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# PROGRAM GUIDANCE

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**PROGRAM:** Indian Community Development Block Grant

**FOR:** All Area Offices of Native American Programs

*RJ.B*

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

**TOPIC:** Indian Community Development Block Grant Imminent Threat Processing Procedures

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**Purpose:** This guidance supersedes Program Guidance 2006-05, by clarifying the procedures for processing Imminent Threat (IT) funding requests from tribes in accordance with 24 CFR 1003 Subpart E.

**Background:** Indian Community Development Block Grant (ICDBG) IT funds are intended to alleviate or remove imminent threats to health or safety. The problem to be addressed must be such that an emergency situation exists or would exist if the problem were not addressed. The grants provide a solution to problems of an urgent nature that were not evident at the time of the ICDBG single-purpose funding grant cycle, or that require immediate action.

The current grant ceiling for imminent threat requests is \$450,000 (\$900,000 for Presidentially declared disasters). The FEMA website should be used to verify Presidentially Declared disasters and is located at <http://www.fema.gov/news/disasters.fema>.

**IT Requests from a Tribe:** When contacted by a tribe or village that believes it has a problem that could be addressed by an IT grant, the Grants Management (GM) Specialist should request that the tribe or village submit information to address the requirements of §1003.400 (a) and (b). No preliminary or verbal commitments regarding eligibility for funding should be made by the Area Office of Native American Programs (AONAP). The criteria to be addressed are as follows:

- Independent verification from a third party (for example, Indian Health Service, Bureau of Indian Affairs) of the immediacy and urgency of the threat must be provided to the AONAP.

- The threat must not be recurring in nature, that is, it must represent a unique and unusual circumstance that has been clearly identified by the tribe or village. For example, damage caused by a lack of maintenance is “recurring” and not eligible for IT funding.
- The threat must impact an entire service area and not solely an individual family or household. For purposes of this grant, ONAP considers a housing project/development or an entire community to be a “service area,” allowing the funds to be used for “community” problems and needs.
- Applicants must demonstrate to HUD’s satisfaction that funds are not available from other tribal or federal sources to address the problem. The tribe or village must verify that federal or tribal agencies, which would normally provide assistance for such improvements, have no funds available, by providing a written statement to that effect. The tribe or village must also verify in writing that it has no available funds, including unobligated Indian Housing Block Grant (IHBG) funds, for this purpose. To determine IHBG obligation, HUD will follow PIH Notice 2002-24, *Performance Measures for the Obligation of Funds (NAHASDA)*. According to that Notice, a point of obligation is the time when a commitment is made to pay a particular sum of money for contract labor, supplies, materials or services. The following circumstances are cited as general examples of the point when funds are obligated.
  - Funds for contract labor, materials or services become obligated when the contract is signed by both parties;
  - Funds for force account labor are considered obligated when the physical activity begins, provided that the activities proceed at a continuous and reasonable rate;
  - Funds for normal operating activities, such as administration and maintenance, are considered obligated at the time they begin, provided these activities continue at a reasonable rate; and
  - Funds to be used for the provision of assistance directly to a family or individual are considered obligated when the written agreement between the recipient and family or individual for such assistance, for example, tenant-based rental assistance, is executed by both parties.

In addition to the above criteria for IT grants, if the application requests IT funds to remediate mold in housing units occupied by tribal/village members, the mold infestation must be related to design or construction deficiencies and be determined to be an imminent threat to public health and safety. This determination must be made in writing by independent verification of a third party (for example, the Indian Health Service, the Bureau of Indian Affairs) and not by a tribal agency.

**Processing an IT Application:** When the IT request is received, the GM Specialist must complete the IT Checklist (see attached) to determine if the information submitted by the tribe or village meets the requirements of §1003.400 (a) and (b). If additional information is needed, the GM Specialist should work with the tribe to complete the request. As soon as the AONAP determines that the information submitted by the tribe or village meets the requirements, the following information

should be sent to Deborah Lalancette, Director, Office of Grants Management:

- A memo sent from the AONAP Administrator identifying the tribe or village, the activities to be funded, the amount of ICDBG funds needed, and a recommendation for approval;
- The IT checklist signed by the AONAP GM Specialist, the GM Director and the AONAP Administrator; and
- A copy of the IT request from the tribe.

The AONAP Administrator will be contacted if any additional information is needed. If the IT request is approvable, HQ will earmark funds for the activity by requesting a fund assignment from PIH Budget. If the IT request is found to be unacceptable, a memorandum addressing concerns, deficiencies, and/or noncompliance with §1003.400 (a) and (b) will be sent to the Administrator. The AONAP should contact the tribe for additional information or to notify it of the disapproval of the request.

Once the fund assignment (Form HUD 185) is processed by PIH Budget and received by Headquarters, a copy will be forwarded to the AONAP. The GM Specialist shall request a congressional release through normal channels. Upon receiving the congressional release date, the GM Specialist may prepare a Letter to Proceed advising the tribe or village that its request has been approved. In this letter, the tribe or village should be informed of the requirement to submit an application. The application must include:

- Form SF-424, Application for Federal Assistance;
- A brief description of the proposed project;
- Form HUD-4123, Cost Summary;
- Form HUD-4125, Implementation Schedule; and
- Form HUD-2880, Applicant/Recipient Disclosure/Update Report.

Once a complete application is received and found acceptable, a form HUD-718, Funds Reservation and Contract Authority, should be prepared. The procedures to process this form and notification are the same as those used for Single Purpose grants.

A Grant Approval Letter and form HUD-52734, Funding Approval/Agreement, should be sent to the tribe or village. Fund reservation/obligation requirements are the same as those used for Single Purpose grants.

Please notify Headquarters if the tribe or village chooses not to execute a grant agreement, or fails to execute the grant agreement in a timely manner so that the fund assignment can be canceled.

**Additional IT Funds:** GM Specialists should advise any tribe in need of funding for an Imminent Threat, that the ICDBG regulations at §1003.305(d) allow a tribe to amend its existing ICDBG Single Purpose grant funds to address imminent threats to health and safety. A request shall be reviewed and approved in accordance with the requirements of Subpart E, Imminent Threat Grants, including the requirements outlined above, except all program amendments can be reviewed and approved at the AONAP. An amendment of a Single Purpose grant to address imminent threat activities does not

affect the ability of the tribe to apply for the full amount of an IT grant for the same activities. The approval of an amendment request is subject to the criteria specified in §1003.305(c).

**For Further Information:** Questions regarding processing of IT grant requests should be directed to Deborah Lalancette at 303-675-1625, or Yvonne Casanova, Grants Management Specialist, at 202-402-2777.

Attachment