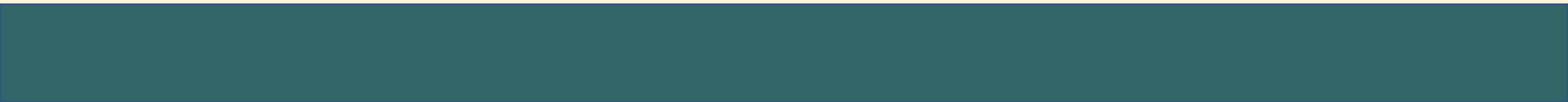




ONAP Training & Technical Assistance

Virtual Session

**Conveyance of 1937 Act Mutual Help Housing
and NAHASDA Lease Purchase Housing**



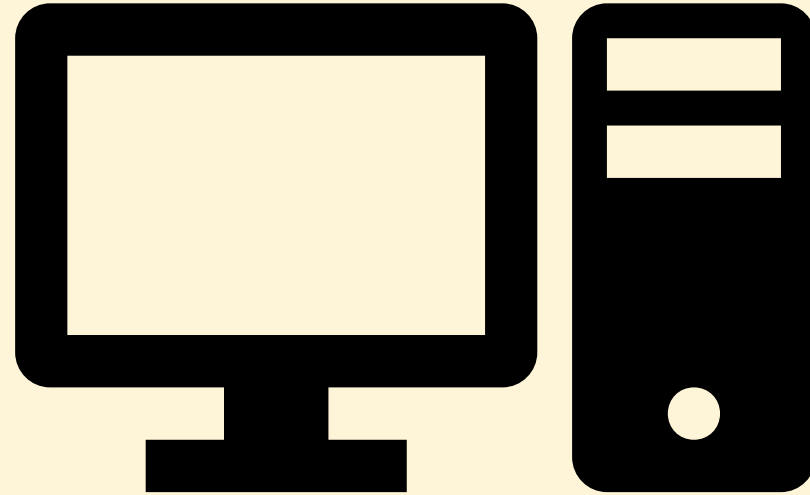


This virtual training is sponsored by
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and
the National American Indian Housing Council



Learning Environment

- Mute yourself
- Use the chat box
- Turn your video on
- Session will be recorded





Conveyance Overview

What is Conveyance?

- Conveyance is the process of taking the house from the ownership of the Tribe/T D H E to the ownership of the participant.
- Process should be defined in the Mutual Help Occupancy Agreement (M H O A) signed by the Tribe/T D H E and the participant.
- Process for N A H A S D A units should be defined in the occupancy agreement.
- Process for conveyance should also be included in the policies and procedures of the Tribe/T D H E.

Conveyance Process

1. Identify the units conveyance eligible during the year
2. Notify the Homebuyer that their unit is conveyance eligible
3. Explain to the Homebuyer the obligations they will have as Homeowners and help prepare them to meet the obligations
4. Prepare the documents for the Board's approval
5. Notify all parties that the ownership will change:
 1. BIA
 2. Utilities
 3. Insurance

Conveyance Process

6. Document all correspondence with the parties involved
7. Complete all conveyance documents
8. Have Homebuyer, Tribe/T D H E, and BIA sign conveyance documents
9. Give Title and documents to new homeowner



Mutual Help Occupancy Agreement

Mutual Help (1937 Act)

- 1937 Act Units were set up to transfer ownership to the participant at 25 years.
- Monthly payment consists of Administrative fee and Monthly Equity Payment (MEPA)
- MEPA belongs to the participant and is held by the Tribe/TDHE and is used to purchase the unit
- 1937 Act Units are part of the Formula Calculation for NAHASDA Funding

Mutual Help (1937 Act)

- Mutual Help units are considered part of the Formula Current Assisted Stock and the Tribe/T D H E receives a subsidy specifically for the maintenance and operation of those units.
- Once a unit is conveyance eligible, it must be reported on the Formula Response Form
- Conveyance eligible units are no longer counted as Formula Current Assisted Stock (FC A S)
 - Exceptions will be discussed in a later part of the training.

Mutual Help Occupancy Agreement

Mutual Help Occupancy Agreement (MHOA)

- Lease with option to purchase contract between the Tribe/TDHE and the eligible homebuyer participant.
- Applies to units funded under the 1937 Act
- Written document explaining the responsibilities of the participant and the Tribe/TDHE

Mutual Help Occupancy Agreement

- M H O A Terms should include:
 - D ate and amount of payoff with amortization schedule showing original price and amount outstanding throughout the payoff period
 - Total monthly payment including admin fees and M E P A
 - Inspection and maintenance responsibilities
 - A ll terms and conditions for continued occupancy
 - M E P A allowable uses
 - D isposition of M E P A if the M H O A is terminated

MEPA

Monthly Equity Payment Account (MEPA)

- Funds paid in excess of the monthly administrative charge will be credited to the homebuyer's MEPA account. These funds will be held for the homebuyer by the Tribe/T D H E in a federally insured account. These funds may be used to purchase the unit. Funds may also be used for maintenance and upgrades if allowed and approved by the Board of Commissioners for the Tribe/T D H E.
- These funds may be refundable, nonrefundable, or a mixture depending on the M H O A and the Mutual help policy adopted by the Tribe/T D H E.
- Funds paid over the amount for conveyance will be returned to the participant.

Occupancy Agreement — NAHASDA Units

NAHASDA units are not Formula units, so the conveyance process is determined by the Tribe/TDHE at the time of acceptance in the program.

The terms should include the same info as the MHOA to let participants know all terms and conditions for continued occupancy and conveyance.

Terms may be significantly shorter than the 25 year conveyance period for Formula, depending on the plan established by the Tribe/TDHE.

Formula Current Assisted Stock

Formula Current Assisted Stock

24 C FR 1000.312 and 1000.314 define Formula Current Assisted Stock as housing units owned or operated under an Annual Contributions Contract.

Units included are Low Rent, Mutual Help, and Turnkey III units under management as of September 30, 1997 and all 1937 Act units in the pipeline when they become owned or operated by recipients and are under management as indicated in the Formula Response Form.

Formula Current Assisted Stock (FCAS)

- Formula Current Assisted Stock is one of the components used to determine each tribe's grant funding
- FCAS consists of housing units owned or operated as part of an Annual Contributions Contract.
- FCAS includes all Low Rent, Mutual Help, and Turnkey III units under management as of September 30, 1997

Formula Current Assisted Stock

- Part of the formula calculation along with need
- Formula Current Assisted Stock (FCAS) is used to determine the operating subsidy and the modernization allocation portions of the formula
- Operating Subsidy
 - Varies by type of unit
 - National per unit subsidy when the IHBG program started, adjusted for inflation and then adjusted to reflect local costs

Formula Current Assisted Stock

- National per unit subsidy:
 - Rental - \$2440
 - Mutual Help - \$582
 - Section 8 - \$3625
- Adjustment varies by location

Modernization Allocation

Method 1 —

- Subsidy amount is based on the national per unit modernization amount in 1996 of \$1974 and adjusted for inflation and local costs

Formula Current Assisted Stock

Method 2 (IHA owned or operated fewer than 250 public housing units on October 1, 1997)

- Average annual amount actually received on behalf of the tribe for fiscal year 1992-1997 under the assistance program authorized by section 14 of the 1937 Act is adjusted for local area costs
- Local Area Costs based on Total Development Costs adjusted by the National Weighted Average Total Development Costs

Formula Current Assisted Stock

A C C — A n n u a l C o n t r i b u t i o n s C o n t r a c t

The A n n u a l C o n t r i b u t i o n s C o n t r a c t is the contract between an Indian Housing Authority (I H A) and H U D where H U D agrees to fund the I H A and the I H A will manage the houses in accordance with H U D regulations.

Formula Current Assisted Stock

- Turnkey III units
- Lease Purchase similar to Mutual Help, but 30 year amortization period instead of 25 and participants were encouraged to obtain their own financing.
- This program was designed to encourage self-sufficiency through homeownership. The housing units in this program were owned by the IHA. During the period of tenancy, the family made "mortgage" payments based on their income and maintained their own property.
- In Turnkey III, the IHA compensated the family by crediting certain amounts budgeted for maintenance to family equity accounts. A non-routine maintenance reserve was also established for each unit. **When the family's income and equity accounts increased to the point where it could obtain permanent financing for the unit, or when the equity account equaled the unamortized debt and closing costs, ownership passed to the family.** Turnkey homes were amortized over a 30-year period.

Formula Current Assisted Stock

Reporting Date of Full Availability of Formula Current Assisted Stock

- Date of Full Availability is defined as the last day of the month in which substantially all the units in a housing development are available for occupancy.

Report includes:

- Project Number
- Number of Units
- Type of Units (Low Rent, Mutual Help, Turnkey III)
- Date of Full Availability

NOT Formula Current Assisted Stock

Units not part of FCAS include:

- Units built with NAHASDA, HOME, or ICDBG money
- Units built with BIA, State, or Tribal money
- Units built over the number specified in the original ACC for Projects with Date of Funding Availability after October 1, 1997
- Units used for non-dwelling purposes
- Units reported as conveyed, conveyance eligible, or demolished

Formula Current Assisted Stock — Converted Units

Why are units converted?

- Participant lived in a low rent unit for 15 years and would now like to purchase the unit as their primary residence
- Participant was in the Mutual Help program and no longer wants to be a homeowner
- Tribe/T D H E has vacant Mutual Help units but no participant interest. They do have a wait list for rentals
- Tribe/T D H E removes unit from residential stock and makes it a conference/training room

Formula Current Assisted Stock — Converted Units

Conversion of Formula Current Assisted Stock

N A H A S D A Guidance 98-12

- If units were converted prior to October 1, 1997 as evidenced by an amended Annual Contribution Contract (A C C), then those units will be counted as the type of unit to which they were converted for formula purposes. If units were converted on or after October 1, 1997, then those units will be counted as the type of unit specified in the original Annual Contribution Contract for formula purposes.
- Units converted after October 1, 1997 reported on Formula Response Form

Formula Current Assisted Stock — Converted Units

Conversion of Formula Current Assisted Stock

- Must report units converted prior to October 1, 1997 as the type of unit converted to either Low Rent, Mutual Help, or other non formula stock.
- Include:
 1. Project Number
 2. Number of units listed on the Formula Response Form by type
 3. Number of units after conversion by type
 4. Date of conversion
 5. Amended Annual Contribution Contract for each project



Determining Conveyance Eligibility and Reporting Requirements

Procedures to Convey a Unit

- Determine a unit is conveyance eligible
- Notify the Formula Center on the Formula Response Form to have the unit removed from FCAS
- Notify Homebuyer of the date the unit is eligible for conveyance
 - Assist Homebuyer with new responsibilities including insurance
- Review file and begin request for land documents
- Maintenance Review and Inspection
- Legal Review
- Board Review
- Finalize transfer to Homebuyer

Determining a Unit is Conveyance Eligible

- Unit amortization schedule will zero out in the upcoming fiscal year; or
- Unit will reach the 25 year Mutual Help conveyance period during the upcoming fiscal year; or
- Participant requests a payoff of the unit in the upcoming fiscal year
- Note — when the MEPA balance is equal to the amortized balance, the unit must be conveyed!

Conveyance of Formula Current Assisted Stock

Conveyance Procedures

- Resident Services is responsible for monitoring the Homebuyer's ledger information to determine when a Homebuyer is eligible for conveyance
- Resident Services gathers all necessary records pertaining to legal ownership and right to purchase such as:
 - M H O A
 - H o m e s i t e L e a s e
 - A n y l e g a l d o c u m e n t s i n t h e f i l e (p r o b a t e , e t c .)
 - A n y o t h e r r e l e v a n t d o c u m e n t s

Conveyance of Formula Current Assisted Stock

Conveyance Procedures

- Resident Services will get copies of Title Status Reports from the Tribe/T D H E or from BIA and maintains a record of all efforts and communication with other departments
- Resident Services will work with Maintenance to determine all open work orders have been completed and charged as required.
- Resident Services and Housing Director review file for completeness and forwards to attorney for review and bill of sale.
- Board reviews for completeness and approves conveyance by resolution as required by policy.

Conveyance of Formula Current Assisted Stock

Conveyance Procedures

- If the Tribe/T D H E conveys units with a balance due, the Tribe/T D H E may require a promissory note for the remaining balance. (0 outstanding charges, maintenance, etc)
- This option M U S T be included in the original M H O A and the Tribe/T D H E Mutual Help policies
- Resident Services will notify the Homebuyer in writing that the Bill of Sale and conveyance documents are ready for signature and acceptance.
- Housing Director or designee will meet with the Homebuyers to sign conveyance documents and answer any additional questions.
- The Housing Director will explain any additional information to the homebuyer, such as insurance coverage

Notifying the Homebuyer

- Notify that unit is conveyance eligible and expected date
- Explain the obligations they will have as a new homeowner, including responsibility for insurance coverage
- Explain the process and any documents and signatures that will be required
- If unit is not paid off, explain the options including a promissory note
- Provide any training needed, such as budgeting for future housing expenses

Conveyance of Formula Current Assisted Stock

Purchasing the Home

- The home may be purchased at any time after the date of occupancy if the homebuyer has met all the obligations of the agreement
- The home M U S T be purchased when the homebuyer's M E P A meets the purchase price plus any amounts required for closing and first year's insurance if required.
- The Tribe/T D H E may require a unit to be purchased as the end of the 25 year M H O A period, regardless of any unpaid charges
- Terms and conditions must be included in the M H O A and in the Tribe/T D H E policy

Conveyance of Formula Current Assisted Stock

24 CFR 1000.318 – Mutual Help and Turnkey III units shall no longer be considered Formula Current Assisted Stock (FCAS) when the housing entity no longer has the legal right to own, operate, or maintain the units, whether such right is lost by conveyance, demolition, or otherwise provided that:

1. Conveyance of each Mutual Help or Turnkey III unit occurs as soon as practicable after a unit becomes eligible for conveyance by the terms of the MHOA; and
2. The Indian Tribe, TDHE, or IHA actively enforce strict compliance by the homebuyer with the terms and conditions of the MHOA, including the requirements for full and timely payments.

Conveyance of Formula Current Assisted Stock

24 CFR 1000.318

- No Mutual Help or Turnkey III unit will be considered Formula Current Assisted Stock 24 months after the date the unit becomes eligible for conveyance unless the tribe, TDHE, or IHA provides evidence from a third party, such as a court or state or federal government agency, documenting that a legal impediment continues to prevent conveyance.
- Rental units shall continue to be included for formula purposes as long as they continue to be operated as low income rental units by the Tribe, TDHE, or IHA

Conveyance of Formula Current Assisted Stock

24 CFR 1000.318

- Expired Section 8 units shall continue as rental units and be included in the formula as long as they are operated as low income rental units as included in the Indian tribe's or TDHE's Formula Response Form
- Units demolished pursuant to a planned demolition may be considered eligible as FCAS if, after demolition is completed, the unit is rebuilt within one year. If the unit cannot be rebuilt within one year because of relative administrative capacities and other challenges faced by the recipient, the Tribe, TDHE, or IHA may request a one time one year extension

Conveyance of Formula Current Assisted Stock

24 CFR 1000.318

If unit is eligible and has NOT conveyed:

- No later than four months after the unit becomes eligible for conveyance, the Tribe, TDHE, or IHA creates a written plan of action which includes a description of specific legal impediments as well as specific, ongoing, and appropriate action for each applicable unit that have been taken and will be taken to resolve the legal impediments within a 24 month period AND
- The Tribe, TDHE, or IHA has carried out or is carrying out the written plan of action AND
- The Tribe, TDHE, or IHA has documented undertaking the plan of action

Conveyance of Formula Current Assisted Stock

Amount to be paid

- The price will be the amount shown on the Purchase Price Schedule for the month of purchase, plus any settlement costs required by M H O A
- Settlement Costs — Costs incidental to acquiring ownership, including:
 - Surveys
 - Inspections
 - Closing and recording costs
 - Insurance

Settlement costs will be paid by the homebuyer. M EPA funds may be used

Conveyance of Formula Current Assisted Stock

- Settlement date shall be mutually agreed by both parties. The Homebuyer will receive documents necessary to convey the Tribe/T D H E's rights, title, and interest in the unit to the Homebuyer, subject to any restrictions or covenants in the documents
- Restrictions may include:
 - Trust status of land
 - Approval of subsequent homebuyers
 - Tribe/T D H E first right of refusal to purchase unit if homebuyer chooses to sell



Documentation and Review Process



Tribe/TDHE File Review

Information for review includes:

- Homebuyer name
- Project number
- Unit number
- Amount in MEPA
- Amounts due to Tribe/TDHE
- Purchase price of the unit

Tribe/TDHE File Review

- Designated Housing Staff will review the Homebuyer ledger to determine which units are conveyance eligible.
 - Records documenting legal ownership and right to purchase such as:
 - Mutual Help Occupancy Agreement
 - Homesite Agreements
 - Other pertinent documents such as successorship agreement
- Staff will request land documents including:
 - Title Status Report
 - If the Homebuyer does not own 100% of the land interest, then:
 - Staff will contact BIA and Tribe/TDHE attorney to resolve

Tribe/TDHE File Review

- Review for Open Work Orders, including charges to Homebuyer
 - If Homebuyer was not notified of charges in a timely manner, Tribe/TDHE may be required to absorb the cost
 - If MEPA is available to pay the outstanding charges and allow for conveyance, then MEPA will be charged.
 - If there is not MEPA available, the Tribe/TDHE may enter into a payment agreement with the Homebuyer and convey
- Accounting Review :
 - Draft Bill of Sale prepared
 - Lease Cancellation (if applicable)
 - Forward information to Tribe/TDHE attorney

Legal Review

Legal Review :

- Tribe/T D H E attorney will review file for completeness
- Request additional information as necessary
- Prepare Board Resolution for Conveyance (if required by policy)
- Prepare Promissory Note (if required)

Board Approval

- W hen outstanding issues are resolved, all documents are presented to the Board/C ouncil for approval.
- Board/C ouncil will review and discuss and approve by Resolution if required by policy.
- T wo original sets of conveyance documents are signed by the C hairperson
- S igned conveyance documents are taken by staff for H omebuyer's signature

Final Acceptance

- Homebuyer is notified in writing that documents are ready for signature
- Housing Manager or other designated person will meet with Homebuyer for signing and acceptance.
- Homebuyer receives copies of conveyance documents

Recording the Conveyance Documents

Once Tribe and Homebuyer have signed:

- One set of original documents submitted to BIA for approval, if necessary
- Documents include a Transmittal Notice to confirm documents have been recorded
- If BIA raises any concerns about the documents, the Tribe/T D H E attorney will address and resolve

Effective Date of Conveyance

- If the unit is conveyed with a bill of sale that does not require BIA approval, Date of conveyance is the date both parties signed.
- If there is a lease cancellation or assignment, date of conveyance is the date of confirmation from BIA of the approval and recording of lease

Record Retention

Tribe/T D H E should keep:

- C o r r e s p o n d e n c e
- C o n v e y a n c e D o c u m e n t s
- P a y o f f I n f o r m a t i o n / P r o m i s s o r y N o t e

D o c u m e n t a t i o n w i l l b e k e p t i n a c c o r d a n c e w i t h t h e T r i b e / T D H E
R e c o r d R e t e n t i o n P o l i c y .



Reporting to the Formula Response Center

Reviewing the Formula Response Form

Conveyance Eligible –

- Units conveyed or eligible to be conveyed prior to October 1 of the calendar year immediately preceding the fiscal year for which funds are being provided are not eligible as FCAS beginning that year unless the tribe can demonstrate that the unit has not been conveyed for reasons beyond the tribe's control

Conveyance of Formula Current Assisted Stock

Reporting Conveyance

- All units that have been conveyed
- All units that are paid off but not conveyed.
 - Provide reasons that conveyance is beyond the tribe's control and steps taken to resolve the problem. Reasons may include:
 - Probate (provide date of death and status of the unit)
 - Disagreement among the heirs (Tribe must show it has made efforts to contact the heirs and reach an agreement)
 - BIA delays (Tribe must provide documentation of its efforts to resolve any delays including a record of the initial contact with BIA and follow up correspondence)

Reviewing the Formula Response Form

- Verify that all conveyed or conveyance eligible units are not included in the Formula Response Form
- Are any units that were converted from Mutual Help to rental or vice versa accurately reported?
- If conversion occurred after October 1, 1997, the unit is considered the same type of unit as originally designated
- Does the Form correctly record the Date of Full Availability for new units?
- Recipient must report corrections to HUD's data by August 1 of the current fiscal year

Conveyance of Formula Current Assisted Stock

- **NAHASDA Section 302(b) (1) (B) and (D)**

- If the unit is a homeownership unit not conveyed within 25 years of the date of full availability, the recipient shall not be considered to have lost the legal right to own, operate, or maintain the unit if the unit has not been conveyed to the homebuyer for reasons beyond the control of the recipient
- In this paragraph, “reasons beyond the control of the recipient” means, after making reasonable efforts, there remain —
 - Delays in obtaining or the absence of title status reports
 - Incorrect or inadequate legal descriptions or other legal documents necessary for conveyance
 - Clouds on the title due to probate or other court proceedings
 - Any other legal impediment

Reviewing the Formula Response Form

Where do you get the information?

- You will receive a copy of your Formula Response Form no later than June 1 of the preceding calendar year. Example – 2022 Formula Response Form will be sent to you no later than June 1, 2021.
- The Formula Response Form will have the units included and types of units included in the FCAS
- It is the responsibility of the Tribe/TDHE to verify the amounts included are correct.

Reviewing the Formula Response Form

Review accuracy of:

1. Unit Counts
2. Unit Types
3. Actual or expected dates of full availability

Date of Full Availability is defined as the last day of the month in which substantially all the units in a housing development are available for occupancy.

Verify counts by comparing the Formula Response to Tribe/T D H E's records of units. Any differences must be resolved!!

Reviewing the Formula Response Form

To verify the units reported:

- Does the Tribe/T D H E have a list of homes included as 1937 A ct units?
 - If so, use that list and verify that it is current
 - If not:
- Do you have insurance records to show the units you own?
- Do you have an inventory list of units owned?
- Do you have participant records to show who is included in the M utual H elp Program ?
- Do you have M utual H elp O ccupancy A greements for current units?

Reviewing the Formula Response Form

Corrections to Formula Current Assisted Stock

Must report

- Units not used as housing dwelling units
- Includes unoccupied units that are not being made available for occupancy through active repair/rehab, advertising, or wait list processing
- Units that have been demolished
- Differences between FCAS on the Formula Response and Tribe's records that are not due to conveyance or conversion

Reviewing the Formula Response Form

Corrections to Formula Current Assisted Stock

- Must report
 - Project number
 - Formula Response Form Units and Type
 - Correct Number of Units
 - Date Unit Changed/Last Occupied/Demolished
 - Reason for change
 - Date and reason for removal
 - To add units, you must provide an Annual Contribution Contract

Reviewing the Formula Response Form

- Recipient must have supporting documentation for any corrections
- Recipients should contact IHBG Formula Customer Service Center (1-800-410-8808) with any questions and corrections
- Failure to update/correct Formula Response Form will result in repayment of any overfunding
- Units that were not included will not be back funded
- Self Determination – it is the **recipient's** responsibility to verify and correct all information



Subsequent Homebuyers and Successor Homebuyers

Termination of Mutual Help Occupancy Agreement

- Failure of Homebuyer to comply with all terms and conditions of the Mutual Help Occupancy Agreement may result in termination of the M H O A and eviction of the homebuyer.
- In that instance, any M E P A funds necessary to rehabilitate the unit to a standard required for a new tenant will be maintained by the Tribe/T D H E. In accordance with the M H O A and policy, refunds of M E P A are at the discretion of the Tribe.

Conveyance of Formula Current Assisted Stock — Subsequent Owner

Initial purchase price and purchase price schedule for subsequent homebuyers

- The initial purchase price for a subsequent homebuyer is the current appraised value of the unit
- The purchase price schedule will be amortized over a 25 year period

Successor Homebuyer's price is the amount of the initial purchase price still unpaid under the original M H O A and purchase price schedule.

Conveyance of Formula Current Assisted Stock

Determining the purchase price

- If the homebuyer is the one who first occupies the unit under the M H O A , the purchase price is the price determined at the initial occupancy under the purchase price schedule
- Purchase Price Schedule is the statement of the initial purchase price which shows:
 - Monthly amortization of the initial purchase price over 25 years
 - States the monthly required payment
 - States that amortization will begin with the first day of the month following the date of occupancy

Conveyance of Formula Current Assisted Stock

Successor homebuyer assumes the original agreement

Subsequent homebuyer signs a new agreement

File Review and Document Requests

- M H O A or Lease to O w n A g r e e m e n t
- M E P A b a l a n c e
- H o m e s i t e L a n d L e a s e
- O u t s t a n d i n g m a i n t e n a n c e o r o t h e r b a l a n c e s
- T i t l e S t a t u s R e p o r t (u s u a l l y B I A)

Conveyance of Formula Current Assisted Stock

What about maintenance to the unit to be conveyed?

As long as the Tribe/T D H E owns the unit, the Tribe/T D H E is responsible for maintaining the unit. The Tribe/T D H E may charge maintenance costs to the Homebuyer, but the Tribe/T D H E is still responsible for the health and safety of that unit until that unit is conveyed.

Maintenance and Inspection



- Unit must meet Housing Standards at time of conveyance.
- Any issues that do not meet standards should be fixed prior to conveyance
- Issues should have been noted throughout the period of residence through regular required inspections
- If a unit needs repair to make it safe, the Tribe/T D H E can make the repair and charge the tenant through M E P A or a payback agreement
- If the repair is an insurable claim, Tribe/T D H E will file claim before unit is conveyed

Conveyance File Documents

- Homebuyer name
- M H O A with any additional restrictions (usually Tribe/T D H E has first right to property if sold)
- Project and unit number
- Amount in M EPA
- Purchase Price
- Any payback agreements in place
- Trust status of land
- Explanation for conveyance delays

Common Conveyance Issues

- BIA approval takes longer than planned
- Missing M H O A
- Conveyance should have been completed years ago
- Subsequent Homebuyer did not sign new M H O A
- Subsequent Homebuyer did not receive a new amortization schedule
- Homebuyer hasn't paid in the full balance at the end of the 25 year period



Determining Proceeds of Sale from Conveyance

Types of Income

Program Income – Restricted to housing related activities as defined in PIH 2022-28.

Proceeds of Sale – Answer 42A in the revision to the Transition Notice published in the Federal Register on April 1, 1999, (64 FR 15778), which states that, '***Proceeds can be used for any housing activity, community facility or economic development activity that benefits the community***'.

Non Program Income – Unrestricted.

PIH Notice 2022-28

- Defines Eligible Housing Activities for use of program income.
- Includes detail information on calculating program income and non program income as well as proceeds of sale. (Appendix B)
- Includes Schedule of Maximum Allowable Dwelling Construction and Equipment Costs per Unit as of October 1, 1997 (Appendix C - used in calculation)

PIH Notice 2022-28

Housing Related Activities (24 C F R 1000.10)

For the purposes of program income - any facility, community building, infrastructure, business, program, or activity, including any community development or economic development activity that:

PIH Notice 2022-28

Is determined by the Tribe/T D H E to be beneficial to providing housing in a Tribal Area; and would meet at least one of the following:

- A . Would help a Tribe/T D H E reduce the cost of construction of Indian housing
- B . Would make housing more affordable, energy efficient, accessible, or practicable in an Indian area
- C . Would otherwise advance the purposes of N A H A S D A

Proceeds of Sale of Rehabilitated Mutual Help Homeownership Program Units

Proceeds of sale from 1937 Housing Act units are not program income unless:

- IHBG funds used to rehabilitate a unit exceed 40% of DC&E costs for the unit.

However, when IHBG funds are used to rehabilitate MH units:

- Program Income from Proceeds of Sale is generated if IHBG funds used to rehabilitate a unit exceeds 40% of DC&E cost for the unit.
- Program Income from Proceeds of Sale is not realized until the time of conveyance. Proceeds of Sale (MEPA) at conveyance would be considered program income.

Proceeds of Sale of 1937 Act Mutual Help Homeownership Program Units

If a M H unit is either not rehabilitated or the N A H S D A funded rehabilitation is less than 40% of D C & E, the proceeds of sale, if any, may be used in accordance with Answer 42A in the revision to the Transition Notice published in the Federal Register on April 1, 1999, (64 FR 15778), which states that, *'Proceeds can be used for any housing activity, community facility or economic development activity that benefits the community'*.

Defining The Terms

Substantially Rehabilitated:

- *For program income purposes, 40% of the DC&E is used to set a limit for the amount considered Substantial Rehabilitation. Substantial Rehabilitation exceeds 40% of the unit DC&E and is used to calculate program income for that unit.*
- Dwelling Construction and Equipment Cost (DC&E) — hard costs of construction of a dwelling unit under the 1937 Act.
- This applies to 1937 Act rental units that have had substantial rehabilitation as well as Mutual Help units with substantial Rehabilitation.
- Appendix C of PIH Notice 2022-28 includes the DC&E amounts for Tribe/TDHE.

Substantial Rehabilitation

When the amount of IHBG funds used to rehab the unit exceeds the 40% level identified in Appendix C of PIH 2022-28.

Steps to determine substantially rehabilitated:

- Has there been IHBG money used to improve the unit?
- If yes, is it more than the 40% DC&E Threshold listed in PIH Notice 2022-28 Appendix C?
- If yes, then all money received is program income
- If no, use the 46% AEL to determine what part is **not** program income

Defining The Terms

Substantially Rehabilitated:

- This is why a Tribe/T D H E must track N A H A S D A funds used for rehab/modernization for your F C A S since 10/2/1997.
- Notice C P D -16-02 made some work typically defined in the past as maintenance into a modernization category. Care needs to be taken when determining what is maintenance and what is modernization.

Maintenance Vs Rehabilitation

Review of Notice: C P D -16-02



PIH 2022-28



Determining Program Income Or Proceeds of Sale Example

A Mutual Help Unit has a 40% D C & E amount of \$40,000. The unit is rehabbed in 2014 using IH B G funds of \$20,000. In 2020, the unit has another rehab of \$30,000 using IH B G funds. The unit conveys in 2021 for \$20,000. How much of that \$20,000 is program income?

Determining Program Income Or Proceeds of Sale Example

All Proceeds of Sale for this unit will be program income because the total IHBG funds of \$50,000 used for rehab are greater than the DC&E 40% limit of \$40,000.

Determining Program Income Or Proceeds of Sale Example

A Mutual Help unit has a 40% DC & E amount of \$40,000. The unit is rehabbed in 2014 using IHBG funds of \$20,000. In 2020, the unit has another rehab of \$30,000 using non IHBG funds. The unit conveys in 2021 for \$20,000. How much of that \$20,000 is program income?

Determining Program Income Or Proceeds of Sale Example

None of the proceeds of sale will be program income because the \$20,000 of IHBG funds used for rehab is less than the 40% DC&E amount of \$40,000.

Determining Program Income Or Proceeds of Sale Example

The Housing Authority has 5 2 bedroom units ready to convey. 3 of the 5 units have been substantially rehabbed using IHBG funds. The DC&E Limit is \$60,000 for a two bedroom with a 40% level of \$24,000. Payoff for each unit is \$45,000.

How much of the amount received is program income?


Determining Program Income Or Proceeds of Sale Example

3 units substantially rehabbed with payoff of 45000 = $45,000 \times 3 = \$135,000$
program income


2 units not substantially rehabbed with payoff of \$45,000 = $45,000 \times 2 = \$90,000$
proceeds of sale

Recap

- Determine a unit is eligible for conveyance in accordance with the M H O A
- Notify Homebuyer
- Notify Formula Center to remove from F C A S
- File Review
- Land Documentation
- Maintenance Review and Inspection
- Legal Review
- Board Review
- Convey!



Any Questions?
Thank you!



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