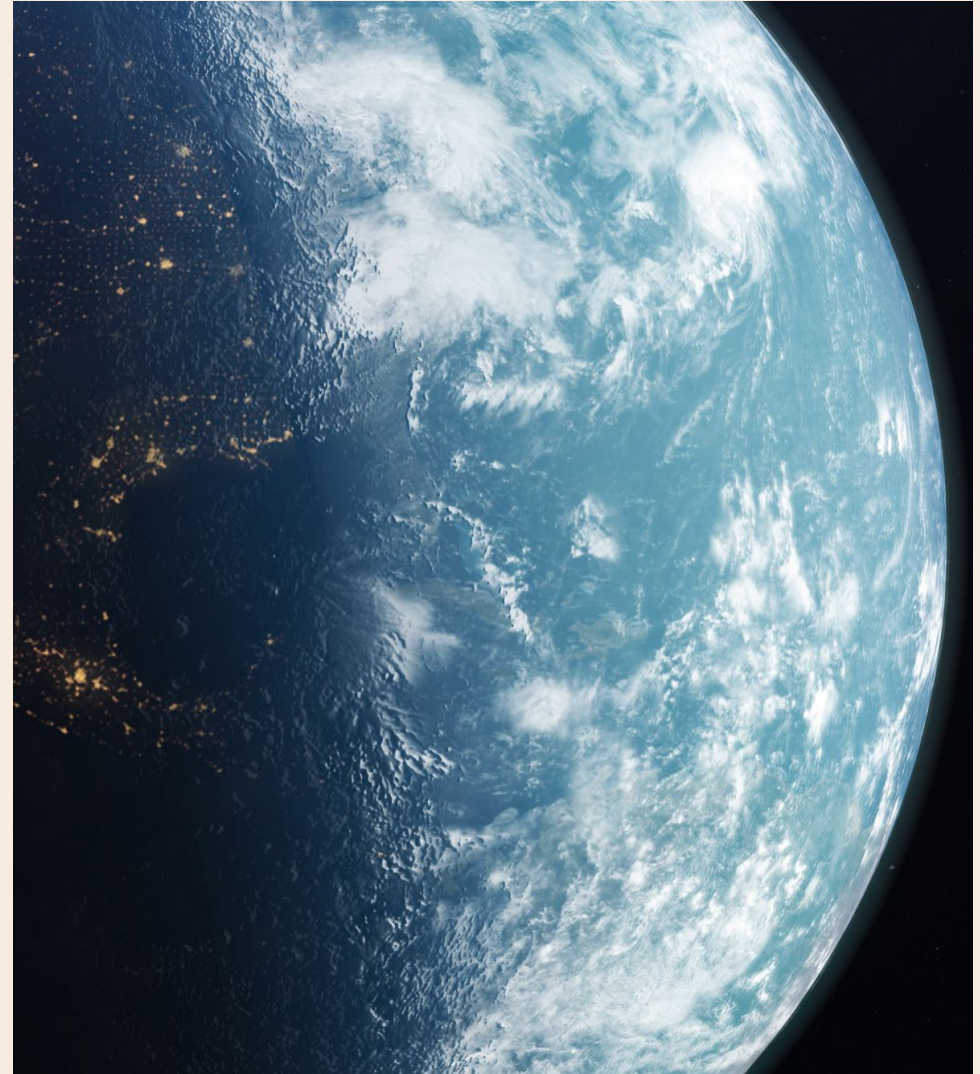
- **Acceptable Binding Commitments:** The provisions must be imposed by recorded deed restrictions, covenants running with the land, or other mechanisms approved by HUD, except that the useful life restrictions may terminate upon foreclosure by a lender (or transfer in lieu of foreclosure), as long as the action is not for the purpose of avoiding low-income affordability restrictions. The written use agreement may contain a schedule outlining a payback of a decreasing balance of assistance or percentage equity over the useful life or affordability period that would have to be reimbursed to the recipient's program if a subsequent occupant does not meet the IHBG eligibility requirements.





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**Types of Binding Commitments:** There are a number of different ways to place both NAHASDA and other affordability or use restrictions on assisted properties. The six attached samples of Useful Life/Use Restriction Agreements (two for fee land, two for trust land, one for model activities/non-housing projects and one for FHA insured loans) can be used for this purpose. Any form used must be properly recorded with the appropriate land records offices. Additional use restrictions may be imposed on such properties as long as they do not contradict the NAHASDA useful life restrictions.





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

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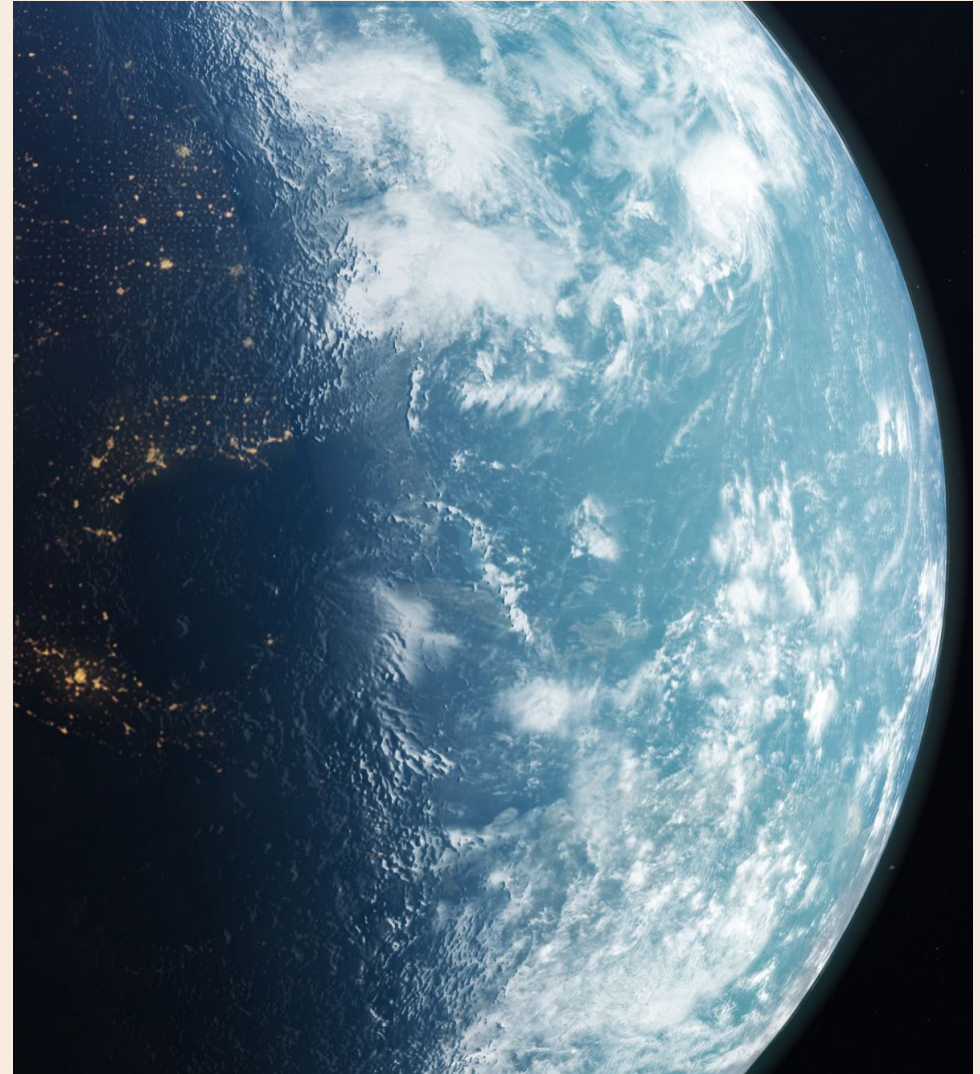
- Useful Life/Use Restriction Agreements for Use on Fee Land: When a restriction is placed on fee land, a covenant running with the land is imposed on the property to enforce the restriction:
- NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION USEFUL LIFE/USE RESTRICTION ([Indian Housing on Fee Land with Single Recovery Amount](#)). This covenant requires that the full amount of NAHASDA funds invested in the property be refunded in all cases of default.



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Useful Life/Use Restriction Agreements for Use on Fee Land: When a restriction is placed on fee land, a covenant running with the land is imposed on the property to enforce the restriction:

NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION USEFUL LIFE/USE RESTRICTION (Indian Housing on Fee Land with Prorated Recovery Amount). This covenant requires that the amount of NAHASDA funds invested in the property be prorated over the life of the restriction. In the event of a default, only the current prorated amount must be refunded.

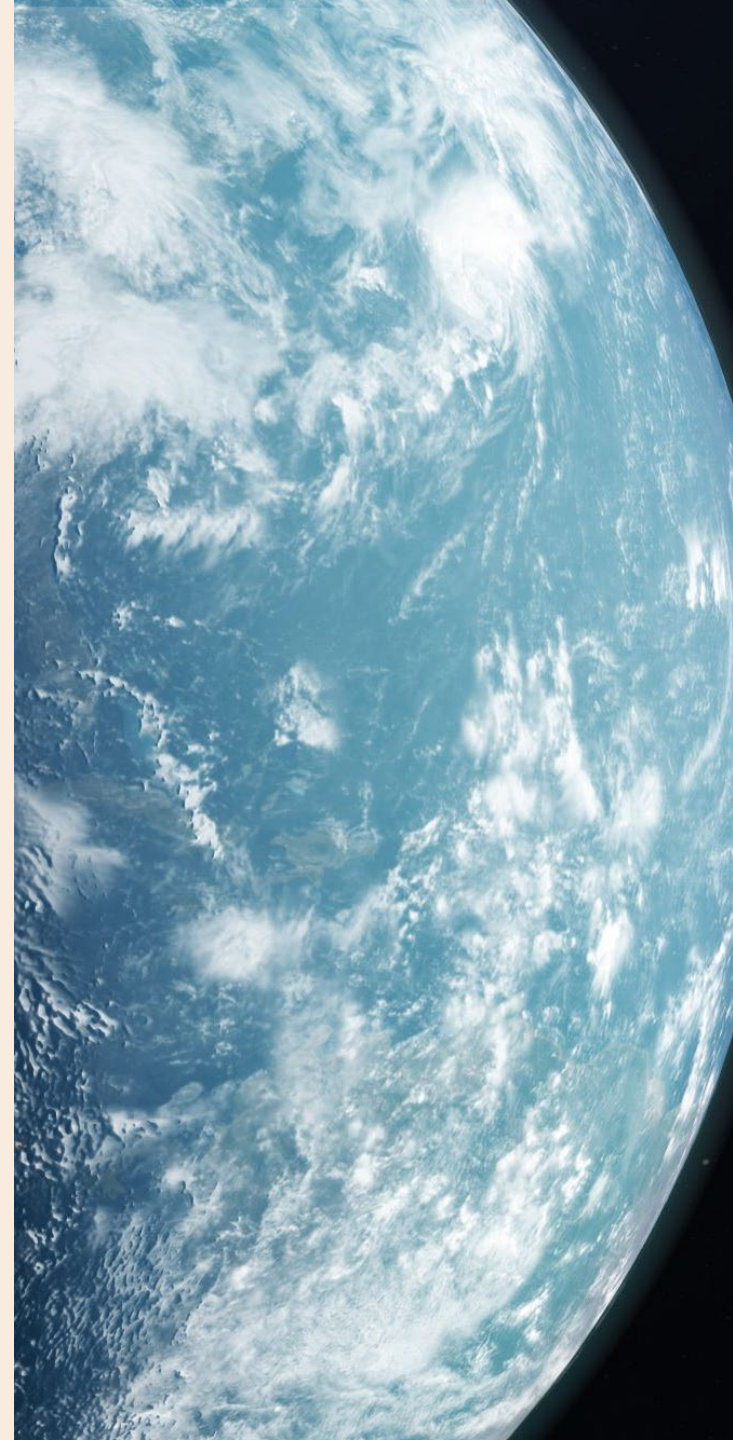




# TOPIC: Useful Life and Binding Commitments No. 2020-02 September 9, 2020

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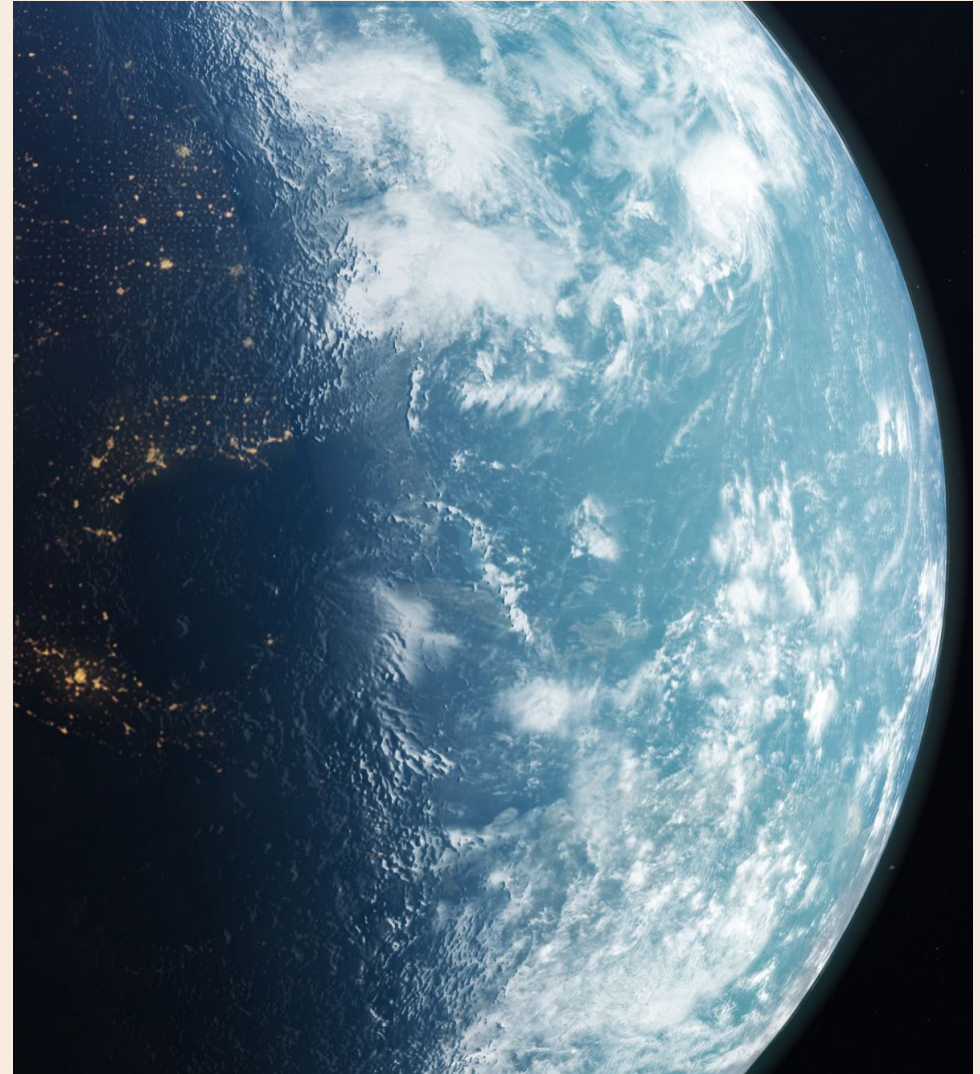
- Useful Life/Use Restriction Agreements for Use on Trust Land: When restrictions are placed on trust land, a lease amendment or addendum to the lease is used to enforce the restriction:
- NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION USEFUL LIFE/USE RESTRICTION LEASE ADDENDUM/AMENDMENT ([Trust Land with Single Recovery Amount](#)). This lease document requires in all cases of default that the full amount of NAHASDA funds invested in the property be refunded.



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Useful Life/Use Restriction Agreements for Use on Trust Land: When restrictions are placed on trust land, a lease amendment or addendum to the lease is used to enforce the restriction:

NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION USEFUL LIFE/USE RESTRICTION LEASE ADDENDUM/AMENDMENT (Trust Land with Prorated Recovery Amount). This lease document requires that the amount of NAHASDA funds invested in the property be prorated over the life of the restriction. In the event of a default, only the current prorated amount must be refunded.





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

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





# Other Federal Requirements

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

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

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



# NAHASDA

## Other Federal Law Requirements

### Non-Discrimination Laws:

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



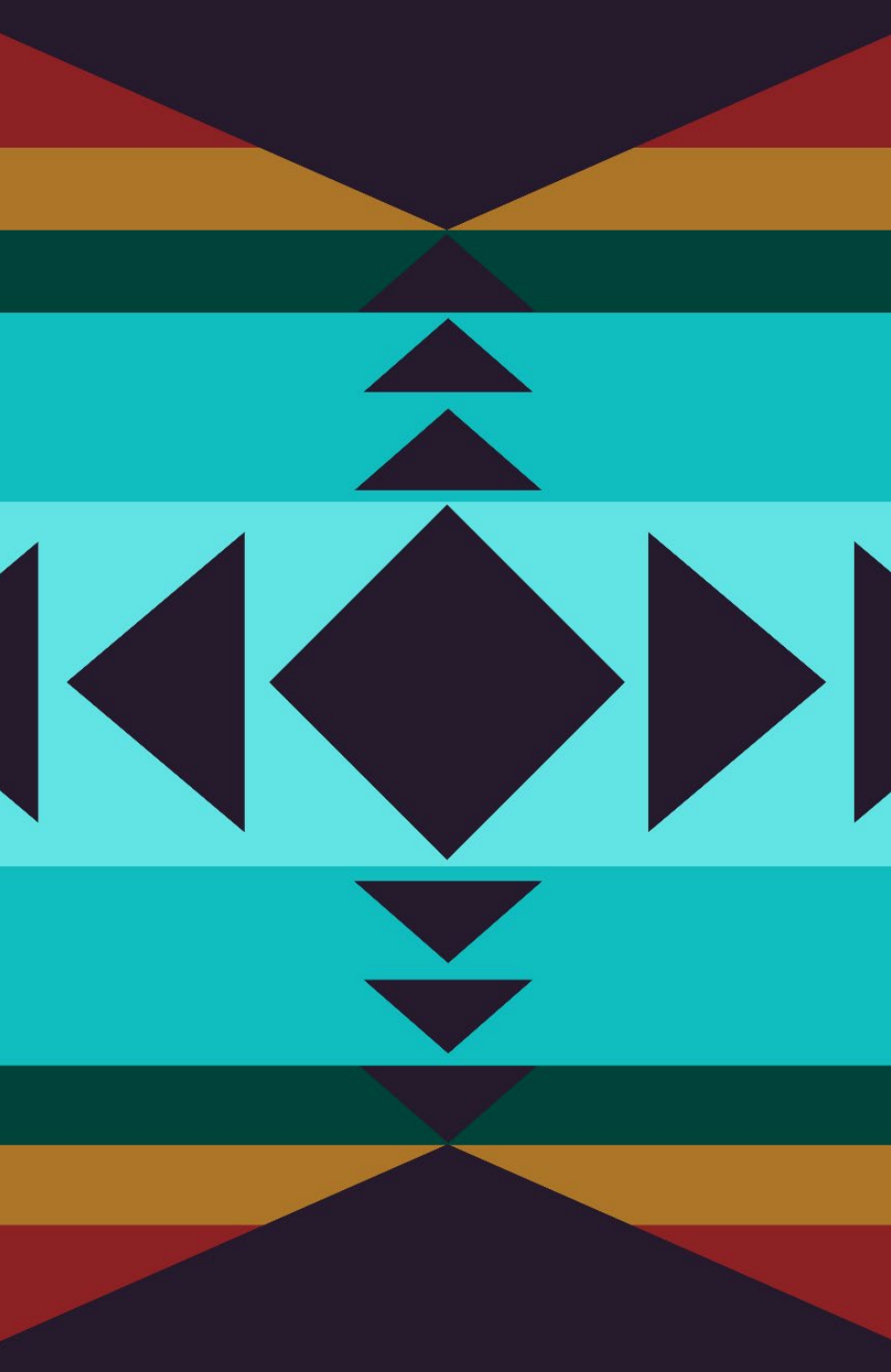


# Some of the major requirements include but are not limited to:

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

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

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



(1) In accordance with applicable statutes, the recipient certifies that: It will comply with title II of the Civil Rights Act of 1968 in carrying out this Act, to the extent that such title is applicable, and other applicable federal statutes.

(2) In accordance with 24 CFR 1000.328, the recipient receiving less than \$200,000 under FCAS certifies that: There are households within its jurisdiction at or below 80 percent of median income.

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

- a. The recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under NAHASDA, in compliance with such requirements as may be established by HUD;
- b. *Policies are in effect and are available for review by HUD and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under NAHASDA;*
- c. Policies are in effect and are available for review by HUD and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under NAHASDA; and
- d. *Policies are in effect and are available for review by HUD and the public governing the management and maintenance of housing assisted with grant amounts provided under NAHASDA.*



# Other Items you should Include:

## SEVERABILITY CLAUSE

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



# The Indian Housing Plan and APR Guidance





# Indian Housing Plan

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



# Statutory Requirements

- Sections 102 & 103 of the Native Housing Assistance and Self-Determination Act (NAHASDA) & 24 CFR 1000 the implementing Regulations
- To receive IHBG funds under NAHASDA the:
  - IHP/APR must be submitted to HUD annually;
  - HUD must determine your IHP/APR to be in compliance with NAHASDA

**SECTION 7: INDIAN HOUSING PLAN CERTIFICATION OF COMPLIANCE**  
(NAHASDA § 102(b)(2)(D))

By signing the IHP, you certify that you have all required policies and procedures in place in order to operate any planned IHBG programs.

- (1) In accordance with applicable statutes, the recipient certifies that it will comply with title II of the Civil Rights Act of 1968 in carrying out this Act, to the extent that such title is applicable, and other applicable federal statutes.

Yes  No

- (2) To be eligible for minimum funding in accordance with 24 CFR 1000.328, the recipient receiving less than \$200,000 under FCAS certifies that there are households within its jurisdiction at or below 80 percent of median income.

Yes  No  Not Applicable

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

- (a) The recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under NAHASDA, in compliance with such requirements as may be established by HUD.

Yes  No  Not Applicable

- (b) Policies are in effect and are available for review by HUD and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under NAHASDA.

Yes  No  Not Applicable

- (c) Policies are in effect and are available for review by HUD and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under NAHASDA.

Yes  No  Not Applicable  and

- (d) Policies are in effect and are available for review by HUD and the public governing the management and maintenance of housing assisted with grant amounts provided under NAHASDA.

Yes  No  Not Applicable



**SECTION 8: IHP TRIBAL CERTIFICATION**

NAHASDA § 102(c)

This certification is used when a Tribally Designated Housing Entity (TDHE) prepares the IHP or IHP amendment on behalf of a tribe.

This certification must be executed by the recognized tribal government covered under the IHP.

- (1) The recognized tribal government of the grant beneficiary certifies that:
- (2)  It had an opportunity to review the IHP or IHP amendment and has authorized the submission of the IHP by the TDHE; or
- (3)  It has delegated to such TDHE the authority to submit an IHP or IHP amendment on behalf of the Tribe without prior review by the Tribe.

|   |  |
|---|--|
| (4) Tribe:                                |  |
| (5) Authorized Official's Name and Title: |  |
| (6) Authorized Official's Signature:      |  |
| (7) Date (MM/DD/YYYY):                    |  |

# The key components of the IHP include

The One-Year Plan is a plan of action for the use of that year's block grant allocation. In the One-Year Plan, the recipient will describe its existing housing stock, assess housing needs and determine how it will allocate its resources. Further information on the One Year Plan is found in Program Guidance 2018-02a

Guidance for Completing the Indian Housing Plan/Annual Performance Report (form HUD-52737) (Amended 10/01/2018)[Attachment: Step-by-step instructions](#) (Amended 10/01/2018)



# What is an IHP

**ACTIVITIES**

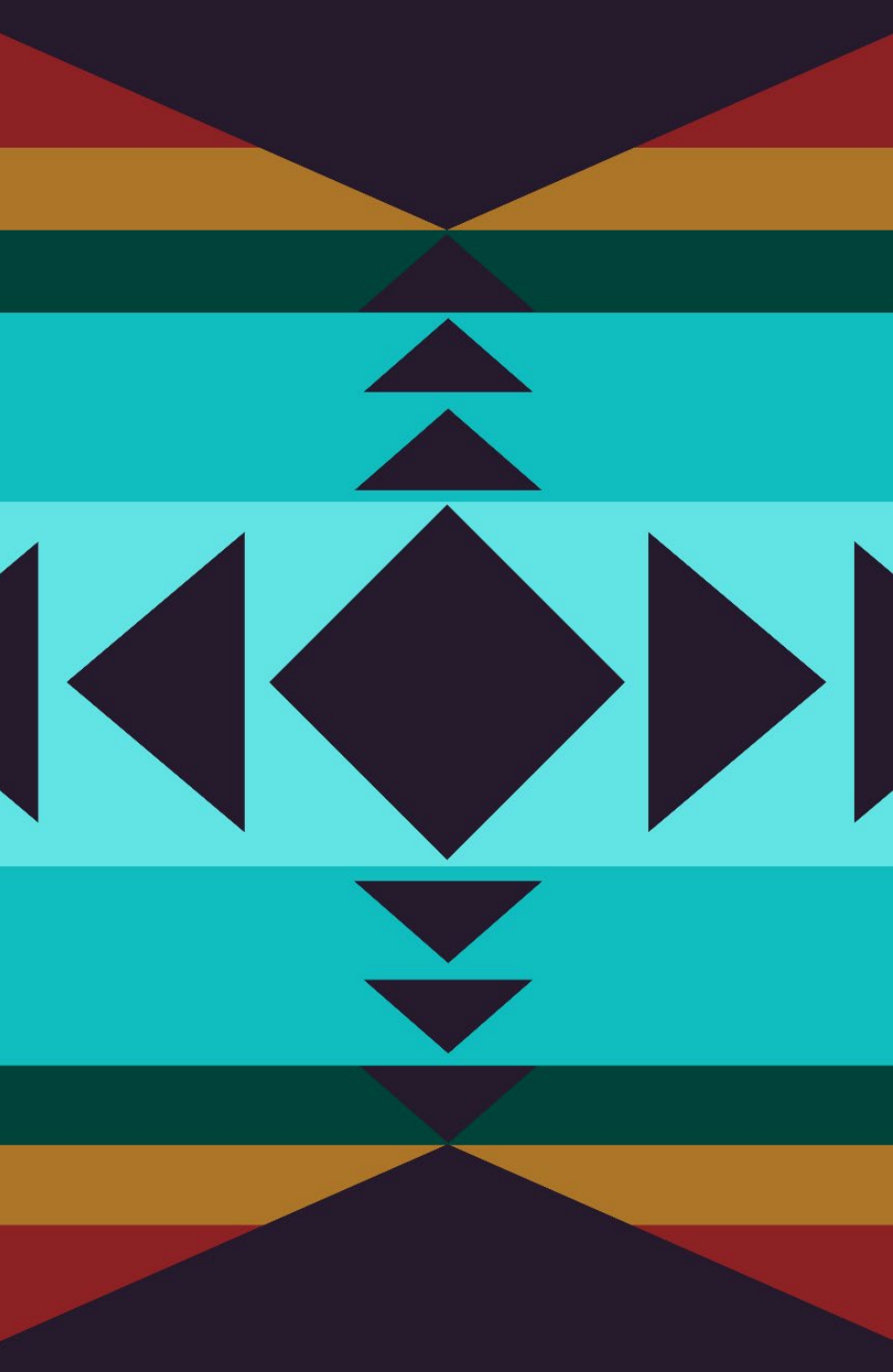
**+**

**Budget**



**=**

**IHP**

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# What is an IHP?

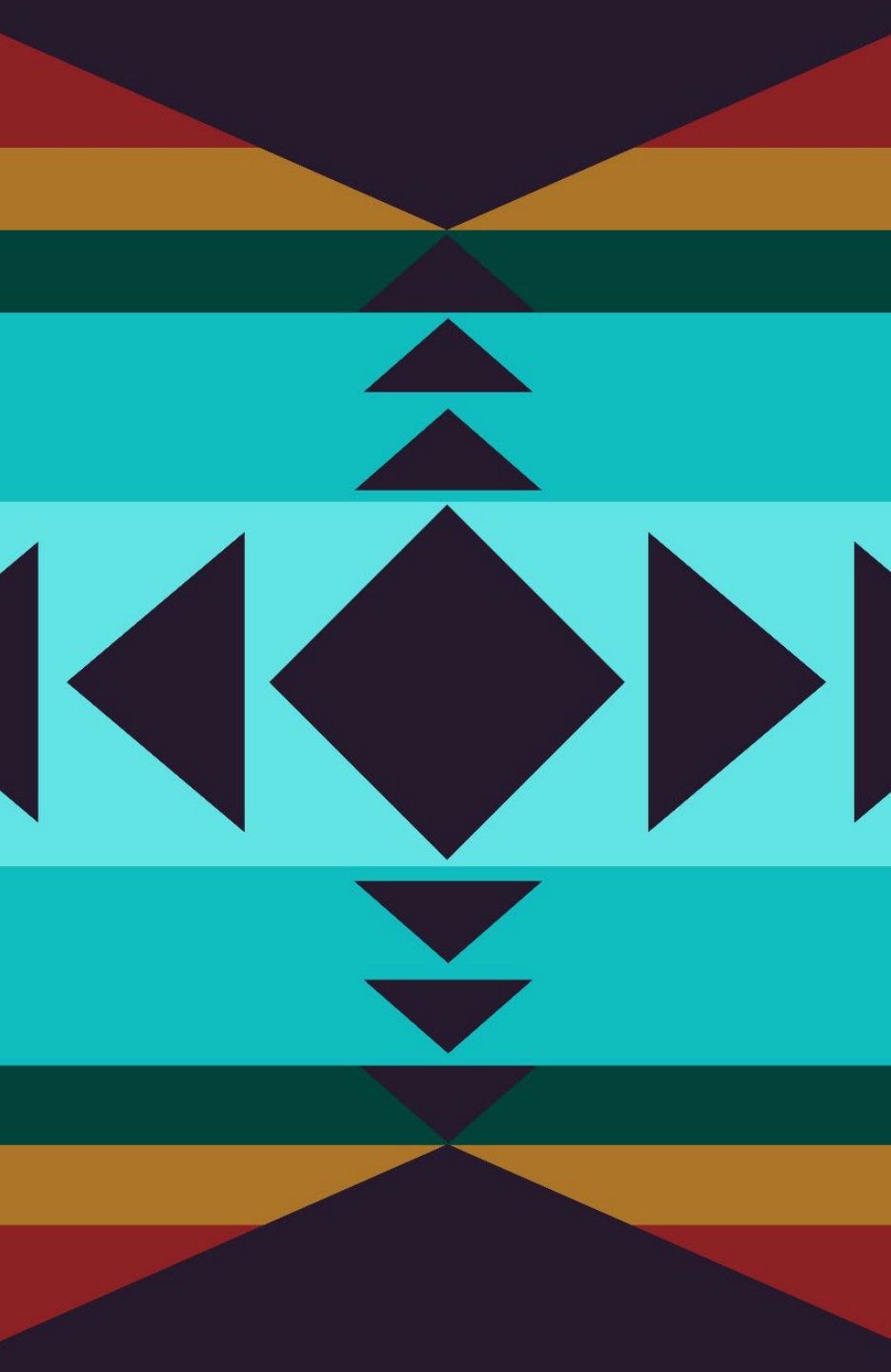
- An IHP is an Indian Housing Plan
- Required by HUD in order to receive IHBG Funds
- Roadmap for responding to housing needs
- The IHP spells out how the recipient intends to use funds they receive under IHBG

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# Submitting the IHP/APR:

- The IHBG Recipient submits the IHP/APR
  - Tribe or
  - Tribally designated housing entity (TDHE)
- If a TDHE has been designated by more than one tribe:
  - TDHE may submit a separate IHP for each, or
  - Single IHPP for all tribes in its jurisdiction
- Be sure to include Tribal Certification





# Submitting the IHP/APR: When?

- Submit IHP 75 days prior to start of the Program Year (PY)
  - Effective management tool
  - Allows recipients to have their IHPs in place at start of PY
  - Failure to submit on time may result in NO IHBG!
- What if Congressional Appropriations are delayed?
  - If the PY estimate is available, you base the IHP on PY estimate listed on the Formula Response Form; otherwise, use actual grant amount from previous PY IHP
  - Revise IHP (Internal only) when actual amount is known
  - Update APR to include actual amount (required)



# IHP Deadlines and Waivers

- Extension may be granted under exceptional circumstances
- HUD cannot waive a due date outside the statutory limit provided in Section 101 (b) (2) of NAHASDA
- Request waiver of the deadline
  - Any time before or after the IHP submission deadline, however...
  - Extension may only be granted for up to 90 days after the original deadline.

# Late Appropriations

IF APPROPRIATIONS ARE DELAYED, THE RECIPIENT CAN ACCESS INTERIM FUNDING AFTER A NOTICE HAS BEEN PUBLISHED BY HUD.

- IF YOU HAVE AN APPROVED IHP AND MEET CERTAIN OTHER CONDITIONS (regarding eLOCCS balance) YOU CAN APPLY FOR INTERIM FUNDING FROM YOUR LOCAL ONAP OFFICE
- To take advantage of this flexibility, the recipient's authorizing official must submit a written request to HUD.



# IHP and APR Guidance

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U.S. Treasury Electronic Line of Credit Control System (eLOCCS) is used to draw down funds to pay for IHP planned expenditures. Recipient **must disburse payments within 3 days of receipt** of IHBG funds into bank account.





# Submitting the IHP: How?

- An IHP may be submitted to an Area ONAP in one of two ways:
  1. IHPs submitted after May1, 2018, **MUST** be submitted using the EPIC (Energy and Performance information Center) system unless...
  2. Internet access is insufficient, and HUD has approved a waiver in which case a PDF fillable form can be used.

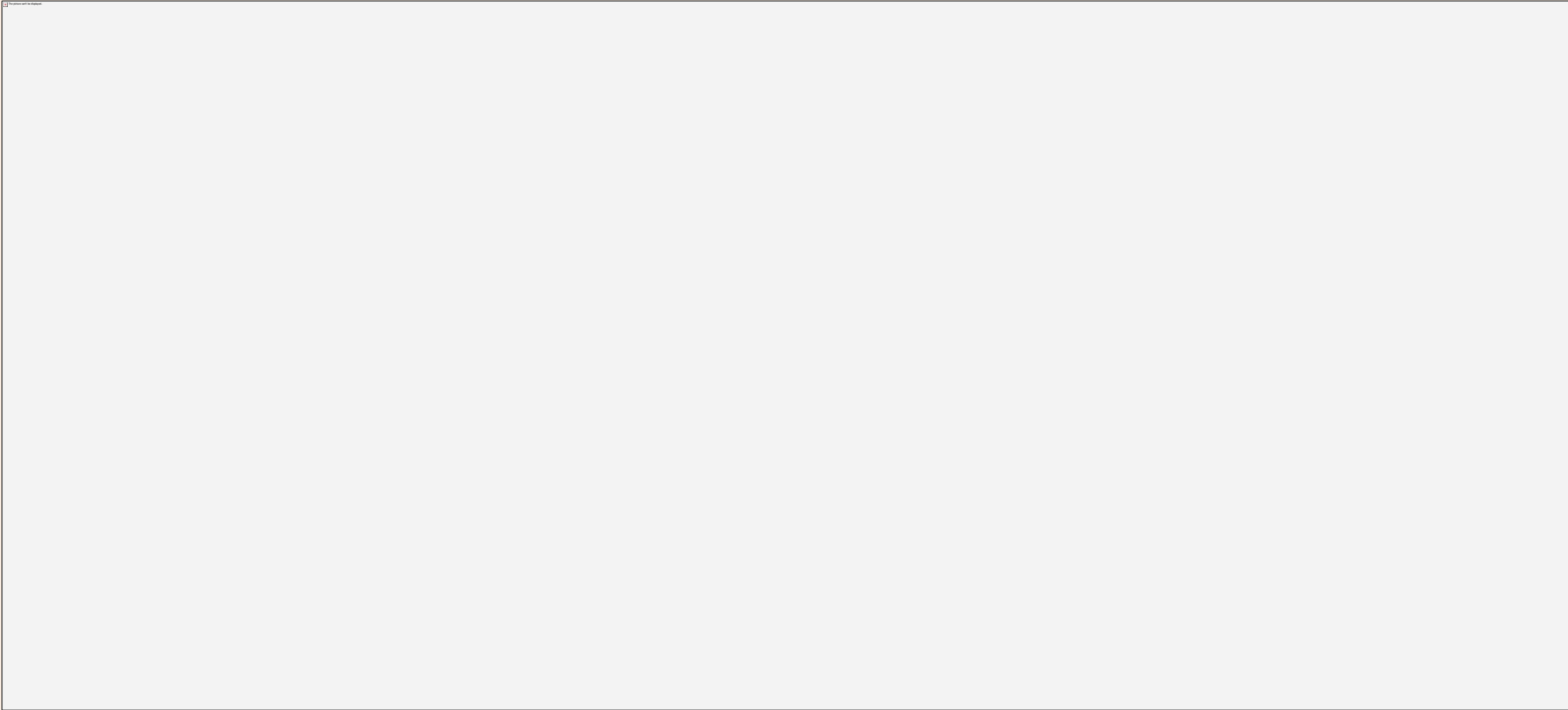




# EPIC: Latest Information

- Beginning May 1, 2018, recipients will be required to submit their IHPs (and APRs) using the online EPIC system.
- Recipients who lack reliable Internet access can use the Adobe fillable PDF version of the form after obtaining a waiver from the Area ONAP Administrator.
- Like eLOCCS, EPIC requires users to have an active Secure Systems (aka "M") ID. Each EPIC user will need to obtain their own "M" ID in order to request access to EPIC.

# Grant Evaluation and Management System



December 28, 2021

**SUBJECT:** Introducing GEMS—A Streamlined Approach to Grant Administration

Dear Tribal Leader,

The Department of Housing and Urban Development's (HUD's) Office of Native American Programs (ONAP) is modernizing its Information Technology (IT) systems to improve the administration of Tribal housing programs to simplify the grant management processes for Tribal recipients. ONAP, with the assistance of HUD's Office of Chief Information Officer (OCIO), is developing a new system: the Grants Evaluation and Management System (GEMS).

GEMS will not change current program and grant administration requirements. However, GEMS will modernize our administrative and reporting systems. Eventually all aspects of ONAP housing grant processes and grantee submission requirements will be incorporated. GEMS will replace the Energy Performance Information Center (EPIC) to centralize, and streamline required submissions and communications to reduce the administrative burden on recipients and ONAP staff. GEMS will also reduce administrative burden and ensure accurate information on program performance by eliminating duplicative submissions of information. EPIC data will be transferred to GEMS to ensure a smooth transition.

Testing of the system has started and is ongoing, including testing by Tribal recipients. Once that is complete, ONAP will begin to roll out the GEMS system in stages by grant programs. The Indian Housing Block Grant (IHBG) program will be released first. Efforts are now underway to have the Indian Housing Plan (IHP) and Annual Performance Report (APR) submissions, reviews, and approvals all processed within GEMS. Later, a quarterly SF-425 module will be developed and released. Within the scope of these two releases, EPIC will be discontinued. All data will be transferred from EPIC to GEMS, so there should be no need to duplicate any information that has already been entered.



# Programs and Projects

- Programs are ongoing activities and are in every IHP
  - Maintenance
  - Administration
- Projects have specific start and end dates, and are dependent upon annual funding decisions
  - Development
  - Rental Assistance



# Key Sections of the IHP

- Cover Page (Section 1)
- Housing Needs (Section 2)
- Program Descriptions (Section 3)
- Maintaining 1937 Act units (Section 4)
- Budget (Section 5)
- Other Submission Items (Section 6)
- Certifications (Sections 7-9)



# Section 1: Cover Page

- Purpose: Provide basic background info on recipient
- Statutory/Regulatory Sections: None
- Key Contents
  - Grant Information
    - Grant Number
    - Recipient program year
    - Federal fiscal year
  - Recipient (Contact) Information
  - Tribe/TDHE Information
    - Tax ID number
    - DUNS number (Now required for all Federal grants)
    - CCR/SAM expiration date (Updated annually)
  - Formula Grant Amount

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**SECTION 1: COVER PAGE** Instructions

(1) Grant Number: [Yellow field]

(2) Recipient Program Year: [Yellow field]

(3) Federal Fiscal Year: [Yellow field]

(4) Initial Plan (Complete this Section then proceed to Section 2) or an Amended IHP

(6) Annual Performance Report (Complete items 27-30 and proceed to Section 3)

(7) Tribe

(8) TDHE

(9) Name of Recipient: [Yellow field]

(10) Contact Person: [Yellow field]

(11) Telephone Number with Area Code (999) 999-9999 : [Yellow field]

(12) Mailing Address: [Yellow field]

(13) City: [Yellow field] (14) State: [Yellow field] (15) Zip Code (99999 or 99999-9999): [Yellow field]

(16) Fax Number with Area Code (if available) (999) 999-9999 : [Yellow field]

(17) Email Address (if available): [Yellow field]

(18) If TDHE, List Tribes Below: [Yellow field]

(19) Tax Identification Number: [Yellow field]

(20) DUNS Number: [Yellow field]

(21) CCR/SAM Expiration Date (MM/DD/YYYY): [Yellow field]

(22) IHBG Fiscal Year Formula Amount: [Yellow field]

(23) Name of Authorized IHP Submitter: [Yellow field]

ONAP Office Use Only

Release Date: 03/08/2018

Export to XML

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# Section 2: Housing Needs

- **Purpose:** Clearly describe the types of needs for recipients

## Statutory/Regulatory Sections:

§1000.328, 102(c)(2)(A), 102(c)(2)(B), 102(c)(4)(C)

- **Key Contents**
  - Number of low-income families
  - Needs for all Indian families
  - Description of how activities meet needs
  - Geographic distribution of funds

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### ONE YEAR PLAN & ANNUAL PERFORMANCE REPORT

#### SECTION 2: HOUSING NEEDS

NAHASDA § 102(b)(2)(B)

(1) **Type of Need:** Check the appropriate box(es) below to describe the estimated types of housing needs and the need for other assistance for low-income Indian families (column B) and all Indian families (column C) inside and outside the jurisdiction.

| (A)<br>Type of Need                            | Check All That Apply              |                            |
|--|-----------------------------------|----------------------------|
|  | (B)<br>Low-Income Indian Families | (C)<br>All Indian Families |
| (1) Overcrowded Households                     | <input type="checkbox"/>          | <input type="checkbox"/>   |
| (2) Renters Who Wish to Become Owners          | <input type="checkbox"/>          | <input type="checkbox"/>   |
| (3) Substandard Units Needing Rehabilitation   | <input type="checkbox"/>          | <input type="checkbox"/>   |
| (4) Homeless Households                        | <input type="checkbox"/>          | <input type="checkbox"/>   |
| (5) Households Needing Affordable Rental Units | <input type="checkbox"/>          | <input type="checkbox"/>   |
| (6) College Student Housing                    | <input type="checkbox"/>          | <input type="checkbox"/>   |
| (7) Disabled Households Needing Accessibility  | <input type="checkbox"/>          | <input type="checkbox"/>   |
| (8) Units Needing Energy Efficiency Upgrades   | <input type="checkbox"/>          | <input type="checkbox"/>   |
| (9) Infrastructure to Support Housing          | <input type="checkbox"/>          | <input type="checkbox"/>   |
| (10) Other (specify below)                     | <input type="checkbox"/>          | <input type="checkbox"/>   |

(2) **Other Needs.** (Describe the "Other" needs below. Note: this text is optional for all needs except "Other.")

(3) **Planned Program Benefits.** (Describe below how your planned programs and activities will address the needs of low income families identified above. Also describe how your planned programs will address the various types of housing assistance needs NAHASDA § 102(b)(2)(B)):

(4) **Geographic Distribution.** Describe below how the assistance will be distributed throughout the geographic area and how this geographic distribution is consistent with the needs of low income families. NAHASDA § 102(b)(2)(B)(i)):

# Section 3: Program Descriptions & Outputs

- **Purpose:** Describe recipients' programs & intended results

## Statutory/Regulatory Sections

§102(c)(1), 102(c)(4)(e-g)

- **Key Contents:**
  - Program description
  - Eligible activity
  - Intended outcomes
  - Beneficiaries & assistance
  - Planned outputs

**APR: REPORTING ON PROGRAM YEAR PROGRESS**  
Complete the shaded section of text below to describe your completed program tasks and actual results. Only report on activities completed during the 12-month program year. Financial data should be presented using the same basis of accounting as the Schedule of Expenditures of Federal Awards (SEFA) in the annual audit. For unit accomplishments, only count units when the unit was completed and occupied during the year. For households, only count the household if it received the assistance during the previous 12-month program year. (NAHASDA § 404(b))

**1.1. Program Name and Unique Identifier:**

**1.2. Program Description** (This should be the description of the planned program.):  [Help](#)

**1.3. Eligible Activity Number** (Select one activity from the Eligible Activity list. For any activity involving housing units as the output measure (excluding operations and maintenance), do not combine homeownership and rental housing in one activity, so that when housing units are reported in the APR they are correctly identified as homeownership or rental.):  [Help](#)

**1.4. Intended Outcome Number** (Select one outcome from the Outcome list. Each program can have only one outcome. If more than one outcome applies, create a separate program for each outcome.):  [Help](#)

Describe Other Intended Outcome (Only if you selected "Other" above):

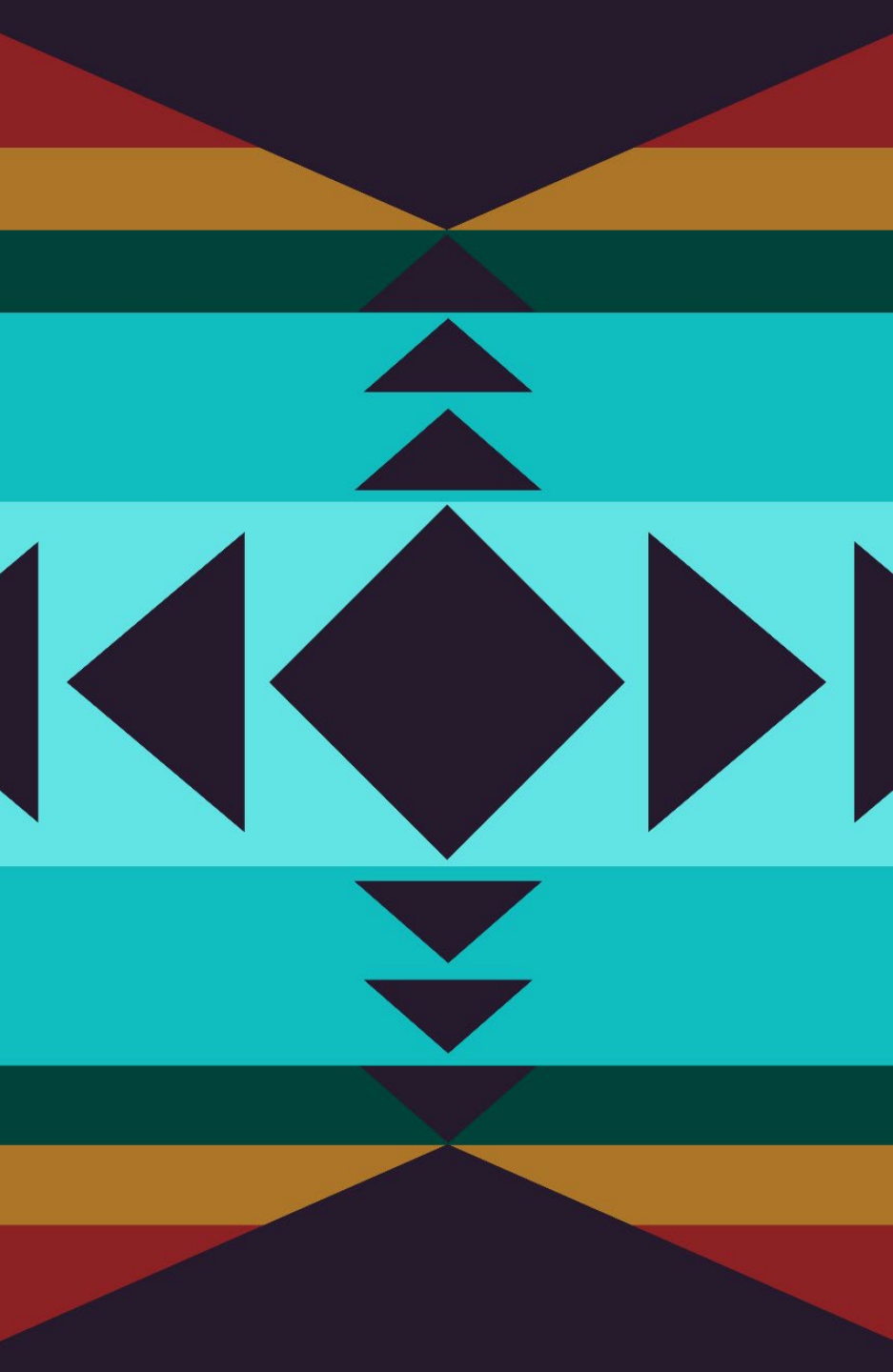
**1.5 Actual Outcome Number** (In the APR identify the actual outcome from the Outcome list.):

Describe Other Actual Outcome (Only if you selected "Other" above.):

**1.6 Who Will Be Assisted** (Describe the types of households that will be assisted under the program. Please note: assistance made available to families whose incomes fall within 80 to 100 percent of the median must be included as a separate program within this section.):

**1.7. Types and Level of Assistance** (Describe the types and the level of assistance that will be provided to each household, as applicable.):

**1.8. APR:** Describe the accomplishments for the APR in the 12-month program year. In accordance with 24 CFR § 1000.512(b)(3), provide an analysis and explanation of cost overruns or high unit costs. [Help](#)



# Homeowner and Rental Activities

Do not combine homeownership and rental construction, acquisition, or rehab programs

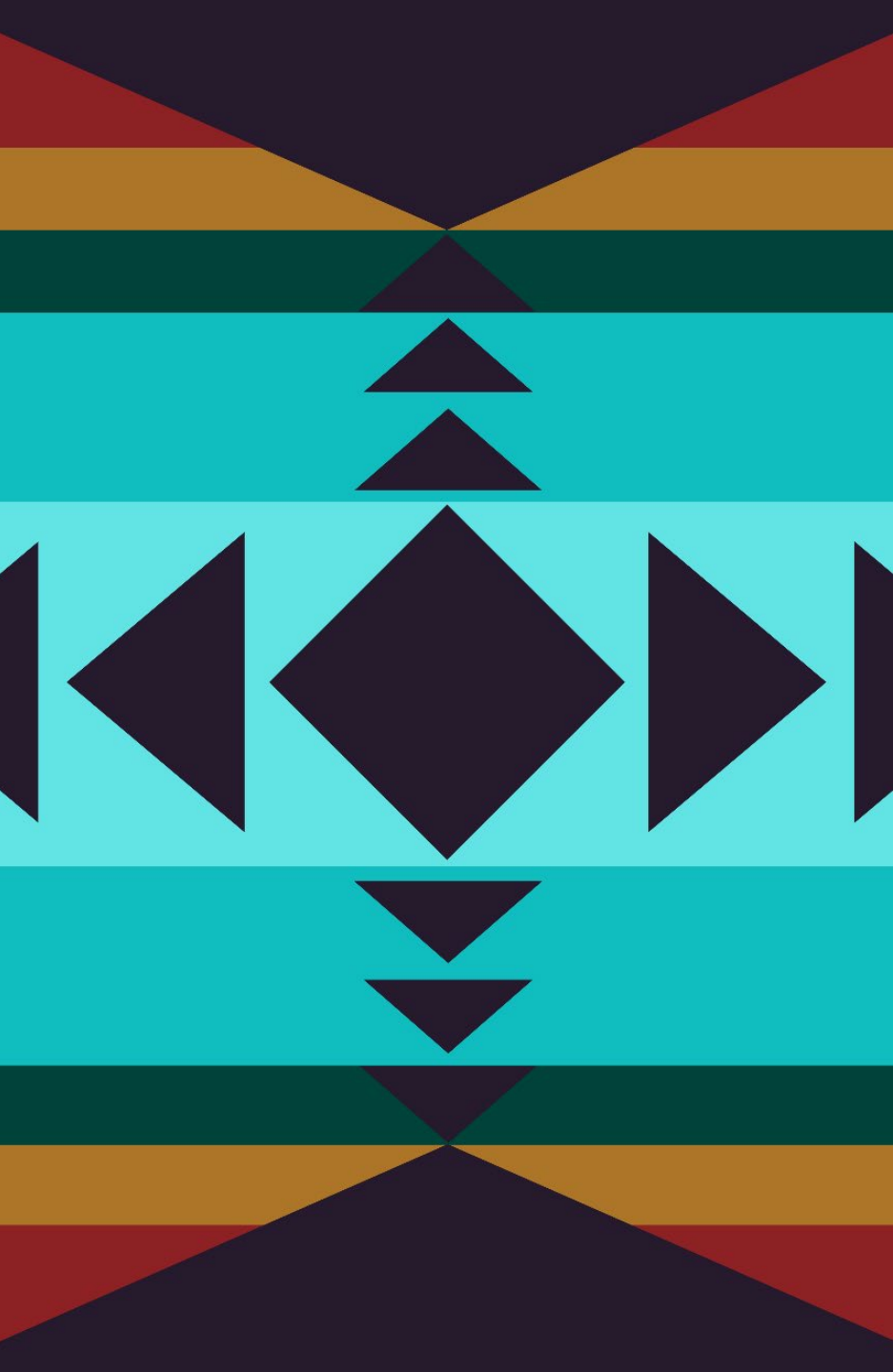
For example, if constructing 5 homeowner and 5 rental housing units, they must be two separate activities.



# Programs, Eligible Activities, Outcomes, and Outputs

- Programs: What recipient-specific programs will be funded?
- Eligible Activities:
  - Pick list tied to NAHASDA-eligible activities (internal control)
- Outcomes: What is the intended result?
  - Pick list tied to ONAP goals
- Outputs: How many units or households are planned?

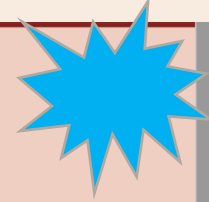




# Programs, Eligible Activities, Outcomes, and Outputs Example

- Program: Recipient will provide purchase assistance for first-time homebuyers who wish to buy in the Tri-County area.
- Eligible Activities: Down payment/closing costs
- Outcome: Assist renters to become homeowners
- Who will be Assisted : Low-income families
- Level and Type of Assistance: \$5,000 Cap, Grant
- Planned Outputs: four units

# Guidance on Allowability, Outcomes and Outputs



| Eligible Activity   | Output Measure | Eligible Activity   | Output Measure    |
|---|----------------|---|-------------------|
| (1) Modernization of 1937 Act Housing [202(1)]                    | Units          | (13) Down Payment/Closing Cost Assistance [202(2)]                | Units             |
| (2) Operation of 1937 Act Housing [202(1)]                        | Units          | (14) Lending Subsidies for Homebuyers (Loan) [202(2)]             | Units             |
| (3) Acquisition of Rental Housing [202(2)]                        | Units          | (15) Other Homebuyer Assistance Activities [202(2)]               | Units             |
| (4) Construction of Rental Housing [202(2)]                       | Units          | (16) Rehabilitation Assistance to Existing Homeowners [202(2)]    | Units             |
| (5) Rehabilitation of Rental Housing [202(2)]                     | Units          | (17) Tenant Based Rental Assistance [202(3)]                      | Households        |
| (6) Acquisition of Land for Rental Housing [202(2)]               | Units          | (18) Other Housing Services [202(3)]                              | Households        |
| (7) Development of Emergency Shelters [202(2)]                    | Households     | (19) Housing Management Services [202(4)]                         | Households        |
| (8) Conversion of Other Structures to Affordable Housing [202(2)] | Units          | (20) Operation and Maintenance of NAHASDA-Assisted Units [202(4)] | Units             |
| (9) Other Rental Housing Development [202(2)]                     | Units          | (21) Crime Prevention and Safety [202(5)]                         | Dollars           |
| (10) Acquisition of Land for Homebuyer Unit Development [202(2)]  | Units          | (22) Model Activities [202(6)]                                    | Dollars           |
| (11) New Construction of Homebuyer Units [202(2)]                 | Units          | (23) Self-Determination Program [231-235]                         | Units/<br>Dollars |
| Acquisition of Homebuyer Units [202(2)]                           | Units          | (24) Infrastructure to Support Housing [202(2)]                   | Dollars           |
|   |                | (25) Reserve Accounts [202(9)]                                    | N/A               |

# Section 4: Maintaining 1937 Act, Demolition/Disposition

- **Purpose:** Describe how recipient will maintain 1937 Act units, describe any planned demo/disposition
- **Statutory/Regulatory Sections:**  
§102(b)(2)(A)(iv)(I-III)
- **Key Contents:**
  - Describe how you will maintain & operate 1937 Act units
  - Describe any planned demolition or disposition



# Section 5 (a): Sources of Funds

- **Purpose:** Describe recipients funding sources to be used for housing purposes during coming Program Year

- **Statutory/Regulatory Sections:**

§102(c)(3)(A), §102(c)(3)(B)

- **Key Contents:**

- Funds on hand at beginning of year
- Funds expected to be received during year
- Anticipated expenditures for each funding source
- Anticipated unexpended funds for each source at end of year
- Must include anticipated receipt and use of Program Income

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**SECTION 5: BUDGETS**  
NAHASDA §§ 102(b)(2)(C), 404(b)

(1) Sources of Funding (NAHASDA § 102(b)(2)(C)(i), (404(b))) (Complete the non-shaded portions of the chart below to describe your estimated or anticipated sources of funding for the 12-month program year. APR Actual Sources of Funding -- Please complete the shaded portions of the chart below to describe your actual funds received. Only report on funds actually received and under a grant agreement or other binding commitment during the 12-month program year.)

| SOURCE                         | IHP <a href="#">Help</a>                                     |   |   |  |  | APR <a href="#">Help</a>                                  |  |  |   |  |   |
|--------------------------------|--|---|---|--|--|---|--|--|---|--|---|
|                                | (A)<br>Estimated amount on hand at beginning of program year | (B)<br>Estimated amount to be received during 12-month program year | (C)<br>Estimated total sources of funds (A+B) | (D)<br>Estimated funds to be expended during 12-month program year | (E)<br>Estimated unexpended funds remaining at end of program year (C-D) | (F)<br>Actual amount on hand at beginning of program year | (G)<br>Actual amount received during 12-month program year | (H)<br>Actual total sources of funding (F+G) | (I)<br>Actual funds expended during 12-month program year | (J)<br>Actual unexpended funds remaining at end of 12-month program year (H - I) | (K)<br>Actual unexpended funds obligated but not expended at end of 12-month program year |
| 1. IHBG Funds                  |  |   | \$0   |  | \$0  |   |  | \$0  |   | \$0  |   |
| 2. IHBG Program Income         |  |   | \$0   |  | \$0  |   |  | \$0  |   | \$0  |   |
| 3. Title VI                    |  |   | \$0   |  | \$0  |   |  | \$0  |   | \$0  |   |
| 4. Title VI Program Income     |  |   | \$0   |  | \$0  |   |  | \$0  |   | \$0  |   |
| 5. 1937 Act Operating Reserves |  |   |   |  | \$0  |   |  |  |   | \$0  |   |
| 6. Carry Over 1937 Act Funds   |  |   |   |  | \$0  |   |  |  |   | \$0  |   |
| LEVERAGED FUNDS                |  |   |   |  |  |   |  |  |   |  |   |
| 7. ICDBG Funds                 |  |   | \$0   |  | \$0  |   |  | \$0  |   | \$0  |   |
| 8. Other Federal Funds         |  |   | \$0   |  | \$0  |   |  | \$0  |   | \$0  |   |

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# Section 5 (b) Uses of Funds

- **Purpose:** Describe recipients' programs on which funds will be used during the coming year

- **Statutory/Regulatory Sections:**

§102(c)(3)(A), §102(c)(3)(B)

- **Key Contents:**

- Prior and current year IHBG funds anticipated to be expended on each program
- Prior and current year Other funds anticipated to be expended on each program

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|                                   |     |     |     |     |     |     |     |     |     |     |     |
|-----------------------------------|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|-----|
| 9. LIHTC                          |     |     | \$0 |     | \$0 |     |     | \$0 |     | \$0 |     |
| 10. Non-Federal Funds             |     |     | \$0 |     | \$0 |     |     | \$0 |     | \$0 |     |
| TOTAL                             | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 | \$0 |
| TOTAL Columns C & H, 2 through 10 |     |     | \$0 |     |     |     |     | \$0 |     |     |     |

**Notes:**

a. For the IHP, fill in columns A, B, C, D, and E (non-shaded columns). For the APR, fill in columns F, G, H, I, J, and K (shaded columns).

b. Total of Column D should match the total of Column N from the Uses of Funding table below.

c. Total of Column I should match the Total of Column Q from the Uses of Funding table below.

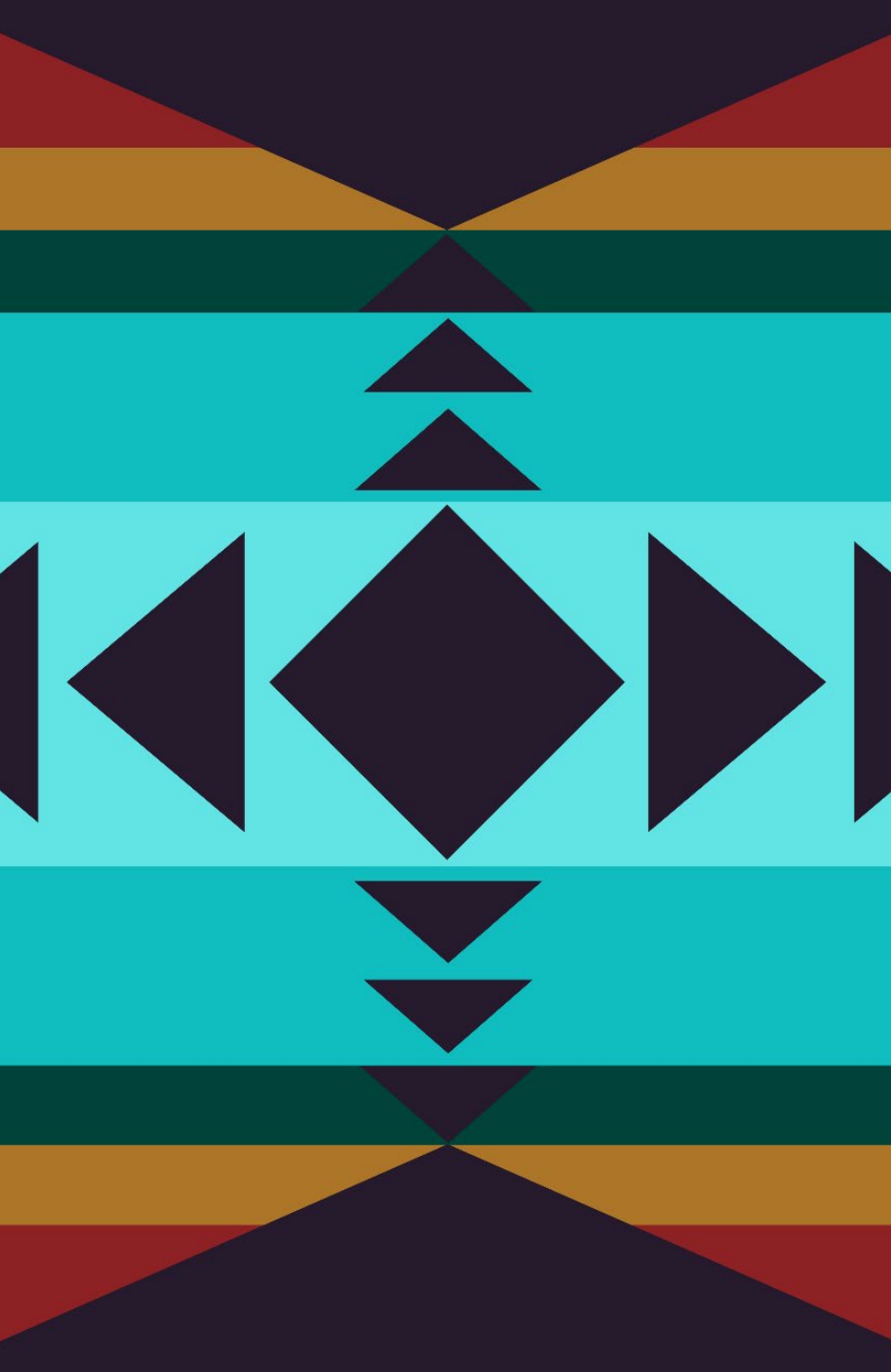
d. For the IHP, describe any estimated leverage in Line 3 below (Estimated Sources or Uses of Funding). For the APR, describe actual leverage in Line 4 below.

**(2) Uses of Funding (NAHASDA § 102(b)(2)(C)(ii))** (Note that the budget should not exceed the total funds on hand (Column C) and insert as many rows as needed to include all the programs identified in Section 3. **Actual expenditures in the APR section are for the 12-month program year.**)

| PROGRAM NAME   | IHP |     |     | APR |     |     |
|--|-----|-----|-----|-----|-----|-----|
|  | (L) | (M) | (N) | (O) | (P) | (Q) |
| Prior and current year IHBG (only) funds to be expended in 12-month program year |     |     | \$0 |     |     | \$0 |
| Total all other funds to be expended in 12-month program year                    |     |     |     |     |     |     |
| Total funds to be expended in 12-month program year (L+M)                        |     |     | \$0 |     |     | \$0 |
| Total IHBG (only) funds expended in 12-month program year                        |     |     |     |     |     |     |
| Total all other funds expended in 12-month program year                          |     |     |     |     |     |     |
| Total funds expended in 12-month program year (O+P)                              |     |     | \$0 |     |     | \$0 |

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# Section 6: Other Submission Items

- **Purpose:** Describe various required items

## **Statutory/Regulatory Sections:**

§1000.142, 1000.108, 1000.120, 1000.302(3), 1000.238

- **Key Contents**
- Useful life
- Model activities & Over Income
- Tribal preference
- Administration
- Expanded formula area



# Sections 7-9: Certifications

- **Purpose:** Provide various required certifications
- **Statutory/Regulatory Sections**  
§1000.20, 102(c)(5), 102(d), 104(b)
- **Key Contents:**
  - Compliance
  - Tribal certification
  - Tribal wage rates
  - Self-Monitoring

# Timeframes for IHP Review

- 60 days for original submission
- 30 days for amendments



A decorative vertical border on the left side of the slide. It features a central light blue band with a large dark blue diamond shape. Above and below this band are horizontal stripes in dark blue, teal, and gold. The top and bottom corners are filled with dark blue and red triangles.

# Critical IHP Review Points

- Completeness- Are all required elements included?
- Eligibility – Are all activities eligible affordable housing activities under the Statute?
- Consistency – Are all Key Sections of the IHP internally consistent in a meaningful way?



# IHP Revisions

Only Required for the following reasons:

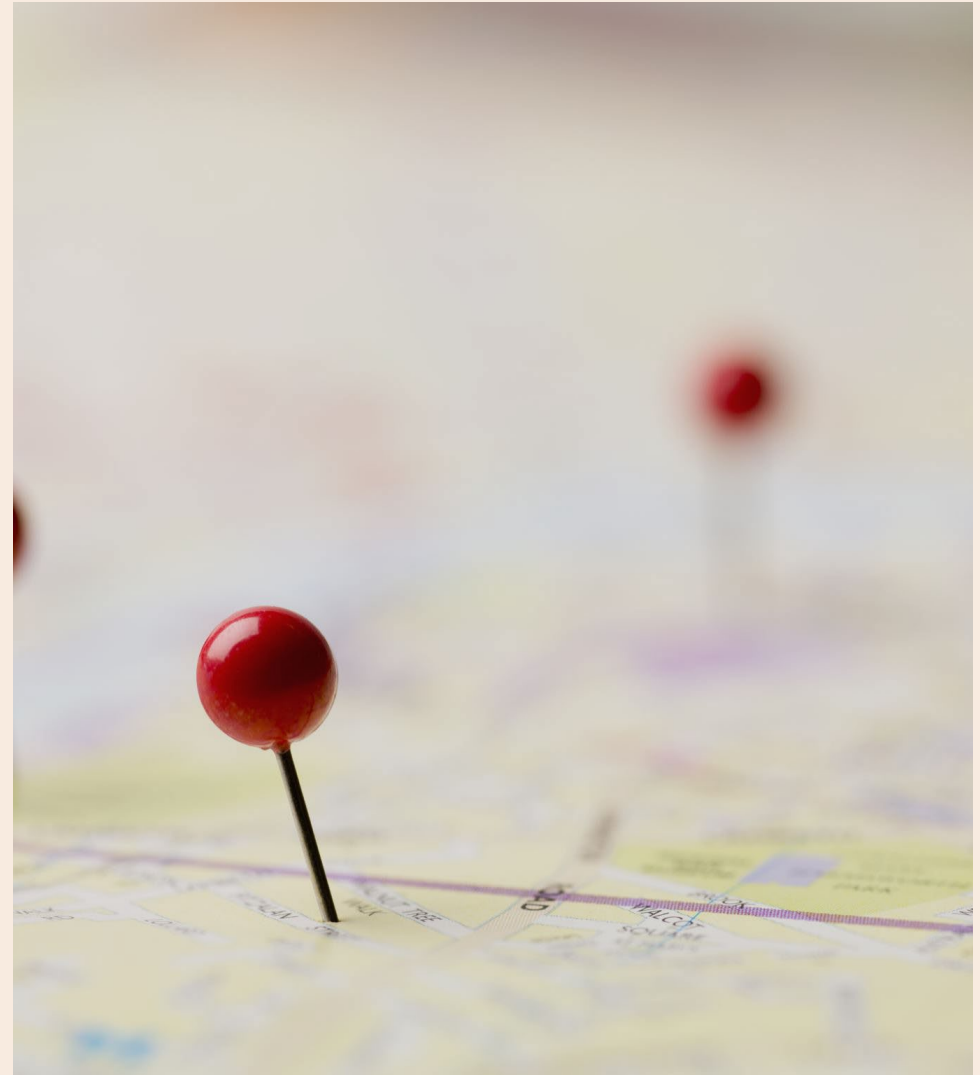
1. Adding a new Activity
2. Reducing the amount budgeted for Operation and Maintenance of FCAS (Formula Current Assisted Stock)



# IHP and APR Guidance

The Federal Fiscal Year (FFY) is always October 1 to September 30 and is always in advance of the calendar year. For example, FFY 2022 starts on October 1, 2021, and ends on September 30, 2022.

The recipient's program year for 2022 could start on October 1, 2021; January 1, 2022; April 1, 2022; or July 1, 2022. The due date of the IHP will depend on the recipient's chosen program year (PY).

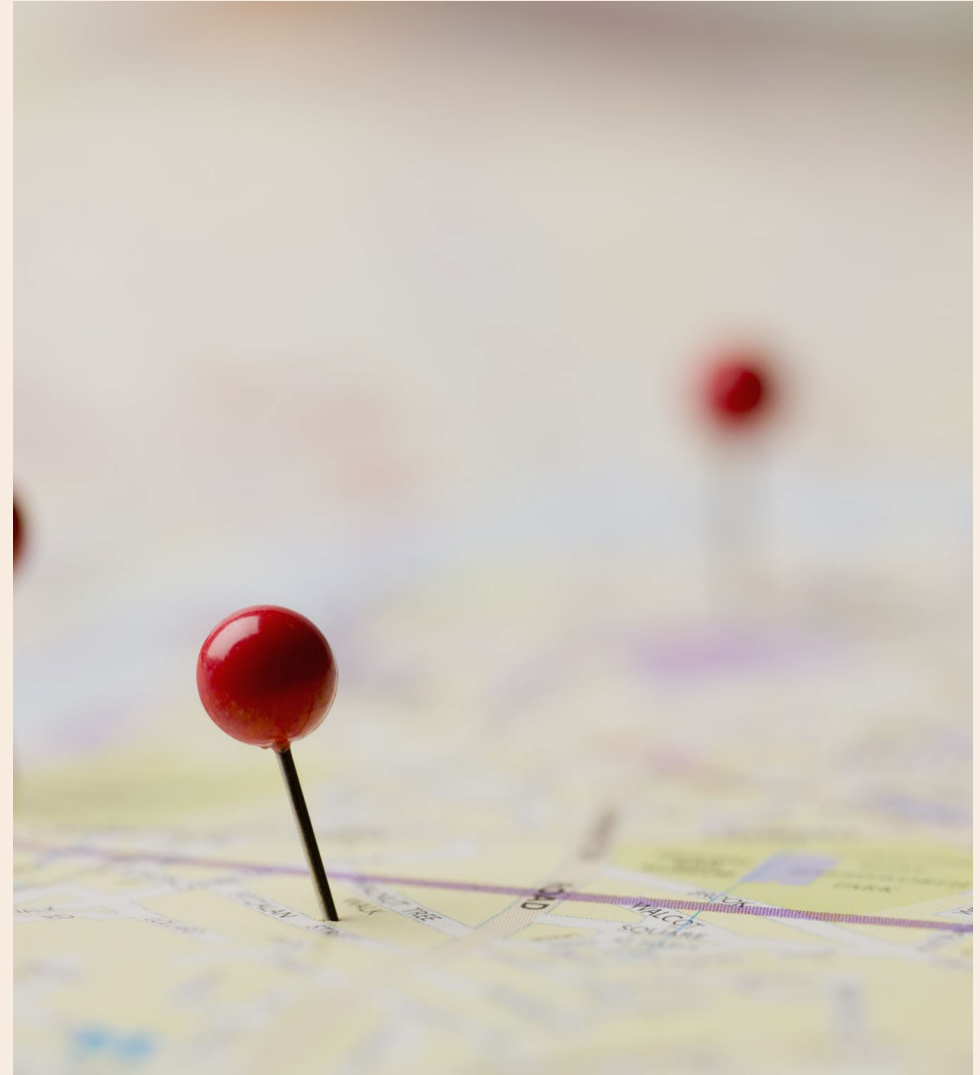


# FFY 2022-2023 IHP Due Dates

| <b>FFY 2022</b>               | <b>PY 2022</b>  | <b>IHP DUE DATE</b> | <b>WAIVER DEADLINE</b> |
|-------------------------------|-----------------|---------------------|------------------------|
| Oct 1, 2021-<br>Sept 30, 2022 | Oct 1 – Sept 30 | July 18, 2022       | October 16, 2022       |
|                               | Jan 1 – Dec 31  | October 18, 2022    | January 16, 2023       |
|                               | Apr 1 – Mar 31  | January 16, 2023    | April 16, 2023         |
|                               | Jul 1 – June 30 | April 17, 2023      | July 16, 2023          |
| <b>FFY 2023</b>               | <b>PY 2023</b>  | <b>IHP DUE DATE</b> | <b>WAIVER DEADLINE</b> |
| Oct 1, 2022-<br>Sept 30, 2023 | Oct 1 – Sept 30 | July 18, 2023       | October 16, 2023       |
|                               | Jan 1 – Dec 31  | October 18, 2023    | January 16, 2024       |
|                               | Apr 1 – Mar 31  | January 16, 2024    | April 16, 2024         |
|                               | Jul 1 – June 30 | April 17, 2024      | July 16, 2024          |

# IHP and APR Guidance

In some years, the U.S. Congress does not appropriate funds until well into the FFY. For example, even though the FFY starts on October 1, it is not uncommon to have the IHBG appropriation occur in January. Thus, the recipient may not know its final IHBG grant amount until January. To address these instances, HUD runs a draft of the IHBG formula using the anticipated level of funding and sends this information to the recipient using the Formula Response Form.



# IHP and APR Guidance

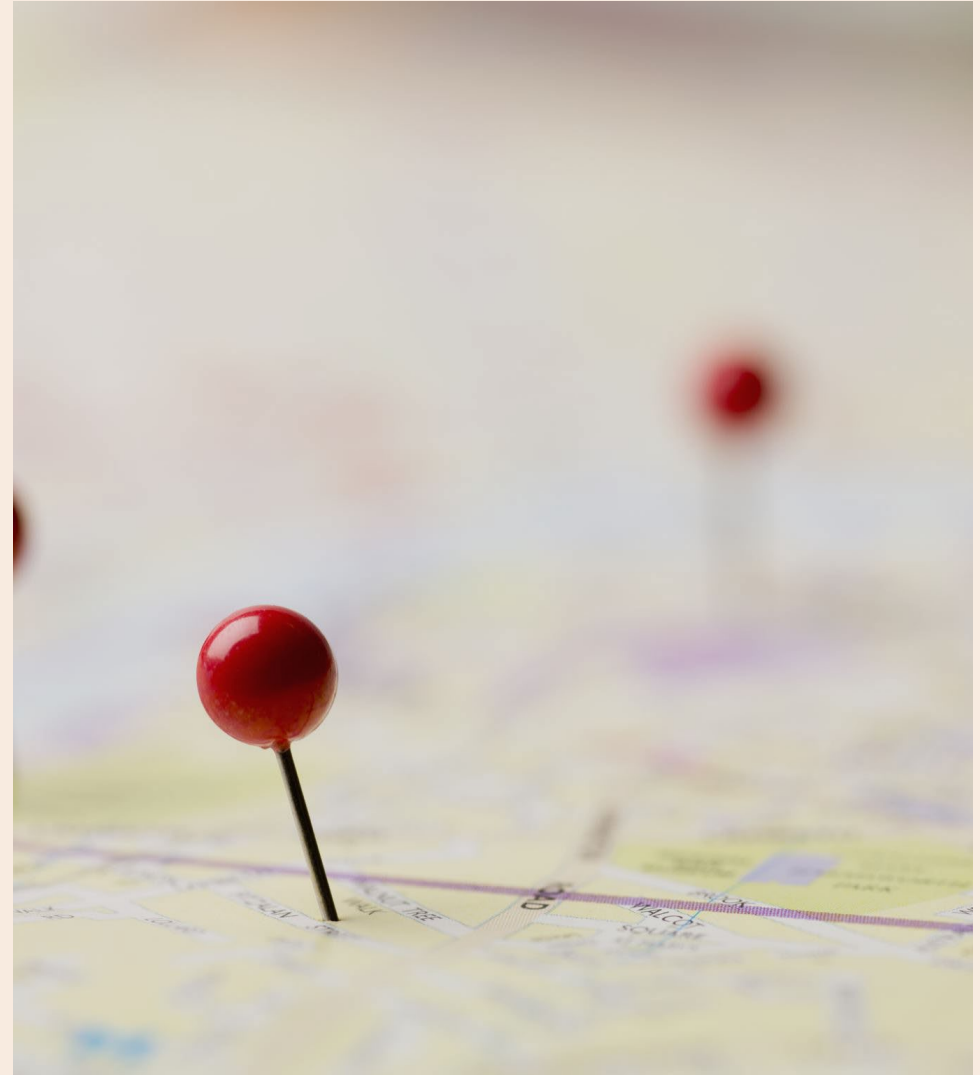
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If the final appropriation is unknown at the time the IHP is due, the recipient may base its IHP budget on this estimated IHBG amount or the previous year's IHBG amount. When the final appropriation is known, the recipient should update the IHP in its files to include the final amount. For any recipient whose IHP has already been found in compliance, once the final budget appropriation is available, the Area ONAP will automatically process the grant agreement and send it to the recipient.



# IHP and APR Guidance

If the recipient adds a new activity or reduces its support for 1937 Act housing, it must submit an IHP amendment using the form provided in Section 16 of the IHP prior to the recipient's program year end. If the recipient does not add a new activity or reduce its support for 1937 Act housing, then any other changes can be reflected in the APR submission.





# IHP: Housing Needs Description

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

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

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

# IHP: Program Activity Descriptions

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

# Other IHP Submission Items

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

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

# Other IHP Submission Items (continued)

## Tribal and Indian Preference:

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

## Model & Over-Income Activities:

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

# IHP Tribal Certifications

## Recipient Certification of Compliance

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

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

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

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



# IHP: Administrative & Planning Costs

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

| <b>Annual IHBG Grant</b> | <b>Administrative &amp; Planning Spending Cap</b> |
|--------------------------|---|
| Greater than \$500,000   | 20%   |
| Less than \$500,000      | 30%   |

Eligible A & P costs:

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

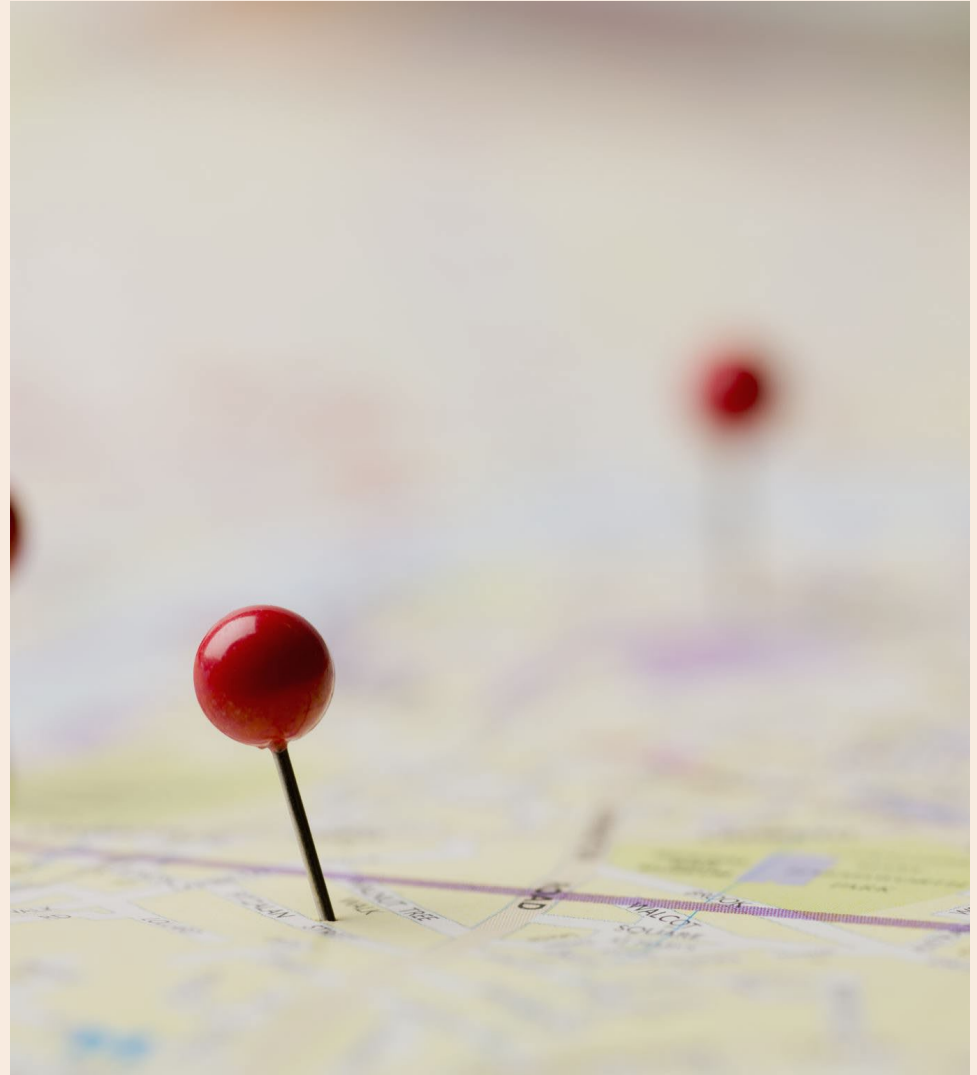
# BREAK TIME!

Let's Take 10 or 15 Minutes



# APR Guidance

The APR is due to the Area ONAP no later than 90 calendar days after the end of the recipient's program year, as required by 24 CFR § 1000.514. The APR must describe the activities and expenses from the previous 12-month program year. The APR is designed to track to the IHP sections so that the recipient can easily report on the progress of IHP eligible activities.





# What is the APR?

- Describes recipient's performance for previous program year
- Highlights how recipient ensured compliance and financial accountability
- Provides statistics on unit quality and cost and program outcomes
- Used by recipient, Tribal Members and HUD to provide feedback for program performance



# Why is the APR Important?

- Statutory requirement
- Public comment
- Tool to track IHP Progress
- Self-assessment and planning
- Technical assistance necessary from HUD
- Public information





# Key Sections of the APR

- Actual Outcomes and Outputs
- Program Accomplishments
- Budget
- Expanded Formula Area
- Self Monitoring
- Inspections
- Audits
- Public Accountability
- Jobs Supported by NAHASDA



# Cover Page

- Information requested for the APR includes the following:
  - Name of the recipient
  - Name and title of person authorized to submit the APR
  - Signature of person authorized to submit the APR
  - Date of Submission



# Reporting on Programs

- Purpose: Documents the recipient's performance review
- Statutory/Regulatory Sections:  
§404(a), 404(b)(2), 404(b)(3), 24 CFR 1000.512
- Key Components:
  - Accomplishments
  - Reasons for delay
  - Outputs

# Reporting on the Budget

- Describes the actual sources and uses of funds for the 12-month program year

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Essentials IHP-APR Adobe Fill... x

11 / 37 66.7%

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**SECTION 5: BUDGETS**  
NAHASDA §§ 102(b)(2)(C), 404(b)

**(1) Sources of Funding** (NAHASDA § 102(b)(2)(C)(i), (404(b))) (Complete the non-shaded portions of the chart below to describe your estimated or anticipated sources of funding for the 12-month program year. **APR Actual Sources of Funding** -- Please complete the shaded portions of the chart below to describe your actual funds received. Only report on funds actually received and under a grant agreement or other binding commitment during the 12-month program year.)

| SOURCE                         | IHP <a href="#">Help</a>                                     |   |   |  |  | APR <a href="#">Help</a>                                  |  |  |   |  |   |
|--------------------------------|--|---|---|--|--|---|--|--|---|--|---|
|                                | (A)<br>Estimated amount on hand at beginning of program year | (B)<br>Estimated amount to be received during 12-month program year | (C)<br>Estimated total sources of funds (A+B) | (D)<br>Estimated funds to be expended during 12-month program year | (E)<br>Estimated unexpended funds remaining at end of program year (C-D) | (F)<br>Actual amount on hand at beginning of program year | (G)<br>Actual amount received during 12-month program year | (H)<br>Actual total sources of funding (F+G) | (I)<br>Actual funds expended during 12-month program year | (J)<br>Actual unexpended funds remaining at end of 12-month program year (H - I) | (K)<br>Actual unexpended funds obligated but not expended at end of 12-month program year |
| 1. IHBG Funds                  |  |   | \$0   |  | \$0  |   |  | \$0  |   | \$0  |   |
| 2. IHBG Program Income         |  |   | \$0   |  | \$0  |   |  | \$0  |   | \$0  |   |
| 3. Title VI                    |  |   | \$0   |  | \$0  |   |  | \$0  |   | \$0  |   |
| 4. Title VI Program Income     |  |   | \$0   |  | \$0  |   |  | \$0  |   | \$0  |   |
| 5. 1937 Act Operating Reserves |  |   |   |  | \$0  |   |  |  |   | \$0  |   |
| 6. Carry Over 1937 Act Funds   |  |   |   |  | \$0  |   |  |  |   | \$0  |   |
| <b>LEVERAGED FUNDS</b>         |  |   |   |  |  |   |  |  |   |  |   |
| 7. ICDBG Funds                 |  |   | \$0   |  | \$0  |   |  | \$0  |   | \$0  |   |
| 8. Other Federal Funds         |  |   | \$0   |  | \$0  |   |  | \$0  |   | \$0  |   |

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# Reporting on Other Submission Items

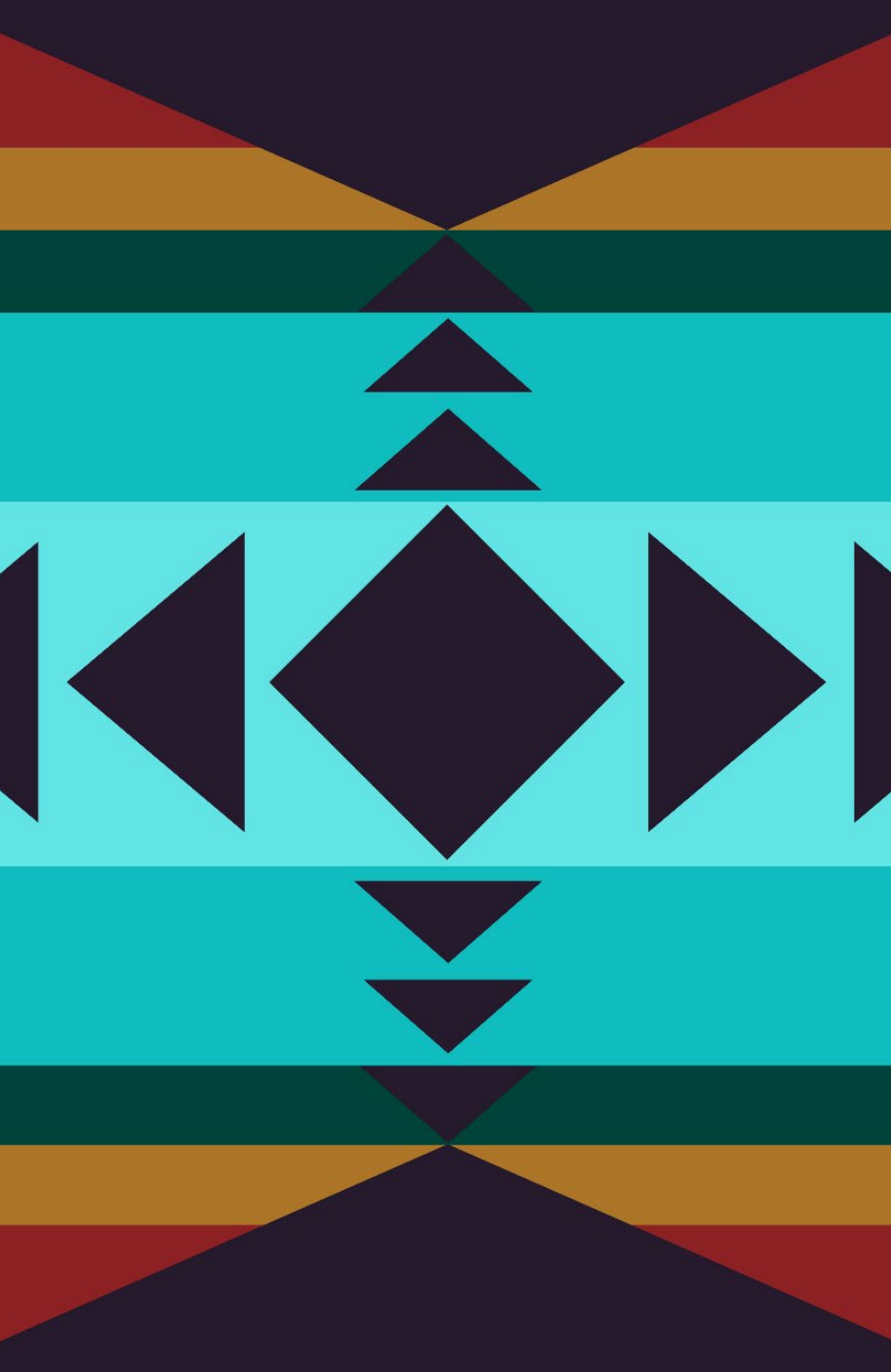
- Purpose: New section where recipient describes expenditure of funds in expanded formula area (not required if recipient does not have an expanded formula area)
- Statutory/Regulatory Sections: 24CFR 1000.302
- Key Components:
  - Actual expenditures in expanded formula area





# Certifications

- Purpose: Provide self certification of compliance
- Statutory/Regulatory Sections: NAHASDA  
*§403(b) , 24 CFR §1000.502)*
- Key Components:
  - Self-Monitoring



(1) In accordance with applicable statutes, the recipient certifies that: It will comply with title II of the Civil Rights Act of 1968 in carrying out this Act, to the extent that such title is applicable, and other applicable federal statutes.

(2) In accordance with 24 CFR 1000.328, the recipient receiving less than \$200,000 under FCAS certifies that: There are households within its jurisdiction at or below 80 percent of median income.

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

- a. The recipient will maintain adequate insurance coverage for housing units that are owned and operated or assisted with grant amounts provided under NAHASDA, in compliance with such requirements as may be established by HUD;
- b. *Policies are in effect and are available for review by HUD and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under NAHASDA;*
- c. Policies are in effect and are available for review by HUD and the public governing rents charged, including the methods by which such rents or homebuyer payments are determined, for housing assisted with grant amounts provided under NAHASDA; and
- d. *Policies are in effect and are available for review by HUD and the public governing the management and maintenance of housing assisted with grant amounts provided under NAHASDA.*



# HUD's Timeline

- Receipt of APR
  - 60 Days to review APR and make recommendations in report to recipient
    - Carried out eligible activities in a timely manner and in accordance with NAHASDA
    - Complied with the IHP
    - Report is accurate

A decorative vertical border on the left side of the slide. It features a central horizontal band of light blue with a large dark blue diamond shape in the middle. Above and below this band are horizontal stripes of dark blue, teal, and gold. The top and bottom corners are filled with dark blue and red triangles.

# APR Assessment

- On time?  
Due within 90 days of end of program year
- Complete?  
Sufficient data for review
- Accurate?  
Can you prove what you are reporting?
- Progress?  
Progress on IHP program/performance issues



# Importance of Self Monitoring

- Self Monitoring ensures
  - Compliance with rules and requirements
  - Compliance with the Tribe/TDHE policies and procedures
  - Consistency with IHP
  - Efficiency
  - Effectiveness



A decorative vertical panel on the left side of the slide. It features a symmetrical, geometric pattern with a central light blue band. This band contains a large dark blue diamond shape, flanked by smaller dark blue triangles pointing towards the center. Above and below this central band are horizontal stripes in dark green, gold, and dark red, with dark blue triangular shapes pointing towards the center, creating a layered, architectural appearance.

# Why Conduct Self-Monitoring?

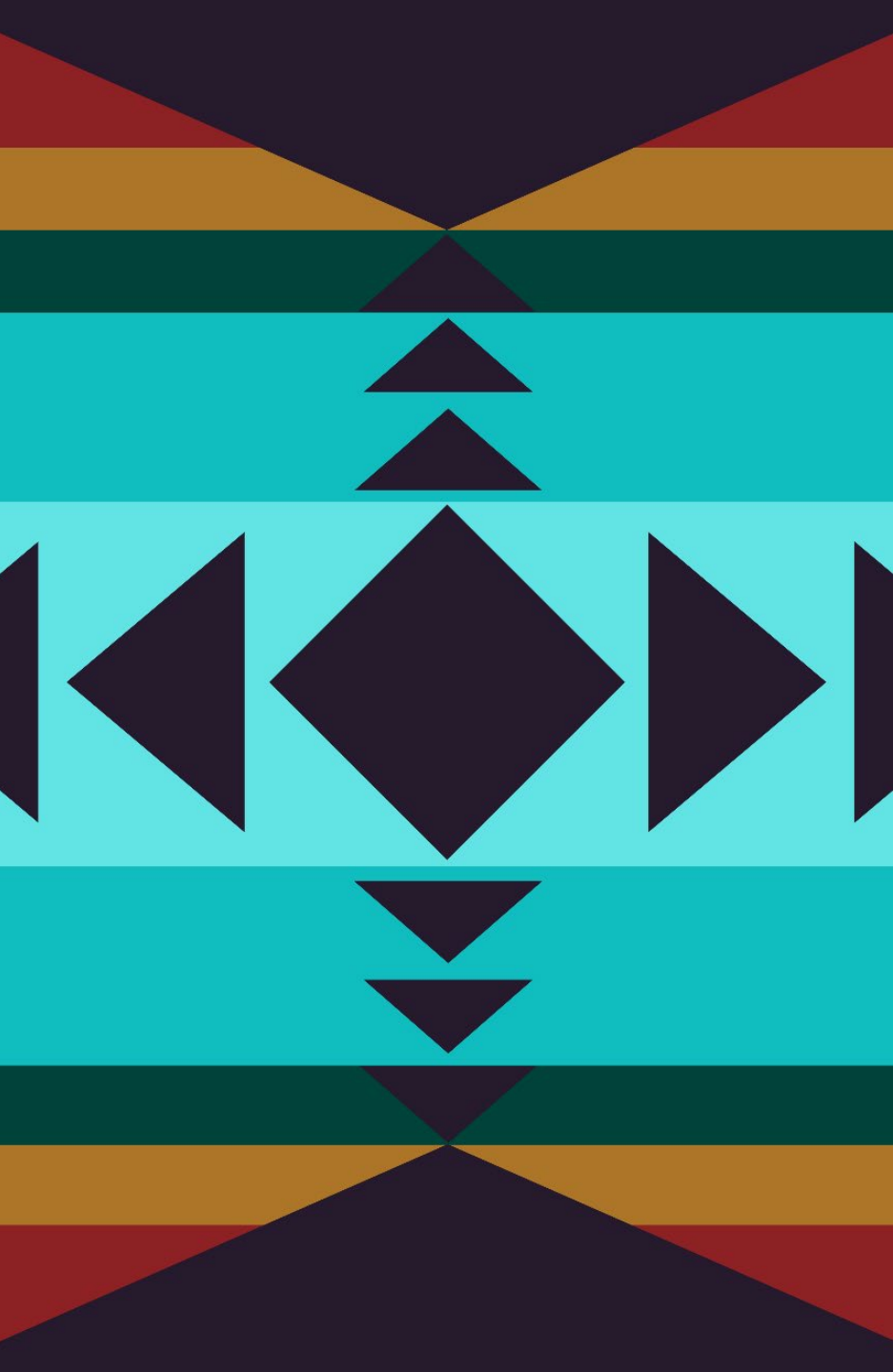
Demonstrate accountability for performance

Build organizational capacity

Ensure compliance with regulations

Identify system weaknesses

Improve efficiency and effectiveness of practices



# What Is Self-Monitoring?

Self-Monitoring is the process of:

- Recording the operation of a system
- Observing/reviewing activities over the course of a year
- Detecting deficiencies and taking steps to correct them
- Recording/reporting through the Annual Compliance Assessment and Annual Performance Report



# Self-Monitoring Overview

- Observe/review activities over the course of a year
- Detect deficiencies and take steps to correct them
- Record/report through the Annual Compliance Assessment and APR
- Assessing compliance with the IHP, the law, and regulations

# Self-Monitoring Requirements

## NAHASDA: Section 403(b), Periodic Monitoring

- Not less frequently than **annually**, each recipient **shall review the activities conducted** and housing assisted under this Act to **assess compliance** with the requirements of this Act.
- Such review shall include **on-site inspection of housing** to determine compliance with applicable requirements.
- The results of each review shall be included in the performance report of the recipient submitted to the Secretary under Section 404 and made available to the public.

## 24 CFR 1000.502

- The recipient is responsible for monitoring grant activities to ensure compliance with the applicable Federal requirements and monitoring performance goals under the IHP.



# Self-Monitoring Requirements

- Recipients must
  - Monitor grant activities in accordance with the IHP
  - Complete a compliance assessment, including unit inspections
  - Develop a corrective action plan to address any areas of noncompliance
  - Must include a summary of results and corrective actions in APR





# Self-Monitoring from ONAP's Perspective

Monitor performance against goals

Check relevance and quality of activities

Identify issues internally before other partners

Solve problems promptly

# Sample Self-Monitoring Schedule

## Annual Self-Monitoring Review

Name of HA \_\_\_\_\_

START DATE \_\_\_\_\_

END DATE \_\_\_\_\_

| Program Area                          | PERSON/DEPT RESPONSIBLE          | AUG | SEPT | OCT | NOV | DEC     | JAN                 | FEB     | MAR                 | APR | MAY | JUN     | JUL                 | AUG | SEPT |
|---------------------------------------|----------------------------------|-----|------|-----|-----|---------|---------------------|---------|---------------------|-----|-----|---------|---------------------|-----|------|
| Planning                              | Executive Director               | X   | X    |     |     |         |                     |         |                     |     |     |         |                     |     |      |
| Policy and Procedures Review          | Executive Director               |     |      | X   | X   | X       | X                   | X       | X                   | X   | X   |         |                     |     |      |
| IHP/APR Compliance                    | CFO/ or another accounting Staff |     |      | X   |     | Outcome | Bring to Compliance |         |                     |     |     |         |                     |     |      |
| Organizational Structure              | CFO/ or another accounting Staff |     |      |     | X   | Outcome | Bring to Compliance |         |                     |     |     |         |                     |     |      |
| Financial and Fiscal Management       | Executive Director               |     |      | X   |     | Outcome | Bring to Compliance |         |                     |     |     |         |                     |     |      |
| Administration and Occupancy          | Executive Director               |     |      | X   |     | Outcome | Bring to Compliance |         |                     |     |     |         |                     |     |      |
| Procurement & Contract Administration | CFO/ or another accounting Staff |     |      |     |     | X       |                     | Outcome | Bring to Compliance |     |     |         |                     |     |      |
| Environmental Review Compliance       | CFO/ or another accounting Staff |     |      |     |     |         |                     |         |                     |     | X   | Outcome | Bring to Compliance |     |      |
| Final Self-Monitoring Report          | Executive Director               |     |      |     |     |         |                     |         |                     |     |     |         |                     |     | X    |

# SELF-MONITORING

## SECTION 10: SELF-MONITORING

NAHASDA § 403(b), 24 CFR §§ 1000.26, 85.37, 85.40

(1) Do you have a procedure and/or policy for self-monitoring?

Yes  No

(2) Pursuant to 24 CFR § 1000.502(b) where the recipient is a TDHE, did the TDHE provide periodic progress reports including the self-monitoring report, Annual Performance Report, and audit reports to the Tribe?

Yes  No  Not Applicable

(3) Did you conduct self-monitoring, including monitoring sub-recipients?

Yes  No

(4) **Self-Monitoring Results.** (Describe the results of the monitoring activities, including corrective actions planned or taken.):

### **HUD IHBG Sample Monitoring Plans**

- [APR and IHP Compliance Monitoring Plan](#)
- [Lead-Based Paint Monitoring Plan](#)
- [Environmental Review Compliance Monitoring Plan](#)
- [General Instructions to Monitoring Plans](#)
- [Labor Standards Monitoring Plan](#)
- [Maintenance and Inspection Monitoring Plan](#)
- [Organization and Structure Monitoring Plan](#)
- [Other Programs \(ICDBG, ROSS & RHED/RIF\) Monitoring Plan](#)
- [Procurement and Contract Administration Monitoring Plan](#)
- [Relocation and Real Property Acquisition Monitoring Plan](#)
- [Section 504 Accessibility Monitoring Plan](#)
- [Self-Monitoring Plan](#)
- [Subrecipient Agreements Monitoring Plan](#)
- [Admissions and Occupancy Monitoring Plan](#)
- [Occupancy Review Form-Appendix 1](#)
- [Occupancy Tenant Files Review Forms-Appendix 2](#)
- [Financial and Fiscal Management Monitoring Plan](#)
- [Financial and Fiscal Management: Appendix 1 - Finance System Controls](#)
- [Financial and Fiscal Management: Appendix 2 - Cash Management](#)
- [Financial and Fiscal Management: Appendix 3 - Indirect Costs Cost Allocation](#)
- [Financial and Fiscal Management: Appendix 4 - Reserve Balances](#)
- [Financial and Fiscal Management: Appendix 5 - TDCs](#)
- [Financial and Fiscal Management: Appendix 6 - Program Income](#)
- [Financial and Fiscal Management: Appendix 7 - Investments](#)
- [Financial and Fiscal Management: Appendix 8 - Insurance](#)
- [Title VI Monitoring Plan](#)
- [Tribal HUD VASH Monitoring Plan](#)

This Page with the links to the Monitoring plans are in the Appendix items...

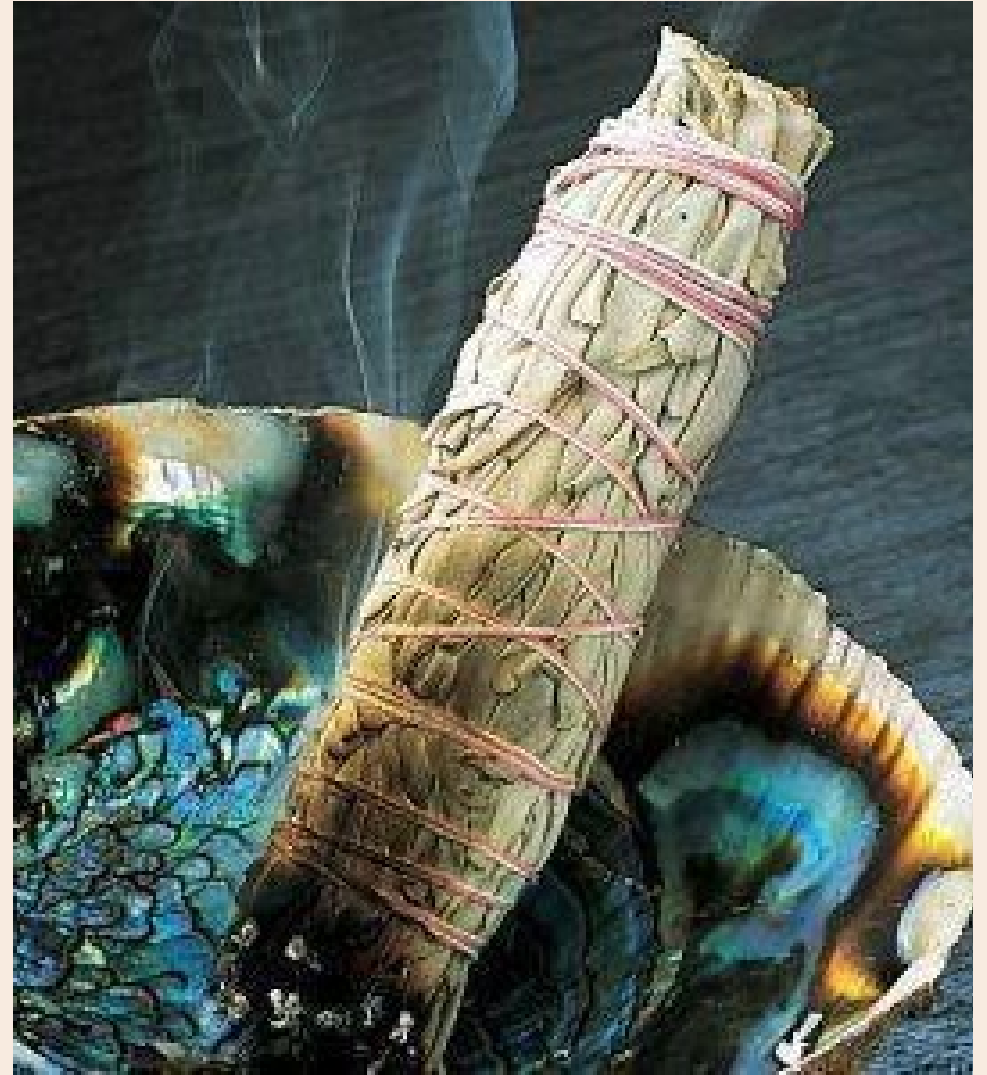


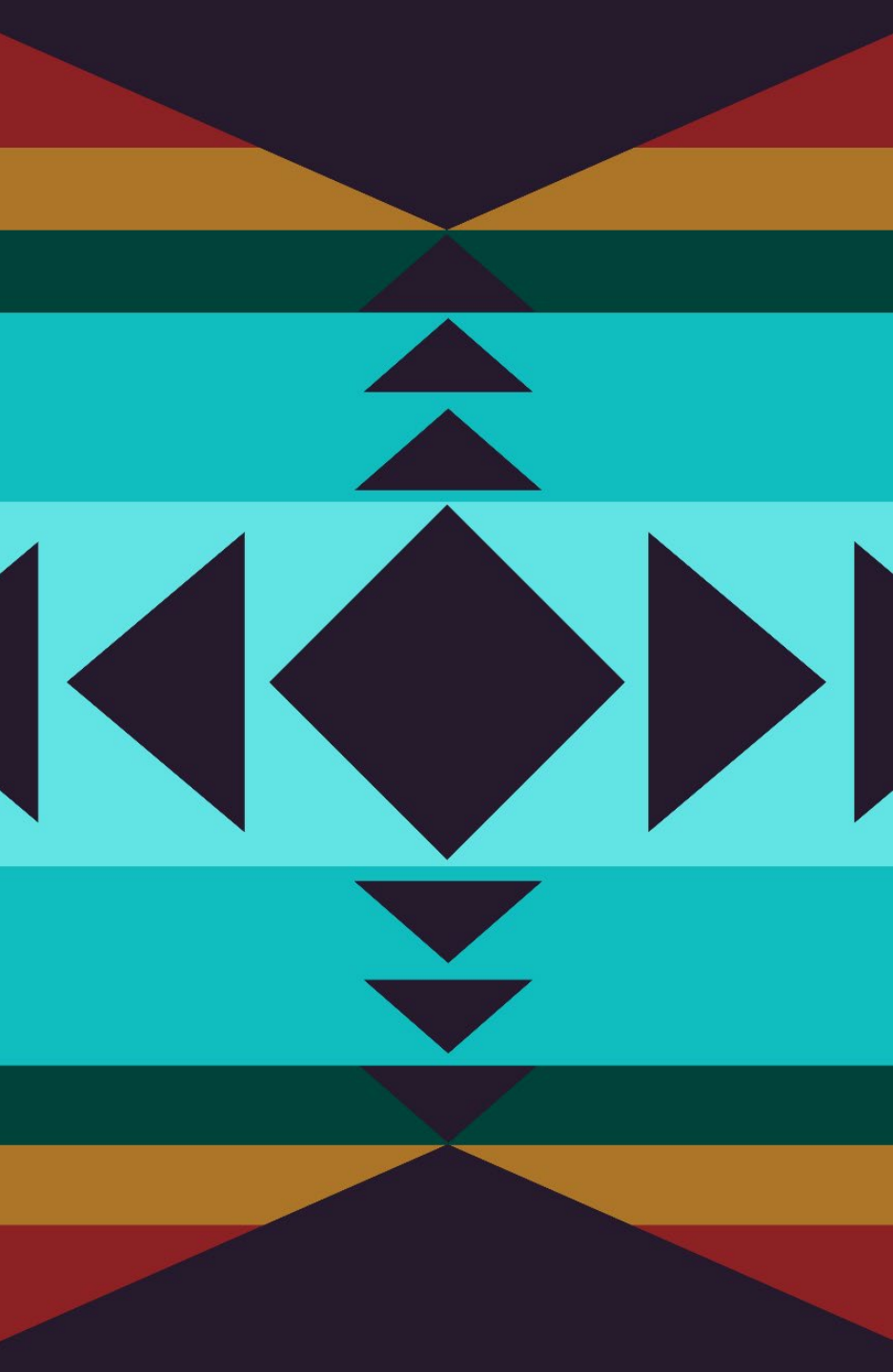
# Other Sections

- Purpose: Capture remaining required items
- Statutory/Regulatory Sections:  
§403(b), 31 U.S.C. §7501(a)(4), 1000.518, §101(b)(2)
- Key Components:
  - Inspections
  - Audits
  - Public Accountability
  - Jobs Supported by NAHASDA
  - IHP Waiver Requests



# Examples of Tribal Council & Housing Interaction





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

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



## Allowable Deductions from Gross Income:

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

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

|                         |                       |                   |
|-------------------------|-----------------------|-------------------|
| <b>Annual Income</b>    |                       | <b>\$27,000</b>   |
| Adjustments:            |                       |                   |
| 4 dependents @480       |                       | <u>(\$1,920)</u>  |
| Child Care              |                       | <u>(\$1,080)</u>  |
| Total Adjustments       |                       | <u>\$3,000</u>    |
| Adjusted Annual Income  |                       | \$24,000          |
| Adjusted Monthly Income | $(24,000 \div 12)$    | \$2,000           |
| Monthly Gross Rent      | $\$2,000 \times 30\%$ | \$600.00          |
| Utility Allowance       |                       | <u>(\$250.00)</u> |
| Monthly Rent            |                       | <u>\$350.00</u>   |
| Annual Revenue          | $\$350 \times 12$     | <u>\$4,200</u>    |

# Sample IHBG Subsidy for Tribe/TDHE

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





# Rental Payment Policy Determination:

- Affordability to your families should play a major factor in this decision, you should conduct a housing needs assessment and utilize the data to know affordability levels of your low-income families.
- The amount of your Tribal Indian Housing Block Grant is another factor to consider in determining the rent income percentages needed to be charged for rent, for subsidy considerations and sustainable operations.
- How much subsidy can the Tribe/TDHE afford to sustain housing program assistance in the long term?
- There is no right or wrong answer, but logic should dominate in arriving at policy for determining the percentage of income for your rent payment policy.

# Key Roles of The Tribal Council

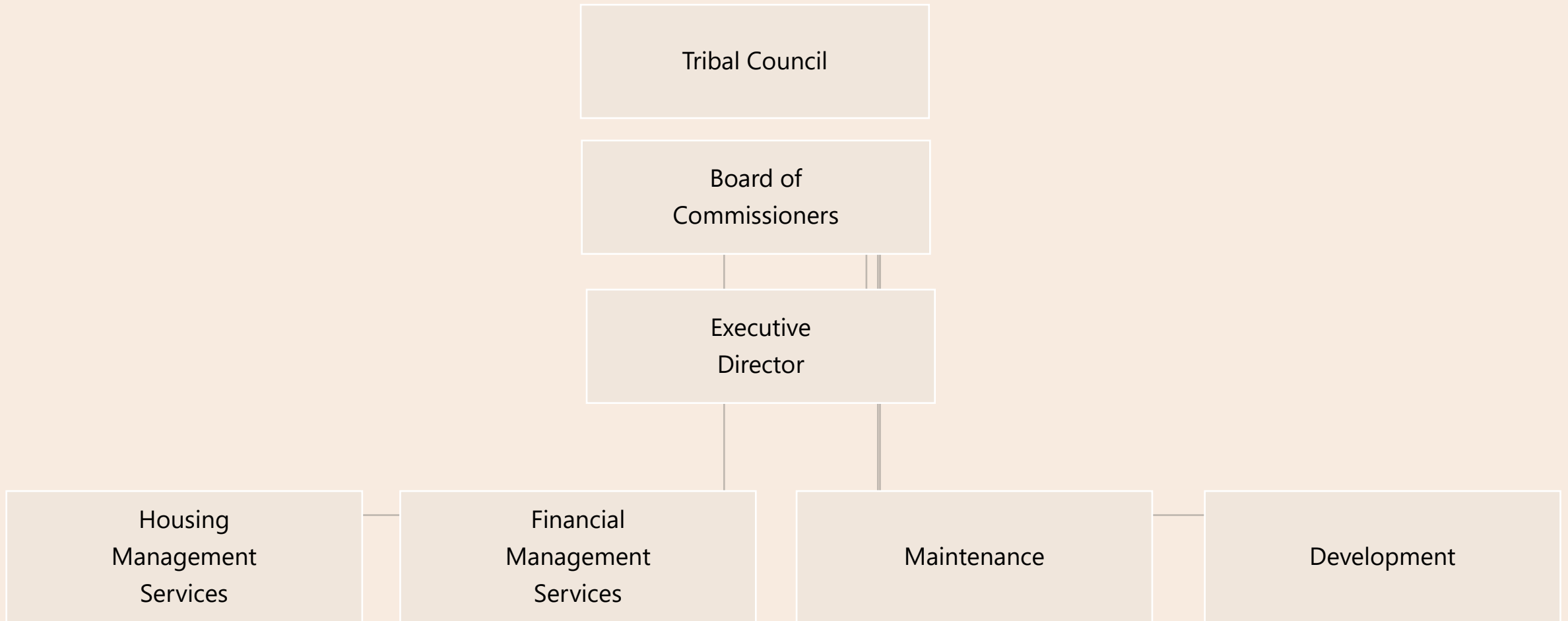


# Key Roles of The Tribal Council


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

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

# Relationship of Key Responsible Positions



# Tribal Council Role in Housing Board Oversight

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



# Tribal Council Role in Housing Board Oversight

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

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



# Tribal Council Role in Housing Board Oversight

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

# Tribal Council Role in Housing Board Oversight

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

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

# Tribal Council Role in Housing Board Oversight

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





## Tribal Council

The duties of the Tribal Council may include:

Cooperating in the enforcement of all housing policies

Allocating funds for infrastructure (road development, water/sewer, electric, etc.)

Planning use of Indian Community Development Block Grant (ICDBG) and other funds

Working closely with Housing staff to develop short- and long-term housing goals and objectives



## Tribal Council

The duties of the Tribal Council may include:

Establishing housing as a priority through adoption of a tribal housing ordinance/law

Confirming or appointing Housing Commissioners or Committee members

Donating or making tribal lands available for housing sites

Approving housing sites (dependent upon land status and restrictions)



# Additional Roles of the Tribal Council

## Monitoring Roles and Responsibilities

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

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

# Additional Roles of the Tribal Council

## Monitoring Roles and Responsibilities

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

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

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

# Miscellaneous

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

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

*What role does the Tribe play under NAHASDA?*

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

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

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



# Other Times you might have interaction

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



# Additional Roles of the Tribal Council

## Monitoring Roles and Responsibilities

### IHBG Tribally Designated Housing Entity Recipients

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

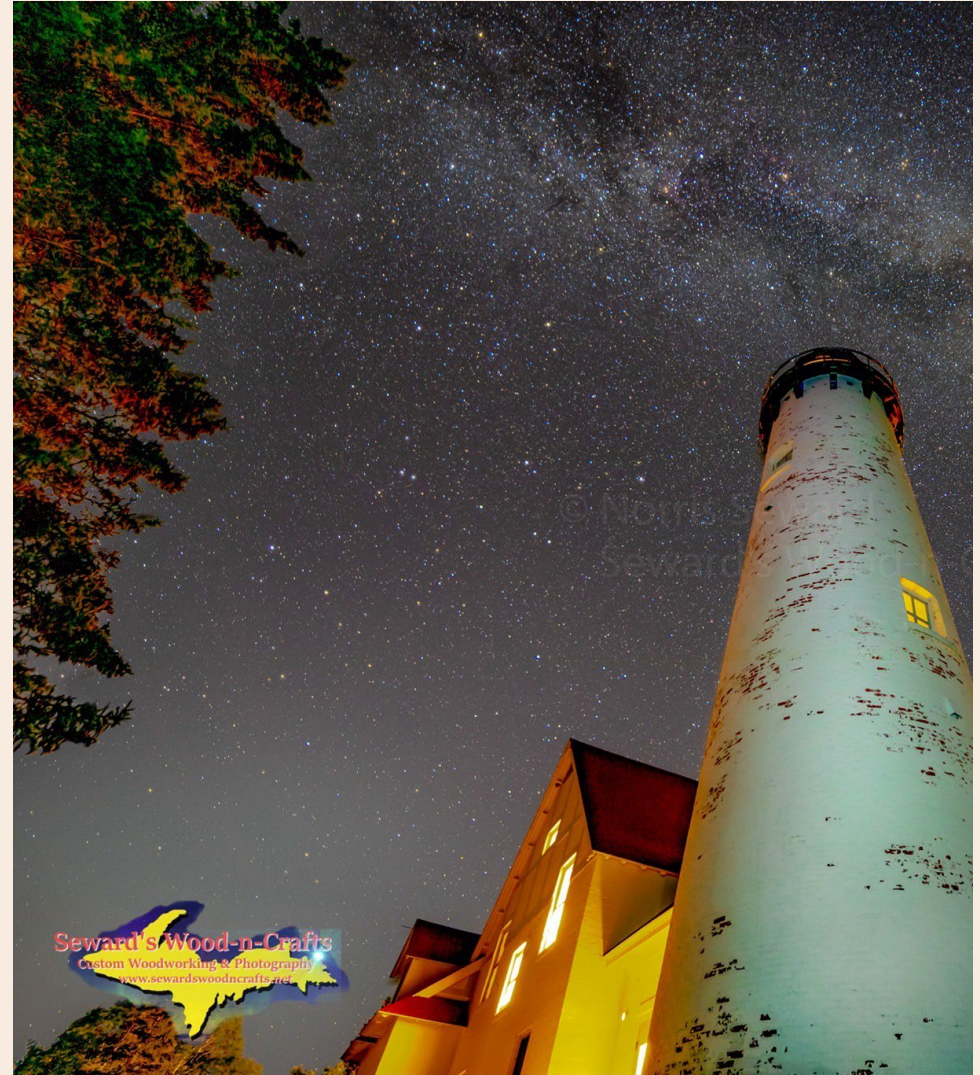
- ❖ An APR within 90 days of the end of the program year that includes a description of its self-monitoring in Section 10 of the IHP/APR.
- ❖ An Audit in accordance with the Single Audit Act if applicable.
- ❖ The TDHE must provide the tribe, as the grant beneficiary, with a copy of self-monitoring assessments,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

# Additional Roles of the Tribal Council

## Monitoring Roles and Responsibilities

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

# Compliance and Monitoring





# NAHASDA COMPLIANCE

## NAHASDA Statute-The Law

### Title IV - Compliance, Audits and Reports

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

# NAHASDA COMPLIANCE

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

Subpart F - Monitoring, Oversight & Accountability

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





# GRANT EVALUATION OVERSIGHT AND MONITORING



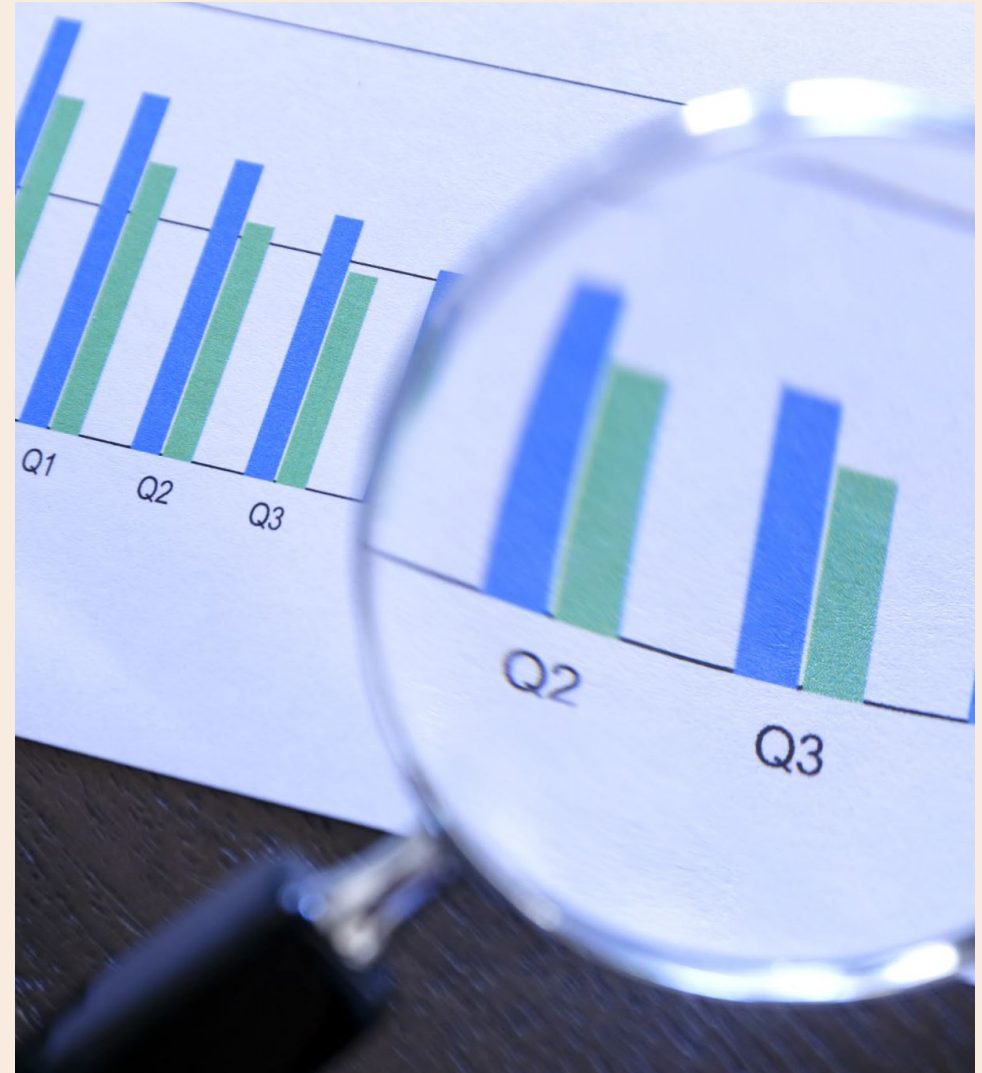


# GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

## Overview

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

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



# GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

## Monitoring

HUD reviews the performance of recipients to determine whether they:

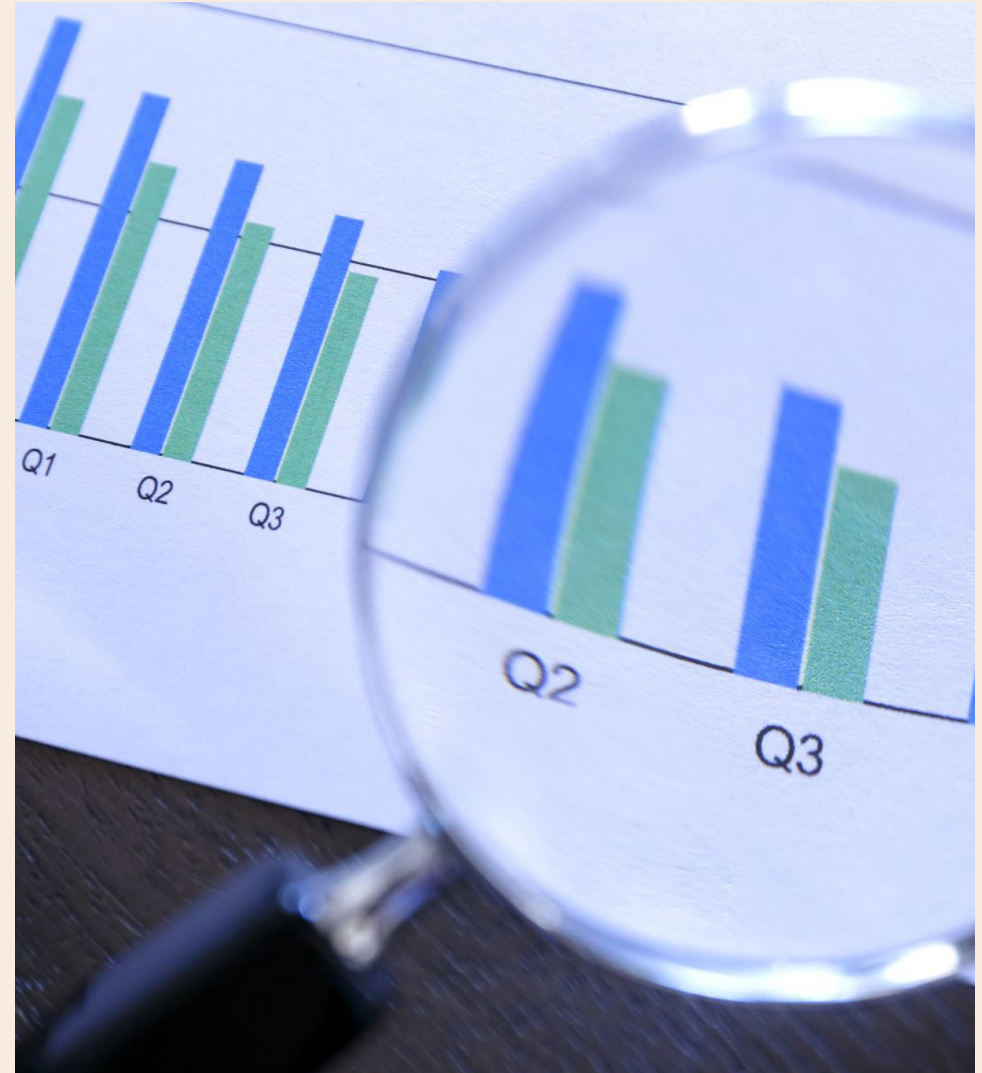
- ❖ have carried out their eligible activities in a timely manner,
- ❖ have eligible activities and certifications in accordance with the individual program requirements and with other applicable laws, and
- ❖ have a continuing capacity to carry out those activities in a timely manner.



# GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

## Monitoring

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





# HUD MONITORING

## HUD Areas of Review -

Financial and Fiscal Management

Procurement and Contract Administration

Environmental Review

Sub-recipient Agreements

Admissions and Occupancy

Maintenance and Inspection

Cooperation Agreements

Useful Life and Binding Commitments

Public Availability to Citizens & TDHE to Tribe

Reporting: APR, Audits, and SF-425



# HUD MONITORING

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## HUD Areas of Review (Continued):

Force Account Compliance

Housing Rehabilitation Requirements – Cost limits, adopted policies, standards, expenditures review compared to cost summary

Land Acquisition – Financial Commitment for future project (within two years)

Relocation and Real Property Acquisition – if applicable

Lead Based Paint – if applicable



# HUD MONITORING

## FOR PROGRAM BENEFIT

Beneficiaries as stated in approved application – this is the benchmark  
Records showing who is benefiting from the project



National Environmental Policy Act (NEPA)

## ENVIRONMENTAL REVIEW RECORDS

Make sure documentation is available for each level of environmental review:

- Exempt
- Categorically Excluded NOT subject to 58.5
- Categorically Excluded SUBJECT to 58.5
- Environmental Assessment
- Request for Release of Funds



# HUD MONITORING

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## **FINANCIAL AND FISCAL MANAGEMENT SYSTEM**

- Accounting System Policies and Procedures
- Financial Cash Transactions Reports
- Financial Status Reports

## **PROCUREMENT AND CONTRACT ADMINISTRATION**

- Procurement Policy and Procedures
- Written and oral price quotes
- Bid announcements
- Bid evaluations
- Contracts
- Indian preference



# HUD MONITORING

## ALLOWABLE COSTS:

Receipts

Invoices

Cancelled checks

Bank statements

Check register

Tax records

Payroll records



**Billing Invoices**

Mr. Client name  
Address Line 1  
Address Line 2  
Address Line 3

Invoice No. [blank]  
Invoice Date [blank]  
Invoice Type [blank]  
Invoice No. [blank]

| Date     | Description       | Number | Charges | Credit  | Balance |
|----------|-------------------|--------|---------|---------|---------|
| 10/24/11 | Rent Charge       |        | 1478.30 |         | 1478.30 |
| 10/24/11 | Lat Tax           |        | 89.00   |         | 89.00   |
| 10/24/11 | Service Fee       |        | 49.00   |         | 49.00   |
| 10/24/11 | Service Charge    |        | 40.00   |         | 40.00   |
| 10/24/11 | Insurance Payment |        |         | 1000.00 | 1004.00 |
| 10/24/11 | Car Fee           | 714    | 1000.00 |         | 204.00  |
| 10/24/11 | NET               |        | 2000.00 |         | 104.00  |
|          | Day Total         |        | 1444.30 |         |         |
| 10/24/11 | Rent Charge       |        | 1478.30 |         | 1478.30 |
| 10/24/11 | Lat Tax           |        | 89.00   |         | 89.00   |
| 10/24/11 | Service Fee       |        | 49.00   |         | 49.00   |
| 10/24/11 | Service Charge    |        | 40.00   |         | 40.00   |
| 10/24/11 | Tenants           |        | 35.00   |         | 64.00   |
|          | Day Total         |        | 2001.30 | 10.00   | 1991.30 |

IN Words:  Please indicate if you have received and pay

Depositor of the billing instrument agrees to be held personally liable for payment of the total amount of this bill.

Customer Signature: \_\_\_\_\_ Land Signature: \_\_\_\_\_

Lease No. [blank] Service Fee No. [blank]  
[blank] [blank]

Page 1 of 1

www.usapayhold.com © [blank] [blank] [blank]



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July 29 2010

www.pcdatagraphics.com \$ 599.00

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John Sait

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# HUD MONITORING

## **PUBLIC AVAILABILITY INFORMATION TO HAVE ON HAND:**

- Made report publicly available
- Summary of citizen comments
- If TDHE report submission to Tribe

## **MONITORING OF SUBRECIPIENTS**

- Written subrecipient agreement with the subrecipient
- Subrecipients are aware of all statutory and regulatory requirements
- Documents that show the grantee has monitored subrecipients on ongoing basis

## **PERSONAL PROPERTY MANAGEMENT**

- Property records
- Inventory of tools and equipment
- Disposition records





# HUD MONITORING

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## ADMISSIONS AND OCCUPANCY

Admissions and Occupancy Policy and Procedures

Waitlist

Eligibility Documents: Income Verification, Tribal Enrolment

## MAINTENANCE AND INSPECTION

Maintenance and Inspections Policy and Procedures

Annual Inspections

Work Order Tracking



# HUD MONITORING



## COOPERATION AGREEMENTS

- ◆ Exempt from all real and personal property taxes
- ◆ Required cooperation agreements for services with the local government
- ◆ Make annual payments of user fees or payments in lieu of taxes (PILOT) for the provision of services such as police and fire protection, roads, water and sewage systems and related facilities

## USEFUL LIFE AND BINDING COMMITMENTS

- ◆ Units remain affordable for Useful Life of the property
- ◆ Tribe or TDHE sets Useful Life in Section 6 of the IHP
- ◆ Affordability be secured through recorded Binding Commitments

# GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

Upon completion of either type of review, a draft report will be provided to the grant recipient for comment, per 24 CFR § 1000.528 HUD will issue this report within 30 days of review. The TDHE/Grant Recipient has 30 days to review and comment and can request an additional 30-day time extension for comment if needed. Once the comment period has expired, HUD will issue a final monitoring report that determines if Recipient has carried out eligible activities in a timely manner and to identify any areas of concern or noncompliance and will address any comments received.



# HUD Determinations of Noncompliance and Performance Agreements

## Noncompliance:

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

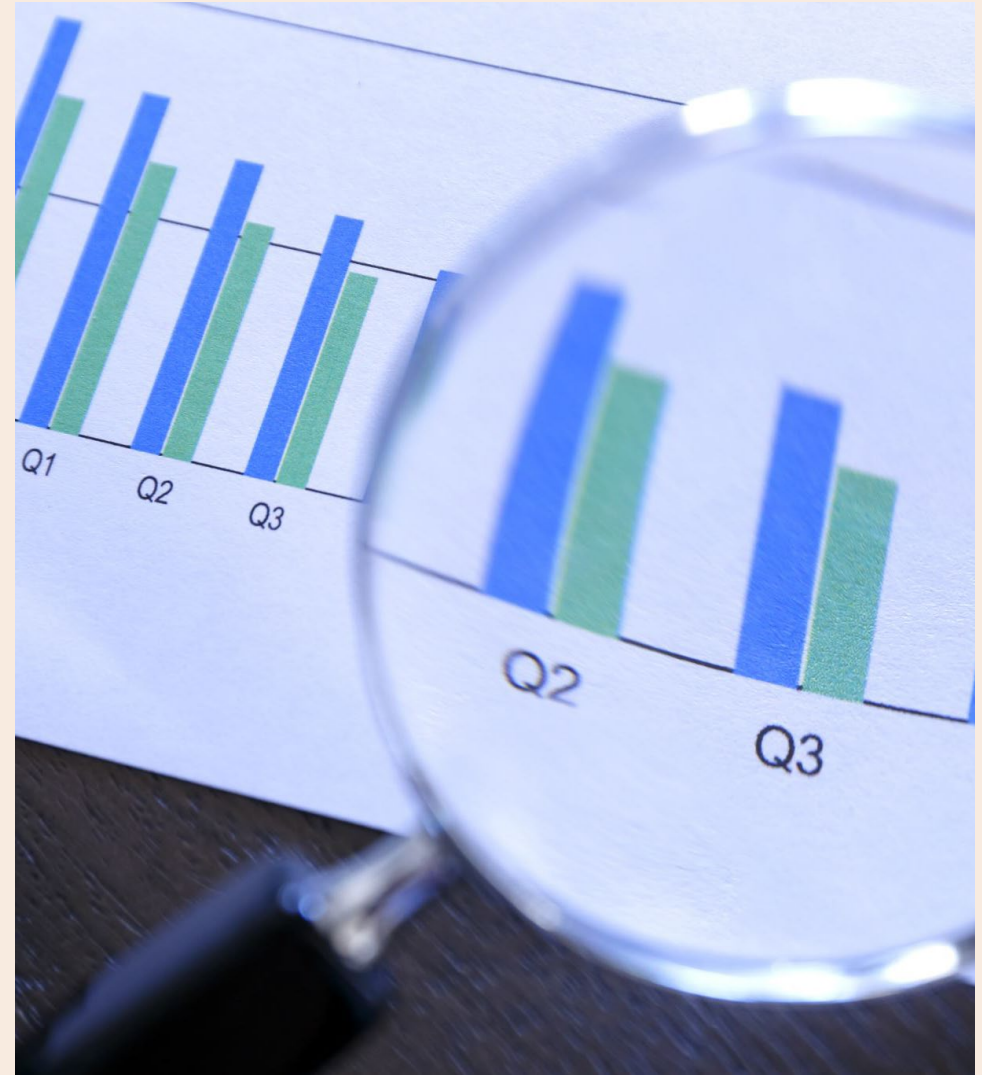




# HUD Determinations of Noncompliance and Performance Agreements

## Substantial Noncompliance:

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



# Substantial Noncompliance: Two Step Process

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

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



# Remedies for Substantial Noncompliance

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

# Some helpful points to avoid Noncompliance

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

## Monitoring Plans for Recipients

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

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



## Monitoring Plans for Recipients

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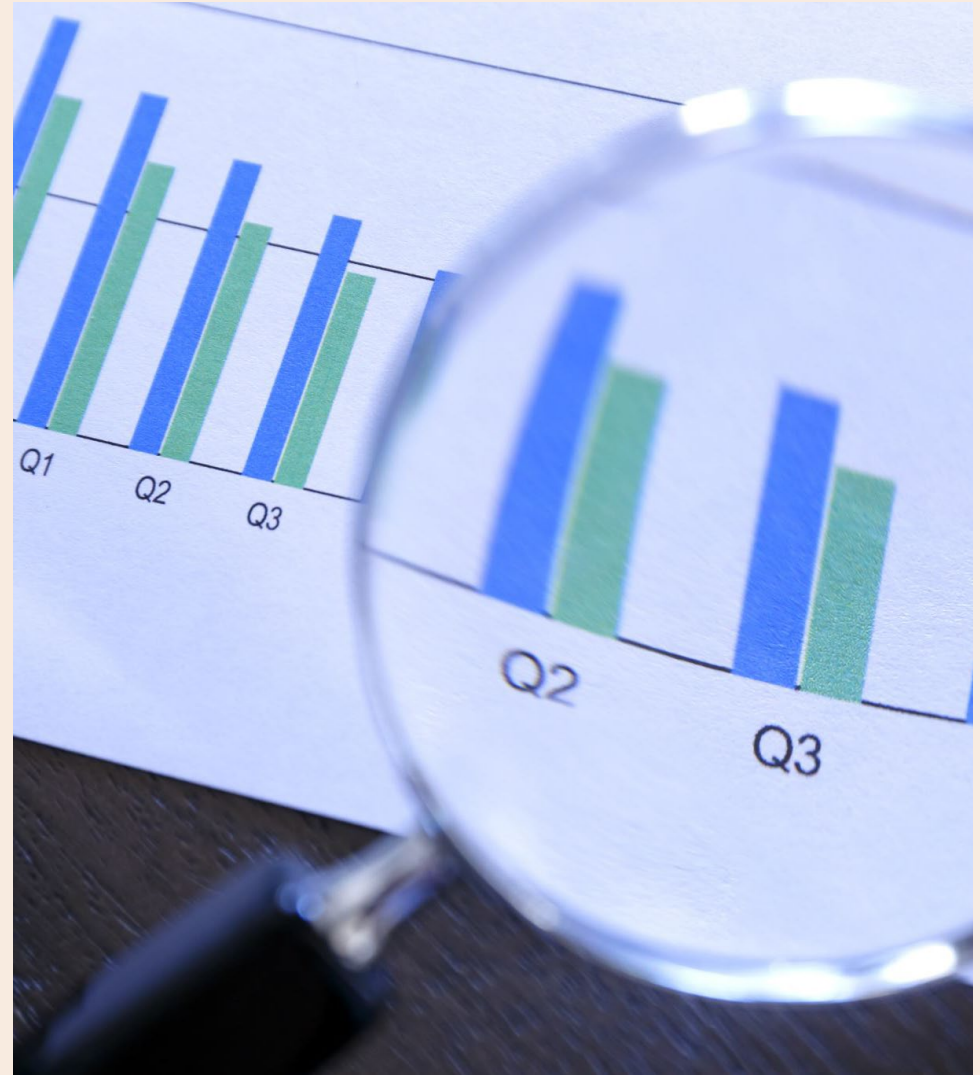
In addition to the general requirements of the Uniform Guidance, NAHASDA also requires that the Tribe/TDHE conduct self-monitoring at least annually. (Section 403(b), 1000.502, and the Uniform Guidance 200.328).



## Monitoring Plans for Recipients

The Tribe/TDHE must conduct ongoing self-monitoring and report those self-monitoring assessment results in the APR.

So, your self-monitoring must be completed prior to your APR submission.





## Monitoring Plans for Recipients

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



# GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

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



# GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

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





# GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

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



# GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

- ❖ Financial and Fiscal Management: - Indirect Costs Cost Allocation
- ❖ Financial and Fiscal Management: - Reserve Balances
- ❖ Financial and Fiscal Management: - TDCs
- ❖ Financial and Fiscal Management: - Program Income
- ❖ Financial and Fiscal Management: - Investments





# GRANT EVALUATION OVERSIGHT AND MONITORING (HQ)

- ❖ Financial and Fiscal Management: - Insurance
- ❖ Title VI Monitoring Plan
- ❖ Tribal HUD VASH Monitoring Plan



## Self-Monitoring Mutual Agreement

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





# AUDIT REQUIREMENTS |

# AUDIT REQUIREMENTS

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





# AUDIT REQUIREMENTS

COMPLETE YOUR AUDIT AND SUBMIT ON TIME

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





# AUDIT REQUIREMENTS

Submission dates **should be within the earlier of:**

Thirty (30) days after receipt of the auditor's reports; or

Nine (9) months after the end of the audit period,



# FEDERAL FINANCIAL REPORT SF-425

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



FEDERAL FINANCIAL  
REPORT SF-425  
Reporting Due Dates

| Program Year     | Q1 Due Date | Q2 Due Date | Q3 Due Date | Q4 Due Date |
|------------------|-------------|-------------|-------------|-------------|
| Oct 1 – Sept 30  | Jan 30      | April 30    | July 30     | Dec 29      |
| Jan 1 – Dec 31   | April 30    | July 30     | Oct 30      | Mar 31      |
| Apr 1 – March 31 | July 30     | Oct 30      | Jan 30      | Jun 29      |
| July 1 – June 30 | Oct 30      | Jan 30      | April 30    | Sept 29     |







# FEDERAL FINANCIAL REPORT SF-425

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

# MIIGWECH

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





# Questions



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

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