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PROGRAM GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: Tribal Government Leaders and Tribally Designated Housing Entities

T.D.B.A

FROM: Rodger J. Boyd, Deputy Assistant Secretary, PN

TOPIC: Total Development Costs Questions and Answers

Purpose: This guidance addresses questions that have arisen since the implementation of Total Development Costs (TDC) for the Indian Housing Block Grant (IHBG) Program.

Background: On October 29, 2001, the revised regulation “Revision to Cost Limits for Native American Housing: Final Rule” (published in the Federal Register on September 28, 2001) became effective.

The regulation replaced HUD-established Dwelling Construction and Equipment Costs (DC&E) with a choice between HUD-established TDCs or standards established by the tribe or tribally designated housing entity (TDHE) based on its geographic area.

The most current TDCs were issued by PIH Notice 2003-16 on June 19, 2003. The notice contains the maximum TDC per unit for affordable housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA).

Questions and Answers:

Q1: What types of development and construction costs are included in TDCs?

A1: TDCs are a per-unit maximum on the amount of all funds that can be expended for a unit(s) or project. These costs include administration, planning, site acquisition, demolition, construction and/or equipment and financing (including payment of carrying charges) and any costs necessary for otherwise carrying out the development of the project, excluding off-site water and sewer.

Q2: How do TDCs apply to a tribe's jurisdiction or Indian Area?

A2: TDC limits are applicable in a tribe's Indian Area. Indian Area is defined in NAHASDA's March 12, 1998, regulation as the area within which an Indian tribe or TDHE operates affordable housing programs. Jurisdiction is considered to be the tribe's reservation or land base. The published TDC limits, however, are only calculated for a tribe's jurisdiction because part of the formula is based on zip codes. If you are renovating or building affordable housing outside of your jurisdiction but within your Indian area, as defined in the Indian Housing Plan, you must request TDCs for the location you are building in, and for the type of construction you are undertaking, from the Area Office of Native American Program (Area ONAP).

Q3: Are TDC limits applicable for off-site development costs both within and outside of the tribe's Indian Area?

A3: All off-site development costs are excluded from TDC calculations, regardless of whether the development is within the tribe's jurisdictional area or within their Indian area.

Q4: How do recipients determine which Cost Limit Notice to use for an IHBG Project?

A4: The recipient must use the cost limit that is effective on the date that funds are obligated for construction of dwelling units or structures. Funds are considered obligated when a contract/agreement for construction of dwelling units or structures is signed. Site acquisition and improvements costs incurred prior to obligations for construction must be included in the TDC in effect at the time of obligations for construction.

Q5: Is there an option to use DC&E limits for projects in which site acquisition/improvement costs were incurred prior to the October 29, 2001, Cost Limit rule?

A5: Yes, recipients may request approval from their Area ONAP to use DC&E limits contained in PIH Notice 2000-30 (the last DC&Es published) in lieu of TDC limits for projects in which site acquisition occurred prior to and funding obligations were made after October 29, 2001.

Q6: What if the acquisition or site improvement costs are unknown?

A6: If the acquisition or site improvement costs are unknown the property value can be determined either by appraisal or administrative site valuation. The site valuation must document the cost of the site in comparison with similar property in the surrounding area.

Q7: Are 1937 Housing Act funds subject to PIH Notice 2003-16?

A7: Funds initially provided under the 1937 Housing Act that were owned by, in possession, or under the control of the Indian housing authority for the tribe, and that were unobligated on the effective date of NAHASDA are considered assistance under NAHASDA (see section 210). They are subject to the TDCs in effect at the time the funds become obligated.

Q8: Are TDCs applicable to rehabilitation of dwelling/structures?

A8: The requirement at §1000.156 that affordable housing must be of moderate design applies to all forms of housing assisted under NAHASDA, including moderate or substantial rehabilitation of housing or buildings. §1000.158 provides two methods for determining whether or not housing assisted meets the moderate design criteria. The methods are 1) complying with TDCs periodically published by HUD, or 2) adoption of written affordable housing standards by the tribe. In addition, the Office of Management and Budget (OMB) Circular A-87, Attachment A, requires that a cost reasonableness test be applied to all expenditures of grant funds.

Based on this information, rehabilitation of housing must meet the following standards:

- Each housing unit must meet the moderate design criteria specified in §1000.156 when the rehabilitation is completed;
- The cost of rehabilitation may not exceed published TDC limits or must meet the tribe's adopted affordable housing standards; and
- The cost of rehabilitation must meet the cost reasonableness test of OMB Circular A-87.

The recipient must document its records verifying that each of these requirements were considered and met in completing moderate or substantial rehabilitation or reconstruction of affordable housing.

If you have any further questions, please contact your Area ONAP.