



No. 2002-11  
June 24, 2002

# PROGRAM GUIDANCE

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

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

**FROM:** Ted Key, Acting Deputy Assistant Secretary, PN

**TOPIC:** Required Policies and Statements Under NAHASDA

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

## **POLICIES REQUIRED UNDER NAHASDA**

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

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

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

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

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

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

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

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

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

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

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