



Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook

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1.0 Introduction

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) dramatically changed HUD's Office of Native American Programs' (ONAP) relationship with Native Americans communities. It replaced a myriad of funding programs with a single Indian Housing Block Grant (IHBG) program. The IHBG is now HUD's preeminent program in Indian Country. IHBG recipients, whether tribal housing subdivisions, departments, or tribally designated housing entities (TDHEs), are now responsible for the design and implementation of housing assistance programs for their tribal members. IHBG recipients are also held accountable for their progress in obtaining self-defined housing goals and complying with NAHASDA's program requirements. Conversely, ONAP staff now monitor IHBG recipient progress by their ability to meet their housing assistance goals and comply with NAHASDA's program requirements.

The primary objectives of NAHASDA are:

- To assist and promote affordable housing activities to develop, maintain and operate housing in a safe and healthy environment on Indian reservations and in other Indian areas for occupancy by low-income families.
- To ensure better access to private mortgage markets for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members.
- To coordinate activities to provide housing for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members.
- To plan for and integrate infrastructure resources for Indian tribes with housing development for Indian tribes.
- To promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities.

The Indian Housing Block Grant (IHBG) program is formula driven where eligible recipients of funding receive an equitable share of annual appropriations made by the Congress. IHBG recipients must have the administrative capacity to undertake affordable housing activities, including the systems of internal control necessary to administer these activities effectively without fraud, waste, or mismanagement.

Under NAHASDA's implementing regulations, found at 24 CFR Part 1000.502, IHBG recipients are responsible for monitoring grant activities to ensure compliance with applicable federal requirements and performance goals under their Indian Housing Plan. IHBG recipients are responsible for preparing, at least annually:

- A performance report providing an assessment of IHBG program progress and goal attainment under the IHP
- A compliance assessment with NAHASDA's requirements, including an on-site inspection of NAHASDA-assisted housing

- An audit consistent with the provisions of the Single Audit Act and OMB Circular A-133.

This guidebook provides IHBG recipients with guidance on conducting self-monitoring compliance assessments as required under NAHASDA's implementing regulations. Moreover, the material presented here goes beyond providing mere guidance on complying with NAHASDA's applicable requirements through a self-monitoring process. It includes suggestions and recommended management practices to make your IHBG assisted activities successful and sustainable. Monitoring how well your organization operates, how it responds to changing housing needs, and how it assesses and manages risk, will increase your organization's capacity to achieve NAHASDA's objectives with demonstrable results.

Self-monitoring activates the tribal self-determination framework envisioned under NAHASDA. The Act's guiding principles recognize the federal responsibility to provide financial assistance to Indian tribes to improve their housing conditions and recognizes the right of Indian self-determination and tribal self-governance by making such assistance available directly to Indian tribes or tribally designated entities. Within this relationship, recipients of assistance are expected to be accountable for their stewardship of NAHASDA resources. Self-monitoring strengthens Indian self-determination by demonstrating a willingness to be accountable for performance and to take proactive steps to address any shortcomings.

A self-monitoring system assists IHBG recipients to identify weak management practices that may lead to later consequences that could lessen the ability of the organization to provide affordable housing. Self-monitoring builds organization capacity by learning from mistakes and successes to improve the way NAHASDA-assisted housing activities and programs operate.

2.0 How to Use This Guidebook

The **Self-Monitoring Compliance Assessment Guidebook** covers the subject of monitoring your adherence to NAHASDA's programmatic and regulatory requirements from a practical, hands-on perspective. It presents the material so that someone who has never participated in a self-monitoring process will be able to do so with confidence. Even those IHBG recipients with internal audit or self-monitoring experience will find a great deal of helpful information.

A top priority as we developed the **Self-Monitoring Compliance Assessment Guidebook** was to make it useful and relevant to readers at all levels of organizational management experience. Nevertheless, your own professional experience, familiarity with administering federal block grant programs, and role within the IHBG-recipient organization will determine how you can best use this guidance. To help you determine how your organization might use this guidebook, we have included descriptions and suggestions on how IHBG recipients in different situations might approach and benefit from the self-monitoring guidance.

If you are a relatively small IHBG recipient, especially one with just one or two programs, this guidebook will be most valuable to senior staff, especially the Executive Director (or equivalent), the senior financial manager, and board members. If you are a larger IHBG recipient with multiple programs and sources of income, this guidebook will also be useful to senior staff and departmental or divisional managers. Use it to educate board members, especially new ones, on the board's role in overseeing the self-monitoring process. Use it to inform tribal council members of their monitoring responsibilities as contemplated by NAHASDA. Additionally, this guidebook will be an excellent tool for educating newly hired staff on the breadth of NAHASDA's programmatic and regulatory requirements.

You can use this guidebook to establish your self-monitoring process from beginning to end. However, the material covered in this guidebook is not intended as a "one-size fits all" model. Rather, IHBG recipients should feel free to emphasize monitoring in one topical area over another depending on their assisted housing activities. Moreover, the compliance checklists offer suggested questions for determining your adherence to the program requirements. Not all questions will be pertinent to your situation. In addition, there may be activities you engage in that are not covered by the checklist questions. You have the flexibility to tailor the compliance questions to fit your organization's specific needs.

2.1 Checklists, Tools and Templates

This guidebook contains a number of checklists, tools and templates intended for your use. The templates provide suggested models for crafting documents, policies or other information. The checklists provide detailed questions related to specific requirements that will allow you to assess your adherence to the standards. These checklists provide questions with "Yes," "No," "Not Applicable," and "Recommendations/Notes" response fields.

There will be instances where it may be difficult to provide "yes" or "no" responses. Your response, in practice, may be "usually" or "sometimes." In these instances, use your best judgment in determining the degree and frequency of adherence to the

requirement when deciding whether to indicate a “yes” or “no” response. The recommendations/notes field is intended for you to comment on suggested approaches to comply with that standard, and the applicable requirement may vary by the size and type of your organization. Recommendations should lead to the development of a **Recommendations for Improvement Plan** to remedy significant compliance deficiencies. Conversely, recommendations may identify exemplary approaches or practices that you will want to share within your organization or other tribal housing organizations. Additionally, you can insert notes or other comments that help qualify your “yes” or “no” response. You should make copies of these checklists for future reference and reuse.

ONAP intends to provide IHBG recipients with annual self-monitoring guidance and compliance checklists that will reflect changes to regulatory requirements, identification of IHBG recipient best practices, or emphasize management areas where our monitoring indicates that recipients need to pay increased attention. You should plan on keeping this guidebook and completed checklist for your records as compliance assessment source documentation.

2.2 Topics Covered

This guidebook is structured into four topical parts that address the following general questions:

1. Why should we conduct self-monitoring?
2. How should we conduct self-monitoring compliance assessments?
3. What is the relationship of the self-monitoring compliance assessment to the Annual Performance Report?
4. What are the statutory and regulatory requirements with which we must comply?

Why should we conduct self-monitoring?

- Chapter 3 – Creating the Management Control Environment, provides an overview of developing an organizational framework to control and manage risk.

How should we conduct self-monitoring compliance assessments?

- Chapter 4 – Monitoring Roles and Responsibilities, provides guidance for establishing monitoring roles and responsibilities for IHBG recipients, subrecipients, and ONAP.
- Chapter 5 – Implementing the Self-Monitoring Process, discusses approaches to conducting the self-monitoring compliance assessment, developing a Recommendations for Improvement Plan, and reporting on self-monitoring assessments through the Annual Performance Report (APR).

What is the relationship of the self-monitoring compliance assessment to the Annual Performance Report?

- Chapter 6 – APR Development and IHP Monitoring, provides guidance on assessing compliance with your Indian Housing Plan (IHP).

What are the requirements with which we must comply?

- Chapter 7 – Organizational Control Environment, suggests effective management and organizational control practices.
- Chapter 8 – Resident Eligibility and Service Standards, provides guidance on adhering to NAHASDA assisted housing program requirements related to resident eligibility and certifications of housing-related standards.
- Chapter 9 – Fiscal and Financial Management, provides guidance to comply with NAHASDA's financial reporting requirements.
- Chapter 10 – Procurement and Contract Administration provides guidance on adhering to Federal procurement and contract administration standards.
- Chapter 11 – Labor Standards and Construction Management, discusses applicable Federal labor standard requirements and suggested practices for construction management.
- Chapter 12 – Environmental Review, provides guidance on complying with Federal environmental laws, related authorities, and regulations applicable to NAHASDA assisted housing programs.

If you have questions about how to demonstrate compliance with these requirements unique to your organization's situation, please contact your Area ONAP office for assistance.

For detailed information on NAHASDA, view the NAHASDA home page through the Internet at www.codetalk.us. Throughout this guidebook, references are made to HUD publications or notices. These references can be accessed through the Internet at: www.hudclips.org.

3.0 Creating the Management Control Framework

This chapter provides an overview of developing an organizational framework to achieve program and financial results, assess and manage risks, and safeguard the integrity of IHBG-assisted programs. This chapter includes the following topic:

- Internal Controls

3.1. Introductory Overview

What does “control” mean? It means anything that helps people achieve the objectives of their organization. Management or internal controls are intended to provide reasonable assurance that program goals and objectives are met; resources are adequately safeguarded and efficiently used; reliable data are obtained, maintained and fairly disclosed in reports; and policies and regulations are complied with. Control activities are the policies and procedures that help ensure that management directives are carried out. These activities occur throughout an IHBG recipient housing entity, at all levels and in all functions.

3.2 Internal Controls

Control documents, such as this NAHASDA **Self-Monitoring Compliance Assessment Guidebook**, are tools to help IHBG recipients achieve program and financial results as well as to safeguard the integrity of their programs. The importance of controls is addressed in many statutes and documents. *OMB Circular No. A-133* defines management controls as the organization, policies, and procedures used to reasonably ensure that “(i) programs achieve their intended results; (ii) resources are used consistent with agency mission; (iii) programs and resources are protected from waste, fraud, and mismanagement; (iv) laws and regulations are followed; and (v) reliable and timely information is obtained, maintained, reported and used for decision making.”

The basic objectives of internal controls fall into the following categories:

- Effectiveness and efficiency of operations
- Reliability of financial reporting
- Compliance with applicable laws and regulations.

Internal controls consist of five interrelated components, which are derived from the way management runs an organization and are integrated with the management process. The components are:

- **Control Environment:** Includes the integrity, ethical values, organization structure, and reporting relationships of the people and the environment in which they operate.

The control environment, as established by the organization’s administration, sets the tone of and influences the control awareness of its staff. Similarly, leaders of each department, or functional area, set up a local control environment. This is the foundation for all other components of internal control, providing discipline and structure. Chapter 7,

Organizational Control Environment, provides further guidance on effective management and organizational control practices for IHBG recipients.

- **Risk Assessment:** The entity must be aware of and deal with the risks it faces: it must establish mechanisms to identify, analyze, and manage these risks.

Every IHBG recipient faces a variety of risks from external or internal sources that must be assessed. A prerequisite for assessing these risks is to understand the relationships among your IHP five-year goals and one-year objectives. Risk assessment is the identification and analysis of relevant risks to achieve IHP objectives. This process forms the basis for deciding how the risks should be managed.

- **Control Activities:** Control policies and procedures must be established and executed to help ensure that the actions identified by management as necessary to address risks to the achievement of the entity's objectives are effectively carried out.

Control activities usually involve two elements: a policy establishing what should be done and procedures to effect the policy. Policies can be communicated orally or established formally in writing. Unwritten policies can be effective mainly in smaller organizations where the policy is a long-standing and well-understood practice. All policies must be implemented thoughtfully, conscientiously, and consistently.

- **Information and Communication:** This enables the entity's staff to capture and exchange the information needed to conduct, manage, and control its operations.

Pertinent information must be identified, captured, and communicated to appropriate personnel on a timely basis through both manual and computerized information systems. Information systems produce reports containing operational, financial, and compliance-related information and the quality of this information influences the quality of management decision-making.

- **Self-Monitoring:** The entire process must be monitored, and modifications made as necessary. This ensures that the system can change as conditions warrant.

Ongoing monitoring occurs in the course of operations. It includes regular management and supervisory activities, and other actions personnel take in performing their duties. The scope and frequency of self-monitoring depends primarily on an assessment of risks and the effectiveness of ongoing monitoring procedures. This guidebook provides a comprehensive approach for IHBG recipients to use in monitoring adherence with NAHASDA requirements and assessing the strength of internal control practices.

An IHBG recipient's environment reflects the organization's philosophy, attitude, and demonstrated commitment to establishing a positive atmosphere for the implementation and execution of well-controlled business operations. A control structure which provides for clear delegation of authority and assignment of responsibility facilitates the execution of Executive Director/Board of Directors or Commissioners relationships, the development of reliable and relevant feedback, and the ability of outside stakeholders (i.e. tenants, homebuyers) to have faith in the day-to-day operations of the housing entity.



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The proper stewardship of NAHASDA resources is a fundamental responsibility of tribal council, tribal housing subdivisions or departments, and TDHE board members and staff. IHBG recipient employees must ensure that housing resources are used efficiently and effectively to achieve intended program results. Resources used must be consistent with the recipient's mission, in compliance with laws and regulations, and employed with minimal potential for waste, fraud, and mismanagement.

4.0 Monitoring Roles and Responsibilities

This chapter provides guidelines for establishing monitoring roles and responsibilities for IHBG recipients, subrecipients, and ONAP. It includes the following topics:

- Annual Performance Report and Compliance Assessment requirements
- Statutory and regulatory requirements for tribes and TDHEs
- Statutory and regulatory requirements for subrecipients
- ONAP monitoring
- ONAP review of self-monitoring compliance assessments

Key Terms

- Annual Performance Reports (APR)
- Self-Monitoring Compliance Assessment (SM)
- Subrecipient Monitoring

4.1 Introductory Overview

IHBG recipients may be tribes or tribally-designated housing entities (TDHE). IHBG recipients that are TDHEs are required to report to and be monitored by the beneficiary tribes. Every recipient of IHBG funding is responsible for monitoring its grant activities, monitoring any subrecipients, ensuring compliance with applicable federal requirements, and monitoring its five-year and one-year goals and objectives under the IHP. Recipient self-monitoring is not a regulatory requirement for non-IHBG programs, however, it is beneficial and recommended for all organizations to identify and confirm good practices and where improvements can be made.

4.2 Annual Performance Reporting Requirements

IHBG recipients are required to review and report on the progress made on their IHP to their constituents and to HUD (NAHASDA §404) once a year, within 60 days of the end of their program year. The report they submit to HUD is the Annual Performance Report (APR). HUD-ONAP must review and comment on all APRs within 60 days of receipt (24 CFR Part 1000.521). ONAP may request additional information from the recipient during that 60-day review and comment period.

4.3 Self-Monitoring Compliance Assessment 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 are required elements of the Annual Performance Report. IHBG recipients, therefore, should incorporate sufficient time in their business planning cycles to complete the self-monitoring guidance prior to the end of their program year.

4.4 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 goals under the IHP. Under 24 CFR Part 1000.502, the tribe is responsible for preparing and submitting to HUD:

- An Annual Performance Report (APR) within 60 days of the end of the program year
- Descriptions of self-monitoring compliance assessment (SM) submitted with Part E-Monitoring of the APR
- An OMB Circular A-133 Single Audit Act audit within 9 months after the end of the program year, if required

IHBG tribal recipients may request assistance from other tribes and/or TDHEs to help meet their performance goals 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 with completing the APR, SM and Audit reports are allowable under the IHBG program.

4.5 IHBG Tribally-Designated Housing Entity (TDHE) 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 Annual Performance Report (APR) within 60 days of the end of the program year
- Description of their self-monitoring compliance assessment (SM) submitted with Part E-Monitoring of the APR
- An OMB Circular A-133 Single Audit Act audit within 9 months after the end of the program year, if required

The TDHE must provide the tribe, as the grant beneficiary, with a copy of self-monitoring assessments and annual performance reports 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 where housing authorities were not perceived as accountable to the tribe for their management of housing assistance programs.

Tribal councils now have a more affirmative responsibility to exercise their oversight responsibilities over tribally designated entities, such as 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 ex-officio member.

4.6 Subrecipient Monitoring

Within the IHBG program, subrecipients may be private, nonprofit, or other tribally-chartered entities that have a contract, memorandum of agreement, or memorandum of understanding with a recipient to deliver specified goods or services. IHBG recipients are required to monitor all of their subrecipients to ensure compliance with written contracts or memoranda.

In general, subrecipients must comply with the same statutory and regulatory requirements as IHBG recipients. Tribal beneficiaries and/or TDHEs should seek to institute subrecipient monitoring procedures that would accompany contracts or memoranda. It is good practice to incorporate these monitoring requirements into subrecipient contracts and agreements and require that subrecipients periodically report on their adherence to applicable regulations. Moreover, IHBG recipients should perform on-site visits with their subrecipients to review any issues of apparent noncompliance.

4.7 ONAP Monitoring

The APR, SM, and Audit monitoring process is intended to help ONAP fulfill its public trust responsibilities by ensuring that HUD grants are implemented in a timely manner and in compliance with all applicable requirements. Specific objectives of the monitoring process include:

- Collecting data from grant recipients that will help HUD assess recipient risk based on more complete information on performance
- Validating and/or refining technical assistance needs as defined in the risk assessment process
- Identifying additional technical assistance needs
- Identifying and initiating HUD actions that will reinforce, improve, supplement, and correct recipient performance
- Identifying and analyzing patterns of recipient activity that indicate superior, satisfactory, and deficient performance, which then can be used to improve HUD programs and increase overall recipient success rates.

These monitoring guidelines are based on and adhere to the monitoring standards and procedures that govern that program. For additional information on the IHBG monitoring process, consult 24 CFR Parts 1000.522, 1000.526, and 1000.528.

ONAP is responsible for creating a draft report and a final report for each recipient monitored. The monitoring report is an objective assessment of recipient performance that highlights both the strengths and weaknesses in the recipient's practices and programs. In addition to identifying findings and recommending corrective actions, the report may identify concerns and offer suggestions to improve performance. ONAP may also refer concerns to the grant beneficiary for monitoring and corrective action as part of its monitoring responsibility under NAHASDA.

4.8 ONAP Review of Self-Monitoring Compliance Assessments

As part of its ongoing monitoring process, ONAP Grants Evaluation Program staff will conduct summary reviews of IHBG recipient self-monitoring practices and results as reported in the APR. While ONAP does not require IHBG recipients to submit compliance assessment checklists, all checklists and supporting documentation should be maintained for on-site review, if deemed necessary. Moreover, Area ONAP offices may require recipients designated as high-risk, or where performance deficiencies or non-compliance issues have been identified, to prepare and submit self-monitoring compliance assessments as part of a more intensive monitoring strategy. ONAP staff will assess whether the recipient:

- Has adopted a self-monitoring policy as part of the organization's policies and procedures
- Has conducted self-monitoring on a consistent and reoccurring basis
- Conducted the self-monitoring assessment in an objective arms-length relationship with the assessor
- Has submitted self-monitoring summary results with the program year APR
- Has made available to the public the results of its self-monitoring assessments
- Incorporated deficiencies identified in the self-monitoring evaluation in recommendations for improvement to be completed during the following program year
- Has made progress from year-to-year in addressing control deficiencies identified in the self-monitoring assessments.

Along with the APR and Audit reports, self-monitoring assessments will help IHBG recipients and ONAP in identifying both best practices and technical assistance and training needs. In many cases, where program performance issues arise in an APR or financial management deficiencies are found in an audit report, the problems can be traced back to the topics covered in this self-monitoring guidebook.

5.0 Implementing the Self-Monitoring Process

This Chapter provides guidance on conducting the self-monitoring process for IHBG recipients. It includes the following topics:

- Selecting areas for self-monitoring assessments
- Approaches to conducting a self-monitoring assessments
- Frequency of conducting self-monitoring assessments
- Developing a Recommendations for Improvement Plan
- Reporting on self-monitoring assessments through the APR

Key Terms

- Self-Monitoring Compliance Assessment
- Recommendations for Improvement

Tools and Templates

- Recommendations for Improvement Plan Template

How will this chapter help you?

This chapter will help identify relevant areas for self-monitoring and suggests three approaches to conducting the compliance assessment. It also discusses how to use the assessment findings to develop recommendations for improvement. Finally, this section provides guidance on how to report on compliance assessment activities on the APR.

5.1 Introductory Overview

Not all areas included in this self-monitoring guide will be relevant to each IHBG recipient. In instances where the recipient receives a minimal amount of IHBG funds, resource constraints may inhibit the recipient's ability to undertake the full scope of monitoring activities. Conversely, where recipients receive significant amounts of IHBG funds and undertake many housing assistance program activities, they should consider the full breadth and scope of topical areas covered in this guidebook.

5.2 Identifying Areas for Self-Monitoring

Whether you receive a minimal or large amount of IHBG funds, compliance with IHP monitoring, resident eligibility and service standards, and fiscal and financial management requirements have predominant importance. Regardless of size, all recipients should undertake an assessment of their Indian Housing Plan compliance, resident housing certifications, and financial management controls at least once a year. The compliance assessment checklists found in Chapter 6 – APR Development and IHP Monitoring, Chapter 8 – Resident Eligibility and Service Standards, and in Chapter 9 – Fiscal and Financial Management complement the data to the financial information reported in Table II (Uses of Funds) in your APR.

If you engage in a material level of procurement activities in a program year, you should review the topics covered in Chapter 10 – Procurement and Contract Administration, to assess your adherence to requirements applicable to your procurement circumstances. Similarly, if you are undertaking new construction, housing rehabilitation activities, or site acquisition and development projects, you should review the topics and checklists provided in Chapter 11 – Labor Standards and Construction Management, and Chapter 12 – Environmental Review, to evaluate your compliance with applicable practices and standards. In any event, it is recommended that you test a sample of instances or transactions to assess whether a procurement action, for example, adheres to the required procedures provided in these three chapters.

TDHEs and large tribal housing subdivisions or departments should begin their self-monitoring practices by undertaking a review of their organizational control environment as suggested in Chapter 7 – Organizational Control Environment. Additionally, these entities should anticipate using all the topics provided in this guidebook to assess their compliance with applicable statutes and regulations.

5.3 Approaches to Conducting the Self-Monitoring Assessments

It is critical to conduct your self-monitoring with an objective and impartial perspective. Assigning individuals within your organization that perform day-to-day housing program activities to perform the assessment may yield subjective or biased responses to compliance questions. This may be especially the case for small IHBG recipients with few staff. Conversely, large IHBG recipients with significant numbers of positions will be able to identify individuals within the organization who could assume an air of impartiality in performing an assessment. Regardless of size, the key is not to review one's own work. For example, an individual whose duties focus on land recordation might be a candidate for doing the assessment of financial practices or a financial manager could assess environmental reviews. All other things equal, it is preferably to establish an arms-length relationship between the tribal housing subdivision or TDHE and the self-monitoring assessor.

For TDHE self-monitoring activities, one approach is to engage an individual with the tribal government who has familiarity with internal audit concepts, such as personnel affiliated with the treasurer's office or tribal administrator. Another approach is to solicit the assistance of individuals associated with other tribally designated entities, such as health care clinics, hospitals, or colleges to perform the self-monitoring reviews. Finally, TDHE board members such as the treasurer or secretary should be considered for this role by virtue of their knowledge of the organization's objectives. However, they may have less familiarity with day-to-day business practices.

Tribal recipients should also consider retaining the services of an independent auditor to conduct self-monitoring activities as an additional service in support of their audit engagements. Additionally, employing the services of another tribe or inter-tribal organization would constitute an arms-length relationship.

Conducting the self-monitoring assessments can be achieved through:

- Management interviews
- Facilitated sessions

- Standard operating procedure reviews

Management Interviews. An assessor can complete the self-monitoring checklists by conducting one-on-one interviews with tribal housing program or TDHE managers to obtain their insights into how they adhere to specific compliance questions. Interviews with the organization's executive director, deputy directors, divisional or departmental managers would provide sufficient corroborating information for the assessor to exercise his/her judgment in determining the consistency and degree of adherence to internal controls and applicable regulatory requirements.

Facilitated Sessions. Another approach to undertaking the self-monitoring assessment is to convene a working session of IHBG recipient managers and program and/or administrative staff facilitated by an independent third-party to talk through the monitoring checklist questions as a group. Known as a self-assessment workshop, this approach has the added benefit of gaining everyone's input with open and frank communication. Moreover, individuals who perform a specific administrative task understand that task better than anyone else and usually have thoughtful ideas for improving the way "things get done." The role of the facilitator is to lead the group's discussion and bring the group to consensus on the appropriate response to compliance questions.

Standard Operating Procedure Review. A third approach to undertaking a self-monitoring evaluation is to review the organization's standard operating procedures—codes of conduct, personnel policies, financial management, procurement, and construction contract policies and procedures to assess the existence and use of internal controls. To assess how well staff adhere to the established procedures, an assessor can select a random sample of transaction files and determine whether these cases comply with the housing entity's customary operating practices. If all or most of the case files conform with the standard operating procedures, then the assessor can reasonably reach a judgment on the entity's consistency in adhering to applicable requirements.

5.4 Frequency of Self-Monitoring Activities

NAHASDA's implementing regulations require IHBG recipients to prepare a self-monitoring compliance assessment at least annually. In practice, it will be beneficial for most IHBG recipients to conduct self-monitoring on a more frequent basis. Larger IHBG recipients may consider reviewing specific topical areas on a quarterly basis before proceeding with projected program activities. For example, if a TDHE plans to release construction bids during the second or third quarter of their program year, conducting an evaluation of the entity's labor standard and construction procedures during the first quarter would allow time to remedy any practices not in compliance with self-monitoring checklist standards.

As a starting point, IHBG recipients should attempt to conduct their first self-monitoring assessment at the end of the first six months of their program or fiscal year. Compliance shortcomings identified can begin to be addressed throughout the remainder of the year. At the end of the year, a second self-monitoring assessment can be performed to indicate how well progress has been made on fixing procedural deficiencies and what issues continue to remain outstanding.

5.5 Developing a Recommendations for Improvement Plan

Based on the results of completing the compliance checklists, IHBG recipients should concentrate on improving operational performance and strengthening management practices in those compliance areas found to be at greatest risk for control deficiencies. It is not expected that IHBG recipients will be able to address any and all compliance shortcomings in a single year. Rather, the areas indicated by the self-monitoring assessments with the greatest number of negative responses to checklist questions should be the first candidates for developing a Recommendations for Improvement Plan.

A Recommendations for Improvement Plan is a tool by which the IHBG recipient can document compliance problems and plan a course of action to remedy the deficiencies. This plan focuses on a single topical area—procurement, for example. If the self-monitoring assessment indicates a lack of adherence to procurement regulations and procedures, the IHBG recipient should identify the problem(s), the reason(s) or cause(s) for the lack of control, budget implications, and a detailed strategy or plan of action to come into compliance within a specific timeframe. A Recommendations for Improvement Plan Template is provided at the end of this chapter.

5.6 Reporting on Self-Monitoring Assessments through the APR

IHBG recipients should report on their self-monitoring activities on Part E – Monitoring, of their APR. Section 1 of Part E requires responses to the following three descriptions:

- Describe how and the frequency in which you monitored your activities
- Describe the results of your monitoring including any improvements/corrections to your operations to comply with §403 (b)
- Describe how the results of your monitoring activities were made available to the public

ONAP does not require the submission of self-monitoring compliance assessment checklists with the APR. Rather, IHBG recipients should provide summary information on:

- How they conducted the self-monitoring assessment, who was the self-monitoring assessor, how was an arms-length relationship established, and how often were the assessments completed
- Their overall adherence to applicable compliance topics, identification of areas of significant compliance deficiencies, and corresponding Recommendations for Improvement Plan strategies to enhance management practices
- Steps taken to make the self-monitoring results accessible to the public

Whether the IHBG recipient is a TDHE or tribal housing subdivision or department, Section 2 of Part E, Grant Beneficiary Monitoring requires the tribe, as the IHBG beneficiary to:

- Describe the tribe's response to the recipient's periodic monitoring. If the recipient is a TDHE, describe the efforts the tribe has taken to monitor the TDHE's programmatic and compliance with NAHASDA and its implementation of requirements of the IHP. You should also provide the comments made by the tribe in its review of the APR.

Tribal governments, as the grant beneficiary, have an affirmative duty to periodically monitor an IHBG recipient's progress made towards implementing the IHP and their adherence to NAHASDA's implementing regulations.



Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook

Recommendations for Improvement Plan Template

Compliance Assessment Area: _____

For Program (fiscal) Year: _____

| Compliance Deficiencies | Improvement Recommendations | Action Steps | Support Needed | Budget Implication(s) | Target Date(s) |
|-------------------------|-----------------------------|--------------|----------------|-----------------------|----------------|
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6.0 APR Development Process and IHP Monitoring

This chapter provides IHBG recipients with guidelines to assess their compliance with their five-year Indian Housing Plans. It includes the following topics:

- Statutory and regulatory requirements
- ONAP review process
- APR development process

Key Terms

- Five-year and one-year goals and objectives
- Required APR elements

6.1 Introductory Overview

Assessing progress on the Indian Housing Plan (IHP) is one of the self-monitoring components required by NAHASDA. Monitoring how well you are meeting your goals and objectives also helps you determine where your organization is headed and how to redirect it in order to achieve its stated mission.

What kinds of questions does this self-monitoring activity answer?

- Are we on track to accomplish our IHP goals and objectives?
- Are we complying with the statutory and regulatory requirements that will enable us to continue to receive IHBG funds?

How will this chapter help you?

This section will provide guidance to help you better complete the Annual Performance Report (APR). It will also help you assess your organization's performance and use this data to improve the delivery of your housing assistance programs. This chapter will guide you in monitoring your progress in achieving your IHP objectives more consistently.

6.2 Statutory and Regulatory Requirements

NAHASDA §404 and its implementing regulations require recipients of IHBG funds to review progress made in carrying out the activities described in their Indian Housing Plans (IHPs). Annual Performance Reports must be submitted within 60 days of the end of the recipient's program year. Submittal of the APR is a condition for compliance under NAHASDA.

It's the Law

"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 onsite inspection of housing to determine compliance with applicable requirements."

§ 403(b) of NAHASDA

NAHASDA's implementing regulations at 24 CFR Part 1000.502 state: "The recipient is responsible for monitoring grant activities, ensuring compliance with applicable Federal requirements and monitoring performance goals under the IHP. ...The recipient's monitoring should also include an evaluation of the recipient's performance in accordance with performance objectives and measures."

6.3 HUD Review Process

Once the recipient submits the APR, ONAP will review and provide comments within 60 days from receipt. ONAP Grants Evaluation staff respond to APRs in the form of one of two types of letters. The first is an APR Review No-comments Letter, indicating that the APR is complete and that ONAP has no comments or recommendations. The second type is an APR Review Comments Letter, identifying the deficiencies and outlining ONAP's recommendations. ONAP may request additional information from the recipient during the 60-day review and comment period.

The objectives of the ONAP's APR review are to:

- Fulfill public trust responsibilities by ensuring that IHBG programs are implemented in a timely manner and in compliance with all applicable requirements
- Identify individual examples of superior, satisfactory, or deficient performance among HUD grant recipients
- Recommend actions to reinforce, improve, and/or correct performance

What is HUD looking for?

HUD has the authority to develop performance measures which the recipient must meet as a condition for compliance with NAHASDA. These performance measures, found at 24 CFR Part 1000.524 are:

1. Within two years of grant award under NAHASDA, at least 90 percent of the grant must be obligated.
2. The recipient has complied with the required certifications in its IHP, and all policies and the IHP have been made available to the public.
3. Fiscal audits have been conducted on a timely basis and in accordance with the requirements of the Single Audit Act, as applicable. Any deficiencies identified in audit reports have been addressed within the prescribed time period.
4. Accurate annual performance reports were submitted to HUD within 60 days after the completion of the recipient's program year.
5. The recipient has met the IHP goals and objectives in the one-year plan and demonstrated progress on the five-year plan goals and objectives.
6. The recipient has substantially complied with the requirements of 24 CFR part 1000 and all other applicable federal statutes and regulations.

6.4 APR Development Process

NAHASDA's implementing regulations requires recipients to submit the APR within 60 days of the end of the recipient's program year. Since timely submission is essential, and the APR takes a substantial commitment of time and effort, it is important to begin preparing this report before the end of your program year. Waiting to start just before the deadline will not give you the best time to fully assess your progress or to direct your future operations. It takes a significant amount of time to prepare and develop a comprehensive APR. Characteristics of responsive APR's include:

- Internal consistency among all data
- Accurate reporting of accomplishments and performance barriers
- Detailed information to allow a reviewer to draw the same conclusions as that stated in the APR

Submission of the APR serves several purposes:

- As a recipient of IHBG funds, you are required to monitor your grant activities. By conducting self-monitoring activities, you are ensuring that you are in compliance with all applicable Federal requirements.
- The APR is HUD's primary resource for its mandate to review recipient's performance under NAHASDA.
- The information contained in the APR is used to respond to inquiries from the Congress, other Federal agencies and the public regarding the economic impact of the IHBG program. For this reason, it is critical that all requested data and information is entered into the APR where applicable and it is reported accurately.

In the event that you do not submit an APR within the required timeframe, the Area ONAP office will ask you to submit documentation before you may draw down funds from the Line of Credit Control System (LOCCS). This documentation may include copies of billing documents, contract register, project expenditure register, staffing documentation, etc. In other words, you will be required to submit information to substantiate that the IHBG funds you are requesting will be used to implement the goals and objectives of our IHP and that the activities you are conducting are in compliance with statutory and regulatory requirements. This requirement may be discontinued at the time a delinquent APR is received by the Area ONAP office and found to be fully responsive.

Although the APR is required once a year, it is helpful to engage in some of the self-monitoring activities more frequently. If you only assess progress on your goals after the end of the year, you will only be able to report on performance objectives that were not fulfilled. However, if you monitor your progress quarterly, you will be able to see where you are falling behind, and devise a plan to correct this before the end of the program year. This substantially increases your chances of attaining your annual objectives.

6.5 Required Elements of APR

There are six required parts of the APR, plus three tables. These are:

Part A: Status of the Five-Year Plan

| | |
|------------|--|
| Part A: | Status of the Five-Year Plan |
| Part B: | Assessment of Annual Progress of One-Year Objectives |
| Table I: | Financial Resources and Accomplishments |
| Table II: | Allocation of Funds for NAHASDA Activities |
| Part C: | Dissemination of APR and Citizen Comments |
| Part D: | Performance Objectives |
| Part E: | Monitoring |
| Table III: | Periodic Monitoring of Assisted Units |
| Part F: | Audits |

There is one optional part of the APR, Part G: Jobs Supported by NAHASDA which is an important component to understand the economic development impact of NAHASDA resources.

Part A provides space to list the goals and objectives stated in the IHP's five-year plan, to describe accomplishments in attaining these goals and objectives for all IHBG activities during the program year, and to explain why the goals and objectives were not met.

Goals and objectives are most helpful when they include specific information on what concrete results will be attained and by when. The best five-year plan contains yearly benchmarks, indicating where you would like to be year-by-year in implementing your goals. As you assess your five-year goals and objectives, look for specific and measurable ways in which you have attained them.

As you review your five-year plan, question whether your mission, goals and objectives are taking you in the right direction. If your goals are not appropriate to your local needs and context, ultimately you will not be successful in meeting the housing needs of your tribal members.

To make the APR development process as useful to you as possible, be specific in explaining why goals and objectives were not met, in sub-part (c). Simply stating that goals and objectives were not met is insufficient. If you specify why you failed to attain your goals and objectives, it will be much easier to identify problem areas to be addressed in the future. It is best to go through this process more frequently than once a year to obtain program year-to-date information on areas of slippage.

Part B: Assessment of Annual Progress of One-Year Objectives

Part B asks for a review of one-year objectives for the each grant per program year. Again, it is most helpful to be as specific as possible in assessing what kind of measurable progress you have made. Stating that an "ongoing year-round effort" is underway is too vague; you should describe some of these specific efforts and with what frequency they occur. Stating that "work was started" does not give a complete picture; write what specifically has taken place, as well as what remains to be done, and in what timeframe you propose to accomplish it.

Remember that your one-year objectives are not the same as the five-year plan goals. Performance objectives are planned activities for the program year from all sources of grant funds.

One of the most important parts of the APR is section B, sub-section (d). Identifying the reasons why progress was not made towards meeting the goals and objectives is an essential step towards success. If you identify the reasons for slippage every quarter,

you can also identify ways to address them within the current program year. When you complete your final APR, you will likely have fewer unmet goals.

It is impossible to attain goals without a plan of action. When you set your goals for your one-year plan, you will want to design an implementation plan for meeting those goals. The implementation plan would include the interim steps that must be taken in order to meet the overall goal, who will be responsible for them, and the timeframe in which they will be accomplished. It would also include a benchmark comparison to help you lay out where you want to be at different points in the year, toward the fulfillment of your goals.

If you are reporting on two open grants (FY 1998 and FY 1999), you will submit one Part B (including Tables I and II) for each grant:

- Part B for FY 1998—the recipient will be reporting on the second year of grant activity
- Part B for FY 1999—the recipient will be reporting on the first year of grant activity.

Table I: Financial Resources and Accomplishments

Table I asks for a listing of sources of funds for NAHASDA activities, planned amount and the actual amount received. Actual amount received means the funds committed to the housing activity rather than the funds specifically provided to the recipient. For example, the recipient planned to receive an Indian Community Development Block Grant (ICDBG) in the amount of \$100,000 to develop a water system to support its housing plans. If the grant is approved for the recipient, the amount reported as the actual amount received on Table I would be \$100,000 even if the recipient did not receive in its bank account that amount during the reporting period.

Table II: Allocation of Funds for NAHASDA Activities

Table II requires a listing of activities, with planned amounts, units, and number of families assisted, contrasted with actual expended amounts, units completed, units not completed, and number of families assisted.

NAHASDA requires that the APR be made available to all citizens in the Indian area in sufficient time to permit comments prior to APR submission to HUD, and that a summary of any comments received be included in the report. Part C asks for a description of how the APR was made available, and a summary of comments.

Suggested methods of dissemination include: local radio stations, local newspapers and newsletters, community meetings, presentations to local groups, etc. Citizens should be given an easy way to comment on the APR. If there is an open forum or time for questions or comments, appoint someone to take minutes to be transcribed or summarized later. Some citizens will be more hesitant to speak in public; they should be provided with blank forms on which to make written comments.

Part C: Dissemination of APR and Citizen Comments

Part D: Performance Objectives

In Part D, list the performance objectives from your one-year plan, detailing specific accomplishments. Sometimes recipients will merely refer the APR reviewer back to Part B for this section. However, there is a difference between goals and performance objectives. A goal is what the recipient aims to accomplish. Performance objectives are

Part E: Monitoring

planned activities for the year from all sources of funds and grants. Performance objectives provide quantitative measurements by which the recipient will gauge its performance and determine the impact and benefit the grant beneficiary derives from the accomplishments obtained under the plan.

Example:

IHP Goal: Provide housing for at least 6 low-income families.

Performance Objective: Six homes completed by January 15 within a budget of \$250,000. Number of families served: 6. Number of tribal members served: 24.

Performance objectives should be realistic, credible and balanced. You need not have many— sometimes it is better to have 3 well-defined and realistic performance objectives than 8 ill-defined or inappropriate ones.

In this section, you describe:

- How and the frequency in which you monitored your activities
- The results of your monitoring including any improvements/corrections to your operations to comply with §403 (b)
- How the results of your monitoring activities were made available to the public

Whether the IHBG recipient is a TDHE or tribal subdivision or department, Section 2 of Part E, Grant Beneficiary Monitoring requires the Tribe, as the IHBG beneficiary to:

- Describe the tribe's response to the recipient's periodic monitoring. If the recipient is a TDHE, describe the efforts the tribe has taken to monitor the TDHE's programmatic and compliance with NAHASDA and its implementation of requirements of the IHP. Provide the comments made by the tribe in its review of the APR.

This guidebook will help you to respond to these questions. If you use the checklists and templates in this guidebook, indicate this in Part E. Chapter 5 provides further guidance on completing Part E-Monitoring.

Table III: Periodic Monitoring of Assisted Units

In Table III, include the results of periodic monitoring of assisted units, including:

- 1937 Housing Act funded units
 - Mutual Help
 - Low Rent
 - Turnkey III
 - Other
- NAHASDA funded Units

Part F: Audits

- Owned or managed by the recipient
- Assisted, but not owned or managed by the recipient

Part F asks you to submit the annual audit for prior NAHASDA funds. Guidance on preparing for an audit is included in Chapter 9.

6.6 Audit Requirements

Any non-federal entity that expends \$300,000 or more in a fiscal year in federal funds must submit an annual audit that complies with Office of Management and Budget (OMB) Circular A-133. These are referred to as independent public auditor (IPA) audits.

As a grant recipient, you are responsible for contracting for your required audits and submitting the audits to the appropriate agency for compliance review. In general, HUD requires that recipients obtain a single audit that covers all grant funds, in compliance with the Single Audit Act (SAA). If you elect to have multiple program-specific audits, then you may not use grant funds for the additional audits.

Agency Roles and Responsibilities

ONAP conducts the A-133 compliance review of IPA audits for TDHEs. ONAP also is responsible for ensuring that recipients address audit findings. The Department of the Interior (DOI) conducts the A-133 compliance review of IPA audits for tribal grant recipients. DOI is responsible for sending an acceptance letter to the recipient and to ONAP that confirms compliance and identifies all findings. ONAP is responsible for ensuring that recipients address audit findings.

Audit report submission requirements

A TDHE must submit two copies of its complete IPA audit report to the Area Office (Notice PIH 98-14). If you are a grant recipient that submits its IPA audit report to DOI for A-133 compliance review, you must submit a courtesy copy of your audit report to ONAP at the same time (24 CFR Parts 1000.548 and 550). You also must furnish copies of any management letters issued by the auditor on request.

In addition, you must submit the audit report and OMB data collection form SF-SAC to the Special Audit Clearinghouse. The Clearinghouse will:

- Distribute audit reports
- Maintain a database of completed audits
- Provide appropriate information to federal agencies
- Follow up with recipients that have not submitted the required data collection forms and reporting packages

Audit due date

You must submit a complete audit report and data collection form within 30 days after receipt of the auditor's report or 9 months after the end of the audit period, whichever is earlier. The agency responsible for compliance review may agree in advance to extend the submission period.

Sanctions for noncompliance with audit requirements

In cases of continued inability or unwillingness to complete an A-133 audit, HUD may impose sanctions. It may:

- Withhold a percentage of federal awards until audit is completed satisfactorily
- Withhold or disallow overhead costs
- Suspend federal awards until the audit is conducted
- Terminate the federal award

7.0 Organizational Control Environment

This chapter provides guidance on effective management and organizational practices. Management determines the character, direction and philosophy of an organization. Topics covered include:

- Integrity and Ethical Values
- Organizational Structure and Reporting Relationships
- Organizational Bylaws
- Governing Bodies
- Policies and Procedures
- Records Management
- Self-Monitoring

Key Terms

- Organizational control

Tools and Templates

- Organizational Control Environment Checklist
- Self-Monitoring Policy Template

7.1 Introductory Overview

The control environment sets the tone for an organization's adherence to accepted policies, procedures, and practices. This environment influences behaviors and provides the foundation for all other components of an internal control system. The quality of this environment cascades downward from governing bodies, boards of directors, to executive director, department heads and managers. Key factors that define the control environment are:

- Integrity and ethical values
- Organizational structure and reporting relationships
- Skills, knowledge, and abilities of the organization's staff
- Leadership and management styles

What questions does this self-monitoring topic answer?

- How do we create an operating environment that encourages structure and discipline in adhering to internal controls?

How will this chapter help you?

This chapter will help you assess the state of your operating environment and provide you ideas for enhancing your organizational practices to include better internal controls. Throughout this chapter, reference is made to governing bodies. Governing bodies includes tribal councils and tribal housing subdivision or TDHE boards of directors.

What are the characteristics of effective management?

- Appropriate organization structure
- Knowledgeable Board of Directors
- Objectives of the organization clearly stated and understood
- Policies and procedures in place
- Communication up and down the organization
- Effective and timely reporting of major functions
- Use of performance standards and goals

7.2 Integrity and Ethical Values

The most effective way of transmitting a message of ethical behavior is by example. People tend to imitate the behavior of leadership. However, setting a good example is not enough. Codes of conduct or ethics need to be clearly defined in written policy and should include issues such as conflicts of interest (see 24 CFR Part 1000.30), explicit prohibitions, or otherwise improper activities. Codes of conduct should be reviewed the governing bodies, boards and the executive director annually to assess whether they reflect the mores of the community, address emerging business issues and potential conflicts, and reflect the values of the organization's leadership.

7.3 Organizational Structure and Reporting Relationships

Proper structure is important to the operation of any organization because it defines the relationships, responsibilities, and authorities of the positions in the organization. Form follows function. A TDHE or tribal housing subdivision's structural alignment should correspond to the core housing functions performed by the IHBG recipient. For example, organizational units should be organized around processes related to resident eligibility and service standards, construction management and labor standards, and financial management, procurement and contract administration. IHBG recipients should maintain a published organizational chart that outlines the organization's reporting relationships and the number of employees by position and function.

IHBG recipients, whether TDHE's or tribal subdivisions, should assess whether their current organization of departments, offices, or sub-units are best aligned to manage IHBG requirements. Typically, entities continue to operate under NAHASDA as they were structured under earlier Housing Act programs. It may be time to revisit the functional relationships within your organization to better align with IHBG requirements and core housing delivery processes.

In general, flatter organizations have better flows of communication than highly compartmental structures with multiple layers of offices, divisions and departments. Periodically, the IHBG recipient should review the organization structure and unit interrelationships and compare them with the objectives of the organization.

7.4 Organizational Bylaws

Bylaws are the organization's primary governing document. They establish the rules by which the organization will conduct business and outline how board officers and directors will be elected or appointed, how board meetings will be conducted, and what responsibilities board members and staff must each uphold. Elements of bylaws include:

- The mission of the organization
- The geographic area served by the organization
- Selection of board of directors or commissioners, officers, duties and voting privileges
- Delegations of authority to an executive director and other staff
- Composition of committees
- Rules of order, procedures, and meeting frequency
- Fiscal year of operation, books, and records
- Procedures for amending the Bylaws

IHBG recipient bylaws should be reviewed periodically to assess adherence to tribal ordinances regarding the submission of financial documents, procurement and employment practices. Often tribal councils require that TDHE's or tribal housing subdivisions or departments to periodically submit reports that indicate the entity's financial position.

7.5 Governing Bodies, Board of Directors or Commissioners

Boards govern on behalf of persons who are not seated at the table— families and households that benefit from IHBG housing assistance. This is the trust inherently placed in board leadership.

Boards of directors are critical to providing leadership and direction to an organization. The board should bring experience and diversity of background, monitor the progress of the IHP objectively, and initiate and approve plans to keep the organization growing and healthy. Ideally, the board will include individuals who can bring forth viewpoints and experiences of other tribally designated organizations.

No single relationship in the organization is as important as that between the board and its executive director. The executive director accomplishes expectations set out by the board in its policies and ensures staff does not engage in means which the board has prohibited. Ideally, boards should maintain written guidelines for individual board member conduct clearly stating that no single board member has authority over the executive director. The board as a body should establish explicit criteria by which to assess the performance of the executive director. Executive director performance

evaluations should be conducted annually based on information that directly addresses these criteria.

To uphold its fiduciary responsibilities, boards must review the Annual Performance Report prior to submission to ONAP. Depending on the size of the organization and the amount of IHBG funds received, the board may want to appoint a self-monitoring committee to oversee the consistent implementation of the self-monitoring processes discussed at Chapter 5 in this guidebook.

7.6 Policies and Procedures

Policies and procedures provide for consistent and cohesive action on the part of an organization. A policy is the value or perspective that underlies actions. It generally explains the desirable direction and establishes the broad parameters of a particular function of the TDHE or tribal housing subdivision. A procedure establishes the specific manner in which a function is to be performed, assigns responsibility, and describes specific actions, including forms and report preparation.

In addition to the topics covered in this Self-Monitoring Guidebook, good management practices rest on the foundation of personnel policies and procedures. Personnel policies should be as comprehensive as practicable. All staff positions should have written descriptions with clearly defined functions. A regularly scheduled performance appraisal system needs to be in place along with a documented policy for handling staff grievances. Additionally, a process for documenting compensation comparability of staff positions should be maintained. Reimbursements for staff travel should be explicitly defined. Finally, personnel should make periodic confirmations that they understand and comply with the organization's code of conduct.

Self-monitoring helps inform the development of policies and procedures. The process of self-evaluation provides feedback for changes needed in policies and procedures.

7.7 Records Management

24 CFR Part 1000.552 requires IHBG recipients to maintain financial and programmatic records, supporting documents, and statistical records of assisted families. These records are considered confidential. Records must be retained for three years from the date the recipient submits the Annual Performance Report that covers the last expenditure of grant funds under a particular grant. If any litigation, claim, negotiation or audit involving the records has been started before the expiration of the three-year period, the records must be retained until the outstanding issues are resolved.

Under these regulations, HUD and the U.S. General Accounting Office have the right of access to any documents and records pertinent to NAHASDA assistance in order to conduct audits and examinations. Recipient records are not subject to the provisions of the Federal Freedom of Information Act (FOIA) or the Federal Privacy Act. However, there may be other applicable state and tribal access laws or recipient policies that may apply.

7.8 Self-Monitoring Policy

Internal control systems need to be monitored—a process that assesses the quality of the system's performance over time. Internal control systems change over time. The

way controls are applied may evolve. Effective procedures can become less effective due to the arrival of new personnel, varying training and supervision practices, time and resource constraints, or additional pressures. Moreover, circumstances for which the internal control system was originally designed also may change. Because of changing conditions, TDHE's and or tribal housing subdivisions need to determine whether the internal control system continues to be relevant and able to address new risks. This is accomplished through ongoing monitoring activities, separate evaluations or a combination of the two.

As noted in Chapter 6, IHBG recipients are required to prepare at least annually a compliance assessment in accordance with §403(b) of NAHASDA. This responsibility includes self-monitoring and monitoring of subrecipients. To incorporate this requirement into your control environment, IHBG recipients should affirmatively adopt and make accessible to the public a self-monitoring policy. While this guidebook outlines an annual monitoring strategy for the tribe or TDHE to establish in completing the recommended monitoring evaluations and performance improvement plans, the self-monitoring policy needs to:

- Identify monitoring roles and responsibilities
- State what entity will perform the self-monitoring assessment
- Establish a regular schedule to conduct the self-monitoring evaluations

7.9 Compliance Checklist

The following checklist provides detailed questions related to these specific NAHASDA requirements and general management practices that will allow you to assess your adherence to the standards. These checklists provide questions with "Yes," "No," "Not Applicable," and "Recommendations/Notes" response fields. Although the checklist is designed to facilitate questions that the appraiser may use, it is intended that the checklist be answered by the appraiser through interviews, observation or document review.

Self-Monitoring Policy Template Tribal Council or TDHE Board Resolution

Whereas, the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) assists and promotes affordable housing activities to develop, maintain, and operate housing in a safe and healthy environments on Indian reservations and in other Indian Areas for occupancy by low-income families;

Whereas, recipients of NAHASDA Indian Block Grant Funds (IHBG) are responsible for monitoring grant activities, ensuring compliance with applicable federal requirements and monitoring performance goals under the Indian Housing Plan;

Whereas, NAHASDA § 403(b) requires IHBG recipients to prepare a compliance assessment at least annually;

Whereas, the *(Name of Grant Beneficiary if recipient is a tribe)* or *(Name of TDHE if recipient is a tribally-designated housing entity)* received IHBG funds for the current program year to support the affordable housing goals and objectives of our Indian Housing Plan;

Therefore, be it resolved, it is the policy of the *(Name of Grant Beneficiary if recipient is a tribe)* or *(Name of TDHE if recipient is a tribally-designated housing entity)* to conduct an annual assessment of our adherence to NAHASDA's applicable federal requirements through a self-monitoring process; that the self-monitoring process will be conducted by an impartial appraiser; that results of this assessment will be made accessible to the public; and that recommendations to improve areas of significant compliance deficiencies will be developed and implemented during the proceeding program year.

In witness whereof, this Resolution is made as of this ____ day of _____, 2000.



Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook

Organizational Control Environment Self-Monitoring Checklist for Program (or Fiscal) Year _____

| Organizational Control Environment | Yes | No | N/A | Recommendations/Notes |
|---|-----|----|-----|-----------------------|
| Integrity and Ethical Values | | | | |
| 1. Does the organization maintain a written code of conduct or ethics? | | | | |
| 2. Do all staff make annual confirmations that they understand and comply with the code of conduct? | | | | |
| Organization Structure and Reporting Relationships | | | | |
| 3. Does a published organization chart exist in the TDHE or tribal housing entity? | | | | |
| 4. Are reporting lines clear to avoid duplicate responsibilities? | | | | |
| 5. Is there the proper delegation of authority and responsibilities? | | | | |
| 6. Does the organizational structure support internal controls? | | | | |
| Organizational Bylaws | | | | |
| 7. Does the TDHE operate with bylaws adopted by a Board? | | | | |
| 8. Are the bylaws consistent with tribal ordinances and practices? | | | | |
| Board of Directors or Commissioners | | | | |
| 9. Are Board meetings held in accordance with the bylaws? | | | | |
| 10. Are Board resolutions and minutes maintained and available for public access? | | | | |
| 11. Are Board members provided quarterly financial statements and progress reports? | | | | |
| 12. Does the Board maintain established criteria to evaluate the performance of the Executive Director? | | | | |
| 13. Does the Board conduct a performance evaluation of the Executive Director on an annual basis? | | | | |
| Policies and Procedures | | | | |
| 14. Do written policies and procedures exist that encompass personnel, financial management, procurement, and housing assistance program areas? | | | | |
| 15. Is there an established process for documenting compensation comparability of staff positions? | | | | |
| 16. Are reimbursements for staff travel explicitly defined? | | | | |
| 17. Are personnel position descriptions accurate and current? | | | | |



Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook

| Organizational Control Environment | Yes | No | N/A | Recommendations/Notes |
|--|-----|----|-----|-----------------------|
| Records Management | | | | |
| 18. Are records maintained for a period of 3 years from the last APR submission? | | | | |
| Self-Monitoring Policy | | | | |
| 19. Has a written self-monitoring policy been adopted by the organization? | | | | |
| 20. Does the organization conduct self-monitoring on a regular basis? | | | | |
| Complaint and Grievance Resolution | | | | |
| 21. Does the organization have written policies and procedures for addressing complaints and formal grievances? | | | | |
| 22. Is there a method to track complaints and formal grievances to ensure timely follow up and response? | | | | |
| 23. Do formal grievance procedures provide for a hearing before an impartial hearing official or panel? | | | | |
| 24. Is there a method to ensure that the cause of validated complaints and grievances are addressed to prevent reoccurrence? | | | | |
| | | | | |
| | | | | |

Reviewer _____

Date of Review _____

8.0 Assisted Families: Eligibility Requirements and Service Standards

This chapter provides guidance on fulfilling requirements related to resident eligibility and service standards for the provision of affordable housing. It includes the following topics:

- Statutory and Regulatory Requirements
- Eligibility
- Selection
- Rent and Payment Determination
- Occupancy
- Maintenance and Inspections
- Public Dissemination and Complaint Review
- Collections
- Lead-Based Paint
- Temporary Relocation and/or Acquisition

Key Terms

- Certification of Compliance

Tools and Templates

- Compliance Checklists

8.1 Introductory Overview

As an IHBG recipient, the funds you receive are for the specific purpose of assisting certain beneficiaries. As such, you are required to serve only those residents that are eligible, and must follow certain policies on selection of beneficiaries, determination of their rent or payments, occupancy, maintenance, and the like.

What kinds of questions does this self-monitoring topic answer?

- Are we in compliance with the eligibility requirements for families receiving IHBG-assisted housing?
- Do we have written and publicly available policies in place to address NAHASDA's statutory requirements for housing service standards?

How will this chapter help you?

This chapter gives an overview of the requirements related to resident eligibility and services for residents. It will help you assess if you are in compliance and identify areas for improvement.

8.2 Statutory and Regulatory Requirements

NAHASDA and its implementing regulations require recipients of IHBG funds to certify that they have written policies on eligibility, tenant selection, rent or payment determination, admission, occupancy, and maintenance. Further, recipients are required to maintain adequate insurance coverage for housing units that are owned, operated, or assisted with grant funds from NAHASDA. Certifications are required on an annual basis as part of your IHP.

It's the law

“CERTIFICATION OF COMPLIANCE – Evidence of compliance which shall include, as appropriate –

(c) a certification that policies are in effect and are available for review by the Secretary and the public governing the eligibility, admission, and occupancy of families for housing assisted with grant amounts provided under this Act;

(d) a certification that policies are in effect and are available for review by the Secretary 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 this Act; and

(e) a certification that policies are in effect and are available for review by the Secretary and the public governing the management and maintenance of housing assisted with grant amounts provided under this Act.”

§102 par.5 of NAHASDA

8.3 Eligibility

NAHASDA's implementing regulations require recipients to verify that the IHBG-assisted families are income eligible based on anticipated annual income. You are required to maintain documentation on which the determination of eligibility is based. To do so, you may require a family to periodically verify its income through the submission of tax returns, W-2 statements, or payroll statements. Finally, knowing the household profiles of your program beneficiaries will be helpful in responding to forms of public and private assistance other than NAHASDA.

HUD periodically publishes median income limits for various Indian areas, by county. If the income limit for a county within your Indian area is lower than the United States median, you must use the United States median income limits. Income limits are derived by multiplying the median family income in the United States by 80 percent which is then adjusted for family size. Using FY 2000 as an example, the median family income for the United States was \$50,200. Income limits for this median family were calculated as follows:

| Family Size | Income |
|-------------|----------|
| 1 | \$28,100 |
| 2 | \$32,150 |
| 3 | \$36,150 |

| | |
|---|----------|
| 4 | \$40,150 |
| 5 | \$43,350 |
| 6 | \$46,600 |
| 7 | \$49,800 |
| 8 | \$53,000 |

Current median family income and income limits for your area can be found on the Internet at: <http://www.huduser.org/datasets/pdrdatas.html>.

There are two exceptions to the general requirement of providing assistance to low-income Indian families. First, a recipient may use up to 10% of its annual IHBG to assist families whose income falls within 80% to 100% of the median income without HUD approval. HUD approval is required if a recipient plans to use more than 10% of its IHBG funds or intends to assist families with incomes over 100% of the median income. Second, a non-Indian family may receive housing assistance on a reservation of Indian area if this family's housing needs cannot be reasonably met without such assistance and the recipient determines that the presence of that family is essential to the well-being of Indian families.

8.4 Selection

NAHASDA's statutory language requires the owner or manager of affordable rental housing assisted with IHBG funds to adopt and utilize written tenant and homebuyer selection policies and criteria that:

- 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 –
 - The selection of tenants and homebuyers from a written waiting list in accordance with the policies and goals set forth in the Indian Housing Plan
 - The prompt notification in writing to any rejected applicant, of that rejection and the grounds for that rejection

8.5 Rent and Payment Determination

NAHASDA requires that each recipient develop written policies governing rents and homebuyer payments charged for dwelling units assisted with IHBG funds. The rent or homebuyer payment for a unit assisted with IHBG funds occupied by a low-income family may not exceed 30 percent of the adjusted income of the household.

8.6 Occupancy

Each recipient must develop a written occupancy policy that establishes requirements for continued occupancy and grounds for termination of a housing lease. This policy must be consistent with the lease requirements from NAHASDA §207. In general, the occupancy policy should:

- Not contain unreasonable terms and conditions
- Require the property manager or owner to maintain the housing compliance with applicable housing codes
- Require the property manager or owner to give adequate written notice of lease termination or eviction
- Establish terms and conditions for termination and eviction

8.7 Maintenance and Inspections

As a recipient, you are required to develop written policies which define responsibilities of homebuyers, tenants, and the tribe/TDHE for maintenance of units assisted with IHBG funds.

8.8 Public Dissemination and Complaint Review

To ensure accountability to tribal members, your written policies should be readily available to the public for review and comment. Although not statutorily required, it is good management practice to have an established written grievance policy. Providing families receiving housing assistance a formal process of lodging complaints also protects you because there is a fair mechanism in place to hear both sides of the issue to resolve the dispute.

8.9 Collections

A key component of resident service standards pertains to delinquent collections. IHBG recipients need to develop a written collections policy that outlines what steps will be taken to deal with payment delinquencies. In addition, consideration should be given to how your organization would address instances of resident underpayments or payments and what steps you take to mitigate these payment discrepancies.

8.10 Lead-based paint

Lead poisoning can cause permanent damage to the brain and many other organs, and can result in behavioral problems. Lead can also harm the fetus. More than 800,000 children younger than 6 years old living in the United States have lead in their blood that is above the level set by the Centers for Disease Control and Prevention. Many of these children are in low-income families living in old homes with heavy concentrations of lead-based paint. The most common sources of childhood exposure to lead are deteriorated lead-based paint and lead-contaminated dust and soil in the residential environment.

In 1978, lead-based paint was banned nationwide for consumer use. Housing built prior to this year, however, may contain lead-based paint, which can be detrimental to residents, particularly children. IHBG recipients must follow regulations on treatment of housing with lead-based paint, as outlined in 24 CFR Part 1000.40.

If you are providing IHBG assistance to dwelling units constructed before 1978, you must have these dwelling units visually inspected for defective paint surfaces by a qualified lead-based paint inspector. If the inspection finds any defective paint surfaces, it must be appropriately treated. Treatment must be completed within 30 calendar days of the visual evaluation.

There are additional requirements for pre-1978 units occupied by a family with a child under the age of six years with an identified elevated blood lead level (EBL). In these cases, chewable surfaces must be tested for lead-based paint by a qualified lead-based paint inspector. Lead content must be tested using an X-ray fluorescence analyzer or by laboratory analysis of paint samples. If lead-based paint on chewable surfaces is identified, treatment of the paint surface must be completed within 30 days of the paint testing report. You must take appropriate action to protect residents and their belongings from hazards associated with treatment procedures.

8.11 Temporary Relocation/Acquisition

There are certain relocation and real property acquisition policies that apply to programs developed or operated under NAHASDA. These are contained in 24 CFR Part 1000.14 and 49 CFR Part 24. Some of the requirements are outlined here.

If you do not have the authority to acquire the real property through condemnation, before you discuss the purchase price, you must inform the owner of the amount you believe to be the fair market value of the property. This amount must be based on at least one appraisal prepared by a qualified appraiser. You must also tell the owner that you will be unable to acquire the property if negotiations do not result in an amicable agreement. You must request HUD approval of the proposed acquisition price before executing a firm commitment to purchase the property if the proposed acquisition payment exceeds the fair market value.

You must take all reasonable steps to minimize displacement of persons (households, businesses, nonprofit organizations, and farms) as a result of a project assisted by IHBG funds. If temporary relocation is necessary, you must provide residential tenants and homebuyers with:

- Reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly housing costs (e.g., rent/utility costs).
- Appropriate advisory services, including reasonable advance written notice of:
 - The date and approximate duration of the temporary relocation
 - The location of the suitable, decent, safe and sanitary dwelling to be made available for the temporary period
 - The terms and conditions under which the tenant may occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the repairs, and
 - The provisions for reimbursement.

If relocation is necessary, you must provide relocation assistance for displaced persons at the levels described in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601-4655) and implementing regulations at 49 CFR Part 24.

You must certify that you will comply with the URA, the regulations at 49 CFR Part 24, and the requirements of 24 CFR Part 1000.14. You must maintain records in sufficient detail to demonstrate compliance with these regulations.

8.12 Compliance Checklist

The following checklist provides detailed questions related to these specific NAHASDA requirements and general management practices that will allow you to assess your adherence to the standards. These checklists provide questions with “Yes,” “No,” “Not Applicable,” and “Recommendations” response fields. Although the checklist is designed to facilitate questions that the appraiser may use, it is intended that the checklist be answered by the appraiser through interviews, observation or document review.



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Assisted Families: Eligibility Requirements and Service Standards Checklist for Program (or Fiscal) Year _____

| Assisted Families: Eligibility Requirements and Service Standards | Yes | No | N/A | Recommendations/Notes |
|--|-----|----|-----|-----------------------|
| Eligibility | | | | |
| Is there a written policy on family income eligibility readily available to staff and posted for public access? | | | | |
| 1. Are the most current HUD-determined income limits being used for eligibility criteria? | | | | |
| 2. Are only low-income Native American families determined eligible? | | | | |
| a. Has no more than 10% of IHBG funds been used to assist families whose incomes fall within 80% to 100% of the median income? | | | | |
| b. Describe the circumstances if assistance was provided to a non-Indian family. | | | | |
| 3. Does the family income eligibility review include rent-paying habits and/or credit checks? | | | | |
| 4. Are applicants adequately counseled on IHBG program requirements? | | | | |
| 5. Is the waiting list adequately maintained and documented and dated with offers? | | | | |
| 6. Are applicants determined to be "ineligible" notified of reasons and options available to them? | | | | |
| Selection | | | | |
| 7. Is there a written policy on eligibility readily available to staff and posted for public access? | | | | |
| 8. Are the admissions of selected participants documented adequately to reflect compliance with Board policies? For example, signed and dated rating forms for each selection? | | | | |
| 9. Are incomes verified to be within the income limits prior to execution of a housing assistance contract or agreement? | | | | |
| 10. Are all "contracts for housing assistance" between the recipient and the participant signed and dated and maintained in a unique confidential household file? | | | | |
| 11. Are selected participants counseled on their housing assistance responsibilities? | | | | |
| Rent and Payment Determination Checklist | | | | |
| 12. Is there a written policy on rent and payment determination readily available to staff and posted for public access? | | | | |
| 13. Are payments calculated according to policy requirements? | | | | |
| 14. Are all IHBG-assisted families paying 30% or less of their annual income for housing assistance? | | | | |
| 15. Are verifications of income properly documented in unique household files? | | | | |



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| Assisted Families: Eligibility Requirements and Service Standards | Yes | No | N/A | Recommendations/Notes |
|--|-----|----|-----|-----------------------|
| Occupancy | | | | |
| Do you have a written occupancy policy that: | | | | |
| 16. Does not contain unreasonable terms or conditions? | | | | |
| 17. Requires the owner or manager to maintain the housing in compliance with applicable housing codes and quality standards? | | | | |
| 18. Requires the owner or manager to give adequate written notice of termination of the lease, which shall be the period of time required under state, tribal, or local law? | | | | |
| 19. Specifies that, with respect to any notice of eviction or termination, notwithstanding any state, tribal or local law, a resident shall be informed of the opportunity, prior to any hearing or trial, to examine any relevant documents, records, or regulations directly related to the eviction or termination? | | | | |
| 20. Requires that the owner or manager may not terminate the tenancy, during the term of the lease, except for serious or repeated violation of the terms of conditions of the lease, violation of applicable federal, state, tribal, or local law, or for other good cause? | | | | |
| 21. Provides that the owner or manager may terminate the tenancy of a resident for any activity, engaged in by the resident, any member of the household of the resident, or any guest or other person under the control of the resident, that – | | | | |
| a) Threatens the health or safety of, or right to peaceful enjoyment of the premises by, other residents or employees of the owner or manager of the housing? | | | | |
| b) Threatens the health or safety of, or right to peaceful enjoyment of the premises by, persons residing in the immediate vicinity of the premises? | | | | |
| c) Is criminal activity (including drug-related criminal activity) on or off the premises? | | | | |
| Maintenance and Inspections/Management | | | | |
| 22. Are all participant files properly documented per required Policy actions? | | | | |
| 23. Are inspections of applicant units fully completed and documented in files? | | | | |
| 24. For Rehabilitation programs: | | | | |
| a) Have policy standards for the type, cost-effectiveness and cost of rehabilitation of a home been followed? | | | | |
| b) Was the Scope of Work (work order) for rehabilitation completed within budget and timeframes for each unit? | | | | |
| c) Is there follow-up on rehabilitation work completed to ensure quality workmanship? | | | | |
| 25. For homeownership programs: | | | | |



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| Assisted Families: Eligibility Requirements and Service Standards | Yes | No | N/A | Recommendations/Notes |
|---|------------|-----------|------------|------------------------------|
| a. Have policy standards for the type, cost-effectiveness and cost of new homes been followed? | | | | |
| b. Was the Scope of Work (work order) for new construction completed within budget and timeframes for each unit? | | | | |
| c. Is there follow-up on construction work completed to ensure quality workmanship? | | | | |
| d. Are post-occupancy inspections conducted? | | | | |
| Public Dissemination | | | | |
| 26. Do you have a written eligibility policy that is publicly available? | | | | |
| 27. Do you have a written selection policy that is publicly available? | | | | |
| 28. Do you have a written rent or payment determination policy that is publicly available? | | | | |
| 29. Do you have a written occupancy policy that is publicly available? | | | | |
| 30. Do you have a written maintenance policy that is publicly available? | | | | |
| 31. Do you have a written grievance policy that is publicly available? | | | | |
| 32. Do you have a written collections policy that is publicly available? | | | | |
| Collections | | | | |
| 33. Are all provisions of the tribe/TDHE collections policy enforced consistently? | | | | |
| 34. Are delinquency notices sent out consistently at the beginning of each month? | | | | |
| 35. Does the Tribal Council evidence support of collection efforts for delinquent payments? | | | | |
| 36. What is the current balance for delinquencies from assisted households? | | | | |
| 37. Is this an increase within the last six months? | | | | |
| Lead-based paint | | | | |
| 38. Are you assisting dwelling units constructed before 1978? | | | | |
| 39. If no, please proceed to question 47 | | | | |
| 40. Have these dwelling units been visually inspected for defective paint surfaces by a qualified lead-based paint inspector? | | | | |
| 41. Did the inspection find any defective paint surfaces? | | | | |
| 42. If yes, were such surfaces treated within 30 calendar days of the visual evaluation? | | | | |
| 43. Do you have any dwelling units constructed before 1978 that is occupied by a family with a child under the age of six years with an identified elevated blood lead level (EBL)? | | | | |
| 44. If yes, has a qualified lead-based paint inspector tested chewable surfaces for lead-based paint using an X-ray fluorescence analyzer or by laboratory analysis of paint samples? | | | | |
| 45. If yes, have the paint surfaces been treated within 30 days of the paint testing report? | | | | |



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| Assisted Families: Eligibility Requirements and Service Standards | Yes | No | N/A | Recommendations/Notes |
|---|------------|-----------|------------|------------------------------|
| 46. Have you taken appropriate action to protect residents and their belongings from hazards associated with treatment procedures? | | | | |
| Temporary Relocation/Acquisition | | | | |
| 47. If you do not have the authority to acquire the real property through condemnation, did you inform the owner of the amount you believe to be the fair market value of the property before discussing the purchase price? | | | | |
| 48. Did you have the property appraisal prepared by a qualified appraiser? | | | | |
| 49. Did you tell the owner that you will be unable to acquire the property if negotiations fail to result in an amicable agreement? | | | | |
| 50. If the proposed acquisition payment exceeds the fair market value, did you request HUD approval of the proposed acquisition price before executing a firm commitment to purchase the property? | | | | |
| 51. Did you take all reasonable steps to minimize displacement of persons (households, businesses, nonprofit organizations, and farms) as a result of a project assisted by IHBG funds? | | | | |
| 52. Did you provide temporarily relocated residential tenants and homebuyers with reimbursement for all reasonable out-of-pocket expenses incurred in connection with the temporary relocation, including the cost of moving to and from the temporarily occupied housing and any increase in monthly housing costs (e.g., rent/utility costs)? | | | | |
| 53. Did you provide temporarily relocated residential tenants and homebuyers with reasonable advance written notice of: | | | | |
| a) The date and approximate duration of the temporary relocation? | | | | |
| b) The location of the suitable, decent, safe and sanitary dwelling to be made available for the temporary period? | | | | |
| c) The terms and conditions under which the tenant may occupy a suitable, decent, safe, and sanitary dwelling in the building/complex following completion of the repairs? | | | | |
| d) The provisions for reimbursement? | | | | |
| 54. If relocation was necessary, did you provide relocation assistance for displaced persons at the levels described in the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA) (42 U.S.C. 4601-4655) and implementing regulations at 49 CFR part 24? | | | | |
| 55. Did you certify that you will comply with the URA, the regulations at 49 CFR part 24, and the requirements of 24 CFR part 1000.14? | | | | |



Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook

| Assisted Families: Eligibility Requirements and Service Standards | Yes | No | N/A | Recommendations/Notes |
|---|-----|----|-----|-----------------------|
| 56. Did you maintain records in sufficient detail to demonstrate compliance with these regulations? | | | | |

Reviewer _____

Date of Review _____

9.0 Fiscal and Financial Management

This chapter provides you with guidance on setting up sound fiscal and financial management policies and procedures, not only to comply with NAHASDA regulations and requirements, but also to ensure that your organization functions as smoothly as possible. It includes the following topics:

- Statutory and Regulatory Requirements
- Reporting
- Audits
- Budget Execution
- Drawdowns
- Accounting Records
- Internal Controls/Cash Management
- Investment/Banking
- Insurance
- Allowable Costs

Key Terms

- Single Audit Act
- Budget
- Internal Controls
- Allowable Costs

Tools and Templates

- Fiscal and Financial Management Checklist

9.1 Introductory Overview

Sound fiscal and financial management systems are extremely important to the success of your housing organization, and to the provision of high quality housing to your customers. A good financial management system will help you keep track of your funds, which will help you make business decisions based on sound financial information. The scope of financial and fiscal management includes reporting, funding drawdown, accounting records, internal controls and cash management, budget control, investments, and audits.

IHBG recipients who expend federal funds from all sources in excess of \$300,000 annually are required to obtain an audit every year to ensure financial integrity in the management of public funds. A copy of this audit must be submitted with the Annual Performance Report.

What kinds of questions does this self-monitoring topic answer?

- Are we in compliance with the federal regulations on financial management systems?
- Are our financial management systems functioning effectively to help us run our operations and make decisions?

How will this chapter help you?

This chapter will help you establish and maintain sound financial and fiscal management systems. This is important for three reasons:

- (1) **Clean audit.** If you expend \$300,000 or more in federal funds from all sources in a fiscal year, you are required to submit an annual audit to comply with the Single Audit Act and OMB Circular A-133. This audit will look at your fiscal and financial management system, accounting processes, internal controls and compliance with programmatic requirements.
- (2) **Continuing eligibility to receive IHBG funds.** You may be considered “high risk” if you have a history of unsatisfactory performance, are not financially stable, have a management system which does not meet the management standards set forth by regulations, or have not conformed to terms and conditions of previous awards. The “high risk” designation means that you may be subject to special conditions or restrictions, including:
 - Payment on a reimbursement basis
 - Withholding authority to proceed to the next phase until HUD receives evidence of acceptable performance within a given funding period
 - Requiring additional, more detailed financial reports
 - Additional project monitoring
 - Requirement to obtain technical assistance
 - Establishing additional prior approvals (see 24 CFR Part 85.12)

If your financial system is in order, it is more likely that you will be financially stable and be able to meet the requirements of your award. This will ensure that you have the maximum freedom in administering your program, rather than being subject to additional conditions as outlined above.

- (1) **Better delivery of housing services.** When your financial processes are operating smoothly and efficiently, the quality of housing services you provide will be enhanced. You will be able to count on continued eligibility to receive IHBG funds. You will be able to make use of your budgeting data and source documentation to plan ahead for new programs and projects.

What are the characteristics of an effective fiscal and financial management system?

- Financial reporting is conducted frequently and in a timely manner, with sufficient depth and clarity.

- Roles and responsibilities related to fiscal and financial management and accounting are clearly defined. Backup personnel are trained and available for use when needed.
- Budget comparisons are conducted for the current year and current quarter.
- Capital expenditures are reviewed and analyzed.
- Through good records, timely processing, and effective procedures, the system provides for controls over cash, working capital, and organizational assets.
- Where possible, the fiscal and financial management and accounting functions are automated to reduce the clerical burden.

9.2 Statutory and Regulatory Requirements

NAHASDA and its implementing regulations set forth certain administrative requirements that provide for the review of the recipient's fiscal and financial management systems and procedures. These requirements are found in NAHASDA's statutory language as well as in 24 CFR Part 1000.26, applicable provisions of 24 CFR Part 85, Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments and OMB requirements set forth in Circulars A-87 and A-133.

9.3 Reporting

NAHASDA's regulations require that "accurate, current, and complete disclosure of the financial results of financially assisted activities must be made in accordance with the financial reporting requirements of the grant or subgrant" (24 CFR Part 85.21(b)(1)). As an IHBG recipient, you are required to submit the HUD Standard Form 272i, Federal Cash Transactions Report. This report will be used by HUD to monitor cash advanced to you and to obtain disbursement or outlay information for each grant.

If you have subrecipients, you may be required to report the amount of cash advances in excess of three days' needs in the hands of these subrecipients. You may be asked to provide short narrative explanations of actions taken on your part to reduce the excess balances.

You must submit the SF-272i report no later than 15 working days following the end of each quarter. However, if you receive an advance either by letter of credit or electronic transfer of funds at an annualized rate of one million dollars or more, HUD may require the report to be submitted within 15 working days following the end of each month.

There are also other financial reports that, while not statutorily required, you will want to generate for your own management decisions. Financial reports and statements present a clear picture of financial results and condition, which is valuable information. For example, you may want to prepare reports that compare:

- Current month and year-to-date activities versus budget
- Current month versus same month prior year actuals
- Current year-to-date versus prior year-to-date
- Exception reporting of variances in excess of predefined percentage or dollar amount

9.4 Audits

As mentioned earlier, if you expend \$300,000 or more in federal funds in any given year, you must obtain an annual audit, called an A-133 audit (under OMB Circular A-133) or a single audit (under the Single Audit Act). This type of audit is a program-specific audit that tests financial statement information, tracks and classifies revenue from federal sources. The A-133 audit looks for compliance with general and specific government audit requirements, which cover both financial and non-financial factors such as program effectiveness, client eligibility, efficiency with which resources are used, etc. Another key element of the audit is a rigorous test of internal control procedures, to make sure that adequate systems are in place for complying with the requirements of the grant money. The auditor may meet with staff members or ask that they fill out a questionnaire to document the procedures related to spending and receiving money and other resources, complying with laws, donor restrictions and regulations, maintaining property and equipment, and recording financial information in the books.

While the following is not a complete list, it is representative of the information auditor will likely request:

- Assets
 - Accounts Receivable – Who owes you money, how much, when it was due?
 - Property and Equipment (fixed assets) – When acquired, how much you paid, how long they are expected to last, how much they are depreciated each year, and how much has been depreciated to date?
- Liabilities, such as Accounts Payable – Who you owe money to, how much you owe each individual/organization? Copies of invoices or loan agreements.
- Revenue
 - Grants and Contributions – Funder/donor names and addresses, grant period, grant amount, when received, restrictions, and copies of the grant letters and grant applications
 - Donated services and materials – Estimated dollar value of contributions of certain services and materials
 - Special events and benefits – Income and expenses, documentation for the value of goods or services which donors received
 - Documentation – e.g, contracts and invoices, names and addresses, registrations, etc. for fees from memberships, tuition, performances, and other services
- Expenses, such as payroll records, including federal and state tax returns related to payroll, vacation records.
- Board minutes
- Leases and other contracts
- Bank statements, bank reconciliations, checkbooks, and canceled checks
- Financial files for paid bills and deposits
- Components of the accounting system - chart of accounts, journals and ledgers, printouts if the system is computerized, trial balance, etc.
- Budget for the fiscal year being examined

Many of these schedules can be prepared by the auditor with the information you give to them.

As you can see, there is a great deal of financial data required for an audit. It is helpful to assign one person to be the audit coordinator, such as the bookkeeper or executive director. This person should have access to all information the auditors may need, and should plan to be available to the auditors while they are on-site.

Timeliness of audit submission to ONAP is critical to adhere to monitoring requirements. Depending on the size of IHBG recipient and number of housing assistance activities, completion of an A-133 audit may take anywhere from 3 to 6 months. Accordingly, IHBG recipients should plan on closing their books within 90 days of the end of their program or fiscal year and providing their Independent Public Accountant with financial statements and source documents to begin their audit engagements. This recommended timeframe will allow sufficient time for the auditor to prepare and submit their findings to the IHBG recipient. Depending on the auditor's opinion and findings of material weaknesses, the IHBG recipient may have to prepare a Corrective Action Plan describing in detail the necessary steps to remedy audit identified management deficiencies.

9.5 Budget Execution

Federal regulations requires that actual expenditures or outlays be compared with budgeted amounts for each grant or subgrant.

"Financial information must be related to performance or productivity data, including the development of unit cost information whenever appropriate or specifically required in the grant or subgrant agreement. If unit cost data are required, estimates based on available documentation will be accepted whenever possible."

-24 CFR Part 85.21(b)(4)

What is a budget?

A budget is a realistic estimate of the operating revenue and expenditures to be incurred in connection with the prudent operation of any project during the specified period, broken down according to a classification of accounts. Put more simply, it is a plan for getting and spending money to reach specific goals by a certain time. The budget should be prepared on a program basis; each program you administer should have a separate internal budget.

A good budget is a road map that shows you how you will attain your goals with the resources you have. It is also an important tool to ensure accountability and make sure your organization is following its priorities, as established in your mission or IHP goals. In short, a budget is the best way to stay solvent, which should be the goal of your organization.

By developing a clear and accurate budget, your organization will be better able to:

- Make decisions, guide the organization
- Adjust plans, activities and spending
- Spend money cost-effectively
- Attain the goals it has set
- Receive "clean" audits

- Avoid incurring disallowed costs or cost overruns

Budgets allow you to measure and guide your immediate and long-term financial health and operational effectiveness. They anticipate operational expense and identify income to pay for these, and help control spending and avoid deficits.

An important thing to remember is that a budget is only as good as the time, effort and information that has been put into it. Managers of all the various affected functions of the organization should participate in the development of the budget, collaborating and exchanging information as needed. Also keep in mind that budgets are not static, done once and forgotten; they must be monitored and changed as time goes on. By monitoring actual income and expenses against what was budgeted, you can assess your overall financial situation, and adjust your plans as needed.

Budget Control

Someone in the organization, usually the Executive Director, is responsible for the efficient and effective use of budget appropriations and the control of costs in relation to each program budget. Obligations should not be made that exceed the amount appropriated for the major spending category of a program budget, except in emergency situations as determined by the Executive Director. The Executive Director should present to the Board of Commissioners budget reports comparing the budgeted revenue and the actual expenditures.

A budget is most telling when you compare the budgeted amounts versus actual expenditures. This will help you ascertain where you have problems and where funds may need to be re-allocated, or where activities need to be redirected. The information provided in the IHP tables, while a type of budget, is not adequate to function as a tool for managing your housing operations. Detailed budgets for each planned activity and overall budget of all activities is considered essential for planning and control of your housing organization.

9.6 Drawdowns

Appropriate control procedures for drawdowns are necessary to ensure that:

1. Program income funds are expended before funds are drawn down from the Treasury
2. Funds are available to pay for expenses actually incurred
3. Payments are issued within 3 days of receipt of deposit of funds
4. Amounts requested are supported by receipts and other documentation
5. Drawdowns are approved prior to execution
6. Drawdowns are recorded properly in the general ledger

9.7 Accounting Records

Regulations require recipients and subrecipients to maintain records that adequately identify the source and application of IHBG funds. These records must contain information on the grant or subgrant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays or expenditures, and income.” (24 CFR Part 85.21(b)(2))

Accounting records must be supported by such source documentation as cancelled checks, paid bills, payrolls, time and attendance records, contract and subgrant award documents, etc.

Not only is it a regulatory requirement to maintain accurate records, it is also a good management practice. Having accurate accounting records will help you keep track of your activities, hold your staff accountable, and help you draw up your new budget or other financial reports.

9.8 Internal Controls

The objective of internal controls for cash disbursements is to ensure that cash is disbursed only upon proper authorization of management, for valid business purposes, and that all disbursements are properly recorded. The following practices increase the likelihood that this will be accomplished:

Segregation of Duties

Segregation of duties keeps a financial transaction from being handled from beginning to end by only one person. For cash disbursements, this might mean that different people authorize payments, sign checks, record payments in the books, and reconcile the bank statements. If your organization is small, you may want to involve a member of your Board to review disbursements, bank statements, and canceled checks on a monthly basis. Also, the organization should refrain from employing relatives in positions that have a reporting relationship to avoid the appearance or actual instances of conflicts of interests.

Authorization and Processing of Disbursements

You should develop policies on who in your organization can authorize payments, such as the Executive Director or department heads. Usually, once the Board approves the budget, it does not need to authorize individual purchases within that budget. However, unbudgeted purchases would require Board additional approval. In some organizations, the Board must authorize significant expenditures, such as purchases for computers or other long-lived assets. In these cases, it is important to formally define what constitutes a significant expenditure and how these purchases will be handled.

All disbursements should be accompanied by adequate documentation, in the form of receipts or an invoice. Cash withdrawals should never be made via Automatic Teller Machine (ATM) cards.

Managing Restricted Funds

IHBG funds are restricted funds; as the funder, HUD has restricted them for a specific use—affordable housing activities. By having a separate budget and separate accounts for IHBG funds, you will be able to manage them and comply with their restrictions by using them only for allowable costs.

Check Signing

It is useful to require two signatures on checks, especially for purchases over a certain amount. This amount should be defined by the organization. Even though checks require two signatures, three or four people might have check signing authority to ensure that two signers are available to make disbursements. The number of authorized signers should be kept to a minimum, while ensuring that daily business is not unnecessarily constrained. Also, avoid using signature stamps or machines.

The purpose of this internal control is to make sure that there are deliberate decisions made about who to pay, how much to pay, and when to pay bills. Having one or more checks that are pre-signed by one of the two required signatories defeats that purpose.

9.9 Cash Management

It is important to manage your cash receipts and cash disbursements so you have a careful accounting of your organization's income and expenditures.

Whenever advance payment procedures are used, you must follow procedures for minimizing the time elapsing between the transfer of funds and disbursement. When advances are made by letter-of-credit or electronic transfer of funds methods, you must make drawdowns as close as possible to the time of making disbursements.

If you have subrecipients, you must establish reasonable procedures to ensure the receipt of reports on subrecipient's cash balances and cash disbursements in sufficient time to enable you to prepare complete and accurate cash transactions reports to HUD. You must monitor cash drawdowns by your subrecipients to assure that they conform substantially to the same standards of timing and amount as apply to advances to you.

Cash Receipts Guidelines

- There should be adequate separation of responsibility in the receipt, recording and deposit of cash receipts – the same person should not conduct all of these activities.
- Cash funds should be secured.
- All funds should be deposited at least weekly.
- Pre-numbered cash receipts in numerical order should be used.
- All cash receipts should be accounted for.
- Deposit slips should be free of erasures or alterations.
- If staff are replaced, appropriate security measures should be taken regarding former employee(s) handling cash transactions (e.g., LOCCS authority, safe combinations).
- There should be no employee IOU notes or personal checks other than cash receipts for legitimate housing payments.

Cash Disbursements Guidelines

- All disbursements, except those from petty cash, should be made by pre-numbered checks.

- If program income is received, this income should be disbursed on affordable housing activities.
- All expenditures should be supported by invoices, contracts, purchase orders, etc.
- All direct salaries and wages of employees should be supported by time records.
- Direct salaries that are prorated should be supported by time distribution records.
- If the cash disbursements system is computerized, the system security should be adequate.
- No checks should be missing, voided, or altered.
- Any authorized petty cash and/or change fund(s) should reflect what is on the general ledger.
- Cash counts should be done randomly, with documented regularity.
- There should be a written prohibition against signing checks in advance.
- Larger checks should require two signatures.
- All expenditures should be approved in advance by authorized persons.
- Unpaid invoices should be maintained in an unpaid invoice file
- Invoices from unfamiliar or unusual vendors should be reviewed and approved for payment by authorized personnel who are independent of the invoice processing function.
- If the organization keeps an accounts payable register, payments should be promptly recorded in the register to avoid double payment.
- A cash disbursement voucher should be prepared for each invoice or request for reimbursement that details the date of check, check number, payee, amount of check, description of expense account (and restricted fund) to be charged, authorization signature, and accompanying receipts.
- A cash disbursement journal should be prepared monthly that details the date of check, check number, payee, amount of check, and columnar description of expense account (and restricted fund) to be charged.
- Advance payments to vendors and/or employees should be recorded as receivables and controlled in a manner which assures that they will be offset against invoices or expense vouchers.

9.10 Investments/Banking

You have the option of investing cash in excess of immediate need with prior ONAP approval. You may invest IHBG funds for the purposes of carrying out affordable housing activities in investment securities and other obligations as long as you fulfill two requirements:

- 1) Your most recent annual audit (under the Single Audit Act) must have been free of significant and material audit findings or exceptions,
- 2) You are a self-governance Indian tribe or have the administrative capacity and controls to responsibly manage the investment.

IHBG funds may only be invested in:

- Obligations of the United States; obligations issued by Government sponsored agencies; securities that are guaranteed or insured by the United States; mutual (or other) funds registered with the Securities and Exchange Commission and which invest only in obligations of the United States or securities that are guaranteed or insured by the United States; or
- Accounts that are insured by an agency or instrumentality of the United States or fully collateralized to ensure protection of the funds, even in the event of bank failure.

You must keep IHBG funds in one or more accounts separate from other funds. Accounts must be insured by an agency or instrumentality of the U.S. or fully collateralized to ensure protection of the funds even in the event of bank failure. Accounts are subject to an agreement in a form prescribed by HUD sufficient to allow HUD to exercise its rights of suspending funds disbursed in cases of substantial noncompliance. HUD Notice PIH 99-4 provides additional guidance on investing IHBG funds.

9.11 Insurance

NAHASDA requires you to provide adequate insurance against loss from fire, weather and liability claims for all housing units you own or operate. Insurance is considered adequate if it is a purchased insurance policy from an insurance provider or a plan of self-insurance in an amount that will protect your financial stability.

There is no insurance required on units of privately owned housing if there is no risk or loss or exposure to you as the recipient, or if the assistance you are providing is less than \$5,000. You must also require contractors and subcontractors to either provide insurance covering their activities or negotiate adequate indemnification coverage to be provided in their contract with you.

You may want to use an Insurance Register to track all insurance activity, including (1) the name of the insurer, (2) the insurance type (e.g., automotive), (3) the period of coverage, (4) the total amount of the premium, and (5) the insurance payment date.

9.12 Allowable Costs

IHBG funds are only to be used for certain allowable activities, as spelled out in with OMB Circular A-87, 24 CFR Part 85.22 and 24 CFR Part 1000. Use the checklist at the end of this chapter to find out whether you are adhering to these standards.

9.13 Compliance Checklist

The following checklist provides detailed questions related to these specific NAHASDA requirements and general management practices that will allow you to assess your adherence to the standards. These checklists provide questions with “Yes,” “No,” “Not Applicable,” and “Recommendations/Notes” response fields. Although the checklist is designed to facilitate questions that the appraiser may use, it is intended that the checklist be answered by the appraiser through interviews, observation or document review.



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Fiscal and Financial Management Checklist for Program (or Fiscal) Year _____

| Fiscal and Financial Management | Yes | No | N/A | Recommendations/Notes |
|---|-----|----|-----|-----------------------|
| Reporting | | | | |
| 1. Are reports (e.g., SF-272i Federal Cash Transaction Report, quarterly submission) submitted in a timely manner? | | | | |
| 2. Are you notice-free (no notices from HUD on the accuracy of the reports submitted)? | | | | |
| 3. Have you always maintained access to LOCCS due to timely reporting? | | | | |
| 4. Do financial reports and statements present a clear picture of financial results and condition? | | | | |
| 5. Are data available for the preparation of reports on: | | | | |
| 6. Current month and year-to-date activities versus budget? | | | | |
| 7. Current month versus same month prior year actuals? | | | | |
| 8. Current year-to-date versus prior year-to-date? | | | | |
| 9. Exception reporting of variances in excess of predefined percentage or dollar amount? | | | | |
| Audits | | | | |
| 10. Do you maintain all of the information and data needed for an annual audit? | | | | |
| 11. Did you submit your last annual audit in a timely manner? | | | | |
| 12. Are you taking steps to prepare in advance for your upcoming annual audit? | | | | |
| Budget | | | | |
| 13. Do accounting records allow and provide for the comparison of actual expenditures with budgeted amounts for each grant? | | | | |
| 14. Is there evidence that the grant recipient periodically (at least once a quarter) compares actual to budgeted expenditures? | | | | |
| 15. Do accounting records include tracking of expended/unexpended and obligated/unobligated balances? | | | | |
| 16. Are program budgets revised and approved, when necessary, in accordance with program requirements? | | | | |
| 17. Does a regular budget control review occur, covering areas of: | | | | |
| 18. Administrative expenses? | | | | |
| 19. Labor overtime? | | | | |



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| Fiscal and Financial Management | Yes | No | N/A | Recommendations/Notes |
|--|-----|----|-----|-----------------------|
| 20. Direct and indirect labor? | | | | |
| 21. Do managers of all the various affected functions of the organization participate in the development of budgets? | | | | |
| 22. Is adequate information available at the time budgets must be prepared in order to develop meaningful budgets? | | | | |
| 23. Are data reported against budgets accurately (if actual) or fairly (if allocated)? | | | | |
| Drawdowns | | | | |
| 24. Does the release of the check for payment of program costs occur within 3 days of the deposit of funds? | | | | |
| 25. Have you been able to keep all your funds by avoiding excessive drawdowns? | | | | |
| 26. Are Request Vouchers for payment: | | | | |
| 27. Prepared? | | | | |
| 28. Accurate? | | | | |
| 29. Documented? | | | | |
| 30. Are the established internal controls for requesting funding followed? | | | | |
| Accounting Records Checklist | | | | |
| Do the accounting records adequately identify the source and application of funds provided in the following areas: | | | | |
| 31. Obligations? | | | | |
| 32. Unobligated balances? | | | | |
| 33. Assets? | | | | |
| 34. Liabilities? | | | | |
| 35. Outlays/expenditures? | | | | |
| 36. Income? | | | | |
| 37. Subrecipient awards or obligations? | | | | |
| 38. Are cash receipts/cash disbursement journals current and accurate? | | | | |
| 39. Are bank statements reconciled monthly and in a timely manner? | | | | |
| 40. Are bank reconciliations free of discrepancies? | | | | |
| 41. If discrepancies exist, are they investigated and resolved? | | | | |
| Internal Controls | | | | |
| 42. Is there segregation of duties in terms of financial transactions? | | | | |



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| Fiscal and Financial Management | Yes | No | N/A | Recommendations/Notes |
|---|-----|----|-----|-----------------------|
| 43. Do you have a policy on who in your organization can authorize payments? | | | | |
| 44. Are all disbursements accompanied by adequate documentation, in the form of receipts or an invoice? | | | | |
| Cash Management — Cash Receipts | | | | |
| 45. If the cash receipts process is computerized, is system security adequate? | | | | |
| 46. Is there adequate separation of responsibility in the receipt, recording and deposit of cash receipts? | | | | |
| 47. Are cash funds secured? | | | | |
| 48. Are all funds deposited at least weekly? | | | | |
| 49. Do you use and issue pre-numbered cash receipts in numerical order? | | | | |
| 50. Are all cash receipts accounted for? | | | | |
| 51. Are deposit slips free of erasures or alterations? | | | | |
| 52. If staff handling cash transactions have been replaced within the last 6 months, were appropriate security measures taken regarding former employee(s), e.g., LOCCS authority, safe combinations? | | | | |
| 53. Are there no employee IOU notes or personal checks (exclusive of cash receipts for legitimate housing payments)? | | | | |
| 54. Do you have a separate budget and separate accounts for IHBG funds? | | | | |
| Cash Disbursements | | | | |
| 55. Are all disbursements, except those from petty cash, made by pre-numbered checks? | | | | |
| 56. If program income is received, is this income disbursed on affordable housing activities? | | | | |
| 57. Are all expenditures supported by invoices, contracts, purchase orders, etc.? | | | | |
| 58. Are all direct salaries and wages of employees supported by time cards? | | | | |
| 59. Are direct salaries that are prorated supported by time distribution records? | | | | |
| 60. If the cash disbursements system is computerized, is the system security adequate? | | | | |
| 61. Are all of the checks in order (i.e., not missing, voided or altered)? | | | | |
| 62. If authorized, do petty cash and/or change fund(s) reflect what is on the general ledger? | | | | |
| 63. Are cash counts done randomly, with documented regularity? | | | | |
| 64. Do the on-site cash counts of petty cash and/or change fund show that these are free of discrepancies? | | | | |
| 65. Is there a written prohibition against signing checks in advance? | | | | |
| 66. Do larger checks require two signatures? | | | | |



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| Fiscal and Financial Management | Yes | No | N/A | Recommendations/Notes |
|---|-----|----|-----|-----------------------|
| 67. Are all expenditures approved in advance by authorized persons? | | | | |
| 68. Are unpaid invoices maintained in an unpaid invoice file? | | | | |
| 69. Are invoices from unfamiliar or unusual vendors reviewed and approved for payment by authorized personnel who are independent of the invoice processing function? | | | | |
| 70. If the organization keeps an accounts payable register, are payments promptly recorded in the register to avoid double payment? | | | | |
| 71. Is a cash disbursement voucher prepared for each invoice or request for reimbursement that details the date of check, check number, payee, amount of check, description of expense account (and restricted fund) to be charged, authorization signature, and accompanying receipts? | | | | |
| 72. Is a cash disbursement journal prepared monthly that details the date of check, check number, payee, amount of check, and columnar description of expense account (and restricted fund) to be charged? | | | | |
| 73. Are advance payments to vendors and/or employees recorded as receivables and controlled in a manner which assures that they will be offset against invoices or expense vouchers? | | | | |
| Investments/Banking | | | | |
| 74. Are IHBG funds in one or more accounts separate from other funds? | | | | |
| 75. Are accounts insured by an agency or instrumentality of the U.S. or fully collateralized to ensure protection of the funds even in the event of bank failure? | | | | |
| 76. Are accounts subject to an agreement in a form prescribed by HUD sufficient to allow HUD to exercise its rights under 24 CFR Part 1000.60? | | | | |
| 77. Is cash in excess of immediate need identified and invested? | | | | |
| 78. Are funds invested in instruments or obligations that meet the requirements of 24 CFR 1000.58(a), including: obligations of the United States; obligations issued by Government sponsored agencies; securities that are guaranteed or insured by the United States; mutual (or other) funds registered with the Securities and Exchange Commission and which invest only in obligations of the United States or securities that are guaranteed or insured by the United States; or accounts that are insured by an agency or instrumentality of the United States or fully collateralized to ensure protection of the funds, even in the event of bank failure. | | | | |
| Insurance | | | | |
| 79. Have you provided adequate insurance against loss from fire, weather and liability claims for all housing units you own or operate? | | | | |



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| Fiscal and Financial Management | Yes | No | N/A | Recommendations/Notes |
|---|-----|----|-----|-----------------------|
| 80. Do you require contractors and subcontractors to either provide insurance covering their activities or negotiate adequate indemnification coverage to be provided in their contract with you? | | | | |
| 81. Do you use an Insurance Register to track all insurance activity? | | | | |
| Allowable Costs | | | | |
| When you do a periodic check of expenditures, do you find that all expenditures were necessary and reasonable for proper and efficient administration of the program, as related to: | | | | |
| 82. Salaries and related costs? | | | | |
| 83. Administrative service contracts (e.g., legal, account, audit, consulting)? | | | | |
| 84. Travel expenditures? | | | | |
| 85. Other administrative costs? | | | | |
| 86. Does a review of program expenditures reveal compliance with rules regarding unallowable costs as addressed in Attachment A of OMB Circular A-87, or identified in Attachment B of that circular, including in the areas of : | | | | |
| 87. Entertainment? | | | | |
| 88. Contributions and donations? | | | | |
| 89. Fines and penalties? | | | | |
| 90. General governmental expenditures including salary and expenses of staff and Commissioners? | | | | |
| 91. Other (Please Specify) | | | | |
| 92. Do you ensure that no costs related to "political activities" (not issue advocacy) are charged to the IHBG program? | | | | |
| 93. Do you subtract all applicable credits before charging costs to the IHBG program? | | | | |
| 94. Are all costs charged to the IHBG program allocable to the program and not included as a cost of any other federally financed program in either the current or a prior period? | | | | |
| 95. Are indirect grantee costs charged to the IHBG program only with support from an indirect cost proposal/cost allocation plan? | | | | |
| 96. If there any staff working on non-NAHASDA program activities, is the allocation of their salaries computed appropriately? | | | | |
| 97. Is the percentage of IHBG funds used for administrative costs the same as the percentage stated in the IHP? | | | | |
| 98. Does a review of program activities establish that all IHBG funds were spent or obligated for affordable housing activities as defined in Section 202 of NAHASDA? | | | | |



Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook

Reviewer _____

Date of Review _____

10.0 Procurement and Contract Administration

This chapter provides IHBG recipients with guidance on complying with procurement and contract administration requirements. It includes the following topics:

- Procurement Planning
- Conflicts of Interest
- Procurement Types
 - Small purchases
 - Competitive sealed bids
 - Competitive proposals
 - Noncompetitive proposals
 - General provisions
 - Bonding and insurance
 - Procurement preferences
- Contract Administration

Key Terms

- Conflict of interest
- Invitation for bid

Tools and Templates

- Procurement and Contract Administration Compliance Checklists

10.1 Introductory Overview

As an affordable housing entity, you will have to procure goods and services from time to time. The types of procurement cover the purchase, lease or rental of supplies, materials, equipment and services necessary for economical operation, maintenance, development and rehabilitation of IHBG-assisted housing. The procurement procedures to be followed by IHBG recipients encompass a wide range of activities, from simplified small purchases to complex, multi-million dollar construction projects. Smaller IHBG recipients may be able to rely on small purchase procedures for most of their needs, while larger IHBG recipients will likely need to use most of procedures covered in this guidebook. The regulations governing procurement can be found in 24 CFR Part 85.36.

It should be noted that HUD procurement regulations require IHBG recipients to maintain records in sufficient detail to document the history of each procurement. Such documentation is particularly important in the event a protest is lodged against the IHBG recipient. It will also be helpful in speeding up future similar procurements since the IHBG recipient has cost estimates, sample RFPs and other documents which do not have to be recreated.

How will this chapter help you?

This chapter will give you an overview of the rules and regulations on procurement to help you ascertain whether you are in compliance. If there are areas where you are not or have not been in compliance, this chapter will help you address these shortcomings.

What kinds of questions does this self-monitoring activity answer?

- Are we complying with rules and regulations on procurement?
- Are we complying with rules and regulations on contract administration?

10.2 Procurement Planning

An essential part of managing the procurement function is to plan for upcoming contract needs. For a small IHBG recipient with no major repair projects, this may be as simple as examining the inventory of maintenance supplies, estimating the upcoming year's requirements, budgeting the amount needed to purchase supplies and selecting the appropriate method of procurement. In many cases, small purchase procedures (purchase orders) may be used to buy whatever is needed.

The procurement method used will depend on the expected dollar value of the procurement. Before starting a procurement, it is recommended that the IHBG recipient make an independent cost estimate of what it expects the required item(s) to cost. For small purchases, this process may be as straightforward as reviewing the price paid for the same or similar item(s) or calling potential vendors for cost estimates of commercial off-the-shelf items. For larger contracts, this process may be more complex, involving a written analysis of the estimated labor categories and hours required and materials needed.

10.3 Conflicts of Interest

As a recipient or subrecipient, you must maintain a **written code of standards of conduct** governing the performance of your employees engaged in the award and administration of contracts. This code prohibits anyone with a conflict of interest from participating in the selection, award or administration of a contract supported by federal funds.

A **conflict of interest** would arise when the employee, officer or agent (or any member of his or her immediate family, or his or her partner, or any organization which employs or is about to employ any of the above) has a **financial or other interest in the firm selected for award**.

Your officers, employees, or agents may not solicit or accept gratuities, favors or anything of monetary value. As the awarding agency, HUD may provide additional prohibitions relative to real, apparent, or potential conflicts of interest.

10.4 Procurement Types

Small Purchases

Small purchases are those services, supplies or other property that do not cost more than \$100,00 (the current “simplified acquisition threshold” fixed by law). Small purchase procedures are relatively simple and informal. Typically, this involves obtaining oral or written quotations from an adequate number of qualified sources. After evaluating the quotations, the IHBG recipient normally awards a purchase order to the source with the lowest acceptable quote.

Competitive Sealed Bids (Formal Advertising)

For construction contracts and routine supplies above the small purchase limitations, the IHBG recipient should prepare an independent cost estimate and specifications, and publicize the upcoming procurement. Under the sealed bids or formal advertising method of procurement, bids are publicly solicited and a firm-fixed-price contract is awarded to the responsible bidder whose bid is the lowest in price (conforming with all the material terms and conditions for the invitation for bids). This is the preferred method for procuring construction goods and services.

In order for sealed bidding to be effective, the following conditions should be present:

- A complete, adequate, and realistic specification or purchase description is available
- Two or more responsible bidders are willing and able to compete effectively and for the business
- The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

If you use sealed bids, you must adhere to the following requirements:

- The Invitation for Bids (IFB) must be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient time prior to the date set for opening the bids.
- The IFB must include any specifications and pertinent attachments and must clearly define the items or services in order for the bidder to properly respond.
- All bids must be publicly opened at the time and place prescribed in the IFB.
- All bids should be assessed against the same award evaluation criteria.
- A firm fixed-price contract award must be made in writing to the lowest responsive and responsible bidder.
- Any or all bids may be rejected if there is a sound documented reason.

Competitive Proposals

While sealed bidding is the preferred method for conventional construction contracting, it is inappropriate for some other procurements, such as contracting for professional services, such as architect-engineer services. Under the competitive proposals method, both technical and price factors are considered in awarding the contract. The process is usually conducted with more than one source submitting an offer, and either a fixed-price or cost-reimbursement type contract is awarded.

If you use this method, you must adhere to the following requirements:

- A Statement of Work must be prepared describing the procurement needs.
- Requests for proposals (RFP's) must be publicized and identify all technical and price evaluation factors and their relative importance. You must honor to the maximum extent practical any response to publicized RFPs.
- Proposals must be solicited from an adequate number of qualified sources.
- You must have a method for conducting technical evaluations of the proposals received and documenting the selection of awardees.
- Awards must be made to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered.
- You may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services in which you select the most qualified competitor, subject to negotiation of fair and reasonable compensation. Remember to document the basis for this negotiation. This method can only be used in procurement of A/E professional services. In all other instances, price must be used as a selection factor.

Noncompetitive Proposals

The standard for IHBG recipient procurement is to conduct all procurement by fair and open competition to allow all responsible sources to compete. In exceptional cases, the noncompetitive proposals method may be used, provided a written justification is prepared and HUD regulations are followed.

This method may only be used when the award of a contract is infeasible under small purchase procedures, sealed bids or competitive proposals, and one of the following circumstances applies:

- The item is available only from a single source
- The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation
- HUD authorizes noncompetitive proposals
- After solicitation of a number of sources, competition is determined inadequate

If you use this method, you must conduct cost analyses, which involves verifying the proposed cost data, the projections of the data, and the evaluation of the specific elements of costs and profits.

You may be required to submit pre-award review procurement documents to HUD, such as RFPs or IFBs, independent cost estimates, etc.

10.5 Contractor Qualifications

Obtaining quality workmanship and products from contractors is critical given limited NAHASDA resources. It is essential that IHBG recipients do business only with contractors who are considered responsible. Responsible contractors are those who have the ability to perform the required work, both financially and technically, and who have a satisfactory record of integrity, past performance and compliance with applicable rules and regulations. An IHBG recipient is not required to do business with a non-responsible firm, even if that firm is the lowest bidder.

10.6 General Provisions/Procedures

The following are some general provision and procedures related to procurement that you should keep in mind:

- There should be a rationale in the file for:
 1. The selection of the method of procurement
 2. The selection of contract type
 3. The contractor selection or rejection
 4. The basis for the cost or price of the contract
- Contract pricing should never be based on the "cost-plus-a-percentage-of-cost" method.
- Purchase orders and contracts should be signed by an authorized program official.
- When items are delivered and paid for, you should check to ensure that they are consistent with the items contained in the corresponding purchase order and/or contract.
- Vendors should be paid in a timely manner once requested orders have been delivered, inspected, and accepted and payment of the vendor has been approved.
- A cost or price analysis should be performed in connection with every procurement action, including contract modifications.
- The contract provisions listed in 24 CFR Part 85.36(i) should be included in the grant-assisted contracts.
- Staff should be able to document a system of contract administration for determining the adequacy of contractors' performance.
- If applicable, the staff should be able to show that the subrecipients are required to

follow applicable procurement policies and procedures in the administration of their contracts and purchase orders.

10.7 Bonding and Insurance

For construction or facility improvement contracts or subcontracts greater than \$100,000, HUD may accept the bonding policy and requirements of the recipient or subrecipient provided HUD has made a determination that its interest is adequately protected.

24 CFR Part 85.36(h) sets forth the minimum requirements:

- (1) *A bid guarantee from each bidder equivalent to five percent of the bid price.* This is a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his or her bid, execute such contractual documents as may be required within the time specified.
- (2) *A performance bond on the part of the contractor for 100 percent of the contract price.* This is executed in connection with a contract to secure fulfillment of all the contractor's obligations under the contract.
- (3) *A payment bond on the part of the contractor for 100 percent of the contract price.* This assures payment as required by law of all persons supplying labor and materials in the execution of the work provided for in the contract.

24 CFR Part 1000.26(a)(11) states that there may be circumstances under which the bonding requirements above are inconsistent with other responsibilities and obligations of the recipient. In such circumstances, acceptable methods to provide performance and payment assurance may include:

- (1) Deposit with the recipient of a cash escrow of at least 20 percent of the total contract price, subject to reduction during the warranty period, commensurate with potential risk.
- (2) Letter of credit for 25 percent of the total contract price, unconditionally payable upon demand of the recipient, subject to reduction during any warranty period commensurate with potential risk.
- (3) Letter of credit for 10 percent of the total contract price unconditionally payable upon demand of the recipient subject to reduction during any warranty period commensurate with potential risk, and compliance with the procedures for monitoring of disbursements by the contractor.

10.8 Procurement Preferences

Indian Preference

To the greatest extent feasible, IHBG recipients should give preference in the award of contracts for NAHASDA-assisted projects to Indian organizations and Indian-owned economic enterprises. As an IHBG recipient, you must certify to HUD that your adopted

policies and procedures will provide preference in procurement activities consistent with the requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act. If you have an Indian preference policy previously approved by HUD, it will meet this requirement. Additionally, you may want to consider using a two-stage preference procedure where bids or proposals are first limited to qualified Indian organizations or Indian-owned enterprises and are only then opened up to non-Indian contractors if the initial submissions are deemed non-competitive or non-responsive to technical requirements.

Contracting With Small and Minority Firms, Women's Business Enterprises and Labor Surplus Area Firms

You must take all the necessary affirmative steps to assure that minority firms, women's business enterprises and labor surplus area firms are used when possible. This includes:

- Placing qualified small and minority businesses and women's business enterprises on solicitation lists whenever they are potential sources.
- Assuring that such businesses, when identified, are solicited whenever they are potential sources.
- Dividing procurement requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such businesses.
- Establishing delivery scheduled, where the requirement permits, which encourage participation by such businesses.
- Using the services and assistance of the Small Business Administration and the Minority Business Development Agency of the Department of Commerce.

10.9 Contract Administration

The primary function of an IHBG recipient in administering contracts is to monitor the contractor's work – ensuring proper receipts of the work being performed, inspecting the work, and accepting or rejected the work, as appropriate. Once the contract is awarded, the IHBG recipient needs to ensure that supplies, services, or construction under contract are performed in an acceptable manner. Failure to closely monitor progress and work performance can result in unnecessary additional costs and time delays. IHBG recipients should notify the contractor promptly whenever unacceptable work is done. Only acceptable work should be paid for.

10.10 Compliance Checklist

The following checklist provides detailed questions related to these specific NAHASDA requirements and general management practices that will allow you to assess your adherence to the standards. These checklists provide questions with "Yes," "No," "Not Applicable," and "Recommendations/Notes" response fields. Although the checklist is designed to facilitate questions that the appraiser may use, it is intended that the checklist be answered by the appraiser through interviews, observation or document review.



Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook





Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook

Procurement and Contract Administration Checklist for Program (or Fiscal) Year _____

| Procurement and Contract Administration | Yes | No | N/A | Recommendations/Notes |
|---|-----|----|-----|-----------------------|
| Procurement Planning | | | | |
| 1. Do you engage in periodic procurement planning, including independent cost estimates? | | | | |
| Conflict of Interest | | | | |
| 2. Do you have a written code of standards of conduct governing the performance of your employees engaged in the award and administration of contracts? | | | | |
| Small Purchases | | | | |
| 3. Can staff document receipt of an adequate number of price or rate quotations from qualified sources for procurements of \$100,000 or less? | | | | |
| Competitive Sealed Bids (Formal Advertising) | | | | |
| 4. Did the staff receive at least two responsive bids from responsible bidders for each procurement transaction? | | | | |
| 5. Did the procurement lend itself to a firm, fixed price contract and could selection of the successful bidder be made principally on the basis of price? | | | | |
| 6. Did staff advertise the Invitation For Bid (IFB) in a publication of general circulation? | | | | |
| 7. Were bids solicited from an adequate number of potential bidders? | | | | |
| 8. Did the IFB, including specifications and pertinent attachments, clearly define the items or services needed in order for the bidders to properly respond to the invitation? | | | | |
| 9. Were all bids assessed against the same award evaluation criteria? | | | | |
| 10. Were all bids opened publicly at the time and place stated in the IFB? | | | | |
| 11. Was the contract awarded to the lowest responsive and responsible bidder? | | | | |
| Competitive Proposals | | | | |
| 12. Was this procurement method utilized only when conditions were not appropriate for the use of competitive sealed bids? | | | | |
| 13. Were the proposals solicited from an adequate number of qualified sources, consistent with the nature of the procurement? | | | | |
| 14. Did the staff publicize the RFP and honor reasonable requests by parties to compete to the maximum extent practicable? | | | | |



Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook

| Procurement and Contract Administration | Yes | No | N/A | Recommendations/Notes |
|---|-----|----|-----|-----------------------|
| 15. Did the RFP identify all significant evaluation factors, including price or cost where required, and their relative importance? | | | | |
| 16. Did staff use a method for conducting technical evaluations of the proposals received and documenting the selection of awardees? | | | | |
| 17. Did staff make awards to the most responsive and responsible offerors whose proposals would be most advantageous to the recipient after price and other factors were considered? | | | | |
| 18. If proposals involving architectural/ engineering professional services were evaluated with respect to factors other than price, did staff document the basis for negotiation of fair and reasonable compensation? | | | | |
| Noncompetitive Proposals | | | | |
| 19. Can the staff show that another method of procurement (small purchases, sealed bids or competitive proposals) was not feasible because: the item was only available from a single source; or, a public exigency or emergency was of such urgency to not permit use of competitive solicitation; or, after solicitation of a number of sources, competition was determined inadequate? | | | | |
| 20. If the answer is No, was approval given by HUD for use of this method? | | | | |
| Contractor Qualifications | | | | |
| 21. Do you do business only with responsible contractors, who have the ability to perform the required work, both financially and technically, and who have a satisfactory record of integrity, past performance and compliance with applicable rules and regulations? | | | | |
| General Provisions/Procedures Checklist | | | | |
| To ensure that you are following the general procedures for procurement, pull a sample of procurement case files (three to five, depending on your organization's procurement activity). Spot check these to answer the following questions: | | | | |
| 22. Was there a rationale in the file for: | | | | |
| 23. The selection of the method of procurement? | | | | |
| 24. The selection of contract type? | | | | |
| 25. The contractor selection or rejection? | | | | |
| 26. The basis for the cost or price of the contract? | | | | |
| 27. Is contract pricing always based on a method other than the "cost-plus-a-percentage-of-cost" method? | | | | |
| 28. Are purchase orders and contracts are signed by an authorized program official? | | | | |



Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook

| Procurement and Contract Administration | Yes | No | N/A | Recommendations/Notes |
|---|-----|----|-----|-----------------------|
| 29. Are items that are delivered and paid for consistent with the items contained in the corresponding purchase order and/or contract? | | | | |
| 30. Are vendors paid in a timely manner once requested orders have been delivered, inspected, and accepted and payment of the vendor has been approved? | | | | |
| 31. Is a cost or price analysis performed in connection with every procurement action, including contract modifications? | | | | |
| 32. Were the contract provisions listed in 24 CFR 85.36(i) appropriately included in the grant assisted contracts? | | | | |
| 33. Can staff document a system of contract administration for determining the adequacy of contractors' performance? | | | | |
| 34. If applicable, can the staff show that the subrecipients are required to follow applicable procurement policies and procedures in the administration of their contracts and purchase orders? | | | | |
| Bonding and Insurance | | | | |
| If contracts have been awarded for construction or facility improvements under the grant program(s), did the staff: | | | | |
| 35. Follow its own requirements relating to bid guarantees, performance bonds and payment bonds for construction contracts or subcontracts valued at or below \$100,000? | | | | |
| 36. Meet the minimum federal requirements for bid guarantees, performance bonds and payment bonds (24 CFR 85.36(h)) or the alternatives set forth in 24 CFR Part 1000.26(a)12) for construction contracts or subcontracts valued above \$100,000? | | | | |
| Procurement Preferences | | | | |
| 37. Have you certified to HUD that your adopted policies and procedures will provide preference in procurement activities consistent with the requirements of section 7(b) of the Indian Self-Determination and Education Assistance Act? | | | | |
| 38. Has the staff attempted to the greatest extent feasible consistent with Indian Preference requirements, to award contracts for work to be performed under the programs to business concerns which provide economic opportunities to low- and very-low income persons who are residents of NAHASDA-assisted housing or who live in the metropolitan or non-metropolitan county in which the programs are undertaken? | | | | |
| 39. Do staff take affirmative steps to use small, minority-owned and women-owned businesses in grant funded contracts such as: | | | | |
| 40. Including such businesses on solicitation lists whenever they are potential sources? | | | | |



Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook

| Procurement and Contract Administration | Yes | No | N/A | Recommendations/Notes |
|--|-----|----|-----|-----------------------|
| 41. Ensuring that such businesses, when identified, are solicited whenever they are potential sources? | | | | |
| 42. Dividing procurement requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by such businesses? | | | | |
| 43. Requiring prime contractors when subcontracts are let, to take affirmative steps to select small, minority-owned and women-owned businesses in grant funded contracts? | | | | |
| Contract Administration | | | | |
| 44. Once the contract is awarded, do you ensure that supplies, services, or construction under contract are performed in an acceptable manner? | | | | |
| 45. Do you notify the contractor promptly whenever unacceptable work is done? | | | | |
| 46. Do you only pay for acceptable work? | | | | |

Reviewer _____

Date of Review _____

11.0 Labor Standards and Construction Management

This chapter provides guidance on federal labor standard requirements that apply to IHBG recipients and suggests management practices for NAHASDA supported construction activities. This chapter includes the following topics:

- Labor Standards
- Construction Management

Key Terms

- Davis Bacon Act wage rates
- Force Account construction
- Pro Forma financial statements

Tools and Templates

- Labor Standards and Construction Management Checklist

11.1 Introductory Overview

Many IHBG recipients engage contractors and subcontractors to perform construction and rehabilitation projects in support of their affordable housing activities. In general, IHBG recipients must ensure that their general contractor and associated subcontractors adhere to applicable federal labor standards.

Although there are no specific requirements in NAHASDA or related regulations as to how recipients must manage construction projects, there are some good business practices that lead to better construction outcomes. This chapter covers two such practices, force account, and pro formas.

What kinds of questions does this self-monitoring activity answer?

- Are we complying with federal labor standards?
- Are we managing our development and construction projects in an effective and cost-efficient manner?

How will this chapter help you?

If you are procuring construction services for any project, this chapter will help you ascertain whether you are in compliance with requirements. If you are engaged in a construction project, this chapter will introduce you to two ways you can better manage it.

11.2 Labor Standards

Statutory and Regulatory Requirements

NAHASDA requires IHBG recipients and any contractors or subcontractors hired by them to abide by certain labor standards requirements, found in 24 CFR Part 1000.16. If an IHBG recipient acts as prime or general contractor, it is responsible for the full compliance of all employers (contractor, subcontractors and any lower-tier relationships) with the labor standards provisions applicable to the project.

Davis-Bacon Act (DBA) Prevailing Wage Rates

Contracts and agreements for assistance, sale or lease under NAHASDA must require that prevailing wage rates be paid to laborers and mechanics employed in the development of affordable housing. An exception to this general rule is if prime contracts are less than \$2,000. Prevailing wage rates are determined by the U.S. Department of Labor (DOL) and can be found in Title 29 CFR Parts 1, 3, 5, 6, and 7. Part 1 explains how the DOL establishes and publishes prevailing wage determinations and provides instructions on how to use the determinations. DOL regulations are available on-line at www.dol.gov/dol/esa/public/regs/cfr.

When NAHASDA assistance is only used to assist homebuyers to acquire single family housing, Davis-Bacon Act wage rates apply to the construction of the housing only if there is a written agreement with the owner or developer of the housing that NAHASDA assistance will be used to assist homebuyers to buy the housing.

Each contract subject to Davis Bacon labor standards requirements must contain contract provisions containing labor standards clauses and a Davis-Bacon wage decision. These documents are normally bound into contract specifications.

The labor standards clauses describe the responsibilities of the contractor concerning Davis-Bacon wages and obligate the contractor to comply with the labor requirements. The labor standards clauses also provide for remedies in the event of violations, including withholding from payments due to the contractor to ensure the payment of wages or liquidated damages. The **Davis-Bacon wage decision** is a listing of various construction work classifications such as Carpenter, Plumber, and Electrician and the minimum wage rates (and fringe benefits, where prevailing) that people performing work in the those classifications must be paid. The prime contractor will be responsible for posting a copy of the wage decision (of the Project Wage Rate Sheet) and a copy of the DOL poster called *Notice to Employees* at the job site.

HUD-determined Wage Rates

Contracts and agreements for assistance, sale or lease under NAHASDA must require prevailing wages determined or adopted by HUD. This applies to maintenance laborers and mechanics employed in the operation of affordable housing and architects, technical engineers, draftsmen and technicians employed in the development of affordable housing.

Contract Work Hours and Safety Standards Act (CWHSSA)

According to the Contract Work Hours and Safety Standards Act (CWHSSA), contracts greater than \$100,000 to which Davis-Bacon or HUD-determined wage rates apply must provide that all overtime hours must be compensated at a rate not less than one and one half times the regular basic rate of pay. Overtime is defined as hours worked in excess of 40 during any workweek. In the event of overtime violations, the CWHSSA renders the contractor liable to the underpaid workers for wage restitution.

Exemptions for Volunteers

Wage exemptions for the use of volunteers on projects subject to Davis-Bacon and HUD-determined wage rates must be obtained from HUD in accordance with 24 CFR Part 70.

Other laws and Issuances

Recipients, contractors, subcontractors, and other participants must comply with HUD Handbook 1344.1 ("Federal Labor Standards Compliance in Housing and Community Development.")

11.3 Contract Administration

When procuring construction services, it is good business practice to maintain documents and information for your records and in case of any conflicts or problems. Your files should contain:

- Construction start dates
- Contract award dates
- Contract bid specifications with labor standards provisions
- Pre-construction conference minutes (optional)
- Records pertaining to violations and wage restitution (if applicable)
- Apprentice/Trainee registration records (as needed)
- Records of employee interviews
- Certified payrolls maintained by project
- Evidence of certified payroll review

Additionally, the contract file should contain:

- Proper wage decision in contract/specifications
- Labor standards provisions in the contract/specifications
- Evidence of contractor eligibility verification
- Additional classifications and wage rates processed as needed
- The contract, including:
 - Project number designation
 - Name of contractor
 - Description of work
 - Bid opening date
 - Contract award date

- Contract amount
- Start of construction date

11.4 Investigations and Enforcement

From time to time, conflicts and complaints may arise. Worker complaints should be handled and resolved in a timely manner, and investigations conducted where appropriate. When using contractors who will hire additional sub-contractors, it is good practice to establish escrow accounts or to withhold funds to cover labor standards violations. In cases of underpayments by a contractor or subcontractor totaling \$1,000 or more, you must submit an enforcement report to HUD. Note that the \$1,000 threshold refers to the underpayments of a single employer to his/her entire workforce and not to individual employees.

11.5 Construction Management

Construction Project Pro Formas

A pro forma is a forecasted project development and financing statement based on a set of assumptions. A pro forma statement can help IHBG recipients understand all of the variables that impact the total cost of providing affordable housing. They attempt to capture all the direct construction and indirect construction financing costs to provide aggregate total and per unit cost figures. Conversely, pro formas help to align financing sources with steps in the construction process. Generally, pro formas should reflect development costs associated with:

- Acquisition
- Pre-development activities (environmental reviews and architectural and engineering services)
- Other soft costs (insurance and legal and accounting services)
- Hard construction costs (roads, foundations, etc)

Force Account

Force account is an alternative to conventional construction management with its built in check and balances. In force account work, an IHBG recipient acts as the general contractor, and assumes the risks of executing the following tasks:

- Engaging architect and engineering services
- Retaining subcontractors
- Financing the project
- Coordinating the contractors
- Inspecting the work

The benefit of using force account will be your ability to control local hiring, the budget, time and to some extent, cost. You also may save money and build skills for future projects. However, there are also risks associated with force account – you will have responsibility for time, budget, and the quality of work. There will be no “fixed” price, and no performance bond or other security. Managing a construction project requires a certain level of knowledge and sophistication to handle problems that will invariable

emerge. There may be cost over-runs, work may not be completed on time, there may be conflicts with contractors. Be sure you are prepared and equipped to deal with these contingencies.

Although the force account method does not need specific HUD approval, the IHBG recipient using this method should demonstrate to itself that it has the technical and administrative capabilities to complete the project within the projected time and budget. It should make sure that:

- It has carried out or can carry out successfully a project of the size and scope of the proposal.
- It has obtained or can obtain adequate supervision for the workers to be used.
- It has information showing that the workers to be used are, or will be, listed on the tribal payroll and are employed directly by a unit, department or other governmental instrumentality of the tribe or village.
- Insurance coverage for force account workers and activities shall, where applicable, include worker's compensation, public liability, property damage, builder's risk, and vehicular liability
- It has specified and applied reasonable labor performance, construction, or renovation standards to work performed under the force account.
- It has applied the contracting and procurement standards set forth in 24 CFR Part 85.36 to material, equipment, and supply procurement from outside vendors.

11.6 Compliance Checklist

The following checklist provides detailed questions related to these specific NAHASDA requirements and general management practices that will allow you to assess your adherence to the standards. These checklists provide questions with "Yes," "No," "Not Applicable," and "Recommendations/ Notes" response fields. Although the checklist is designed to facilitate questions that the appraiser may use, it is intended that the checklist be answered by the appraiser through interviews, observation or document review.



Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook

Labor Standards and Contract Administration Self-Monitoring Checklist for Program (or Fiscal) Year _____

| Labor Standards and Contract Administration | Yes | No | N/A | Recommendations/Notes |
|--|-----|----|-----|-----------------------|
| 1. Are we paying Davis-Bacon wage rates when required? | | | | |
| 2. Are we paying HUD-determined wage rates when required? | | | | |
| 3. Do we pay over-time at a rate of at least time and a half on contracts greater than \$100,000 to which Davis-Bacon or HUD-determined wage rates apply? | | | | |
| 4. When we use volunteers on projects subject to Davis-Bacon and HUD-determined wage rates, do we obtain wage exemptions from HUD in accordance with 24 CFR Part 70? | | | | |
| 5. Are we in compliance with HUD Handbook 1344.1 (Federal Labor Standards Compliance in Housing and Community Development)? | | | | |
| I. Assessment of Labor Standards Administration | | | | |
| 1. Are the following documents or information maintained? | | | | |
| a) Labor standards enforcement files for each construction project? | | | | |
| b) Construction start dates? | | | | |
| c) Contract award dates? | | | | |
| d) Contract bid specifications with labor standards provisions? | | | | |
| e) Pre-construction conference minutes? (optional) | | | | |
| f) Records pertaining to violations and wage restitution? (if applicable) | | | | |
| g) Apprentice/Trainee registration records (as needed)? | | | | |
| h) Records of employee interviews? | | | | |
| i) Certified payrolls maintained by project? | | | | |
| j) Evidence of certified payroll review? | | | | |
| 2. Are Semi-annual Labor Standards Enforcement Reports submitted to HUD Labor relations? | | | | |
| II. Labor Standards Compliance, Individual Construction Contracts | | | | |
| The reviewer should make a random selection of construction contracts. List the contractors and dollar amounts for these contracts. | | | | |
| A. _____ | | | | |
| B. _____ | | | | |
| C. _____ | | | | |
| 1. Contract Components | | | | |
| Are the following elements included in each contract being reviewed? | | | | |



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| Labor Standards and Contract Administration | Yes | No | N/A | Recommendations/Notes |
|---|-----|----|-----|-----------------------|
| a) Project number designation | | | | |
| b) Name of contractor | | | | |
| c) Description of work | | | | |
| d) Bid opening date (//) | | | | |
| e) Contract award date (//) | | | | |
| f) Contract amount (\$) | | | | |
| g) Start of construction date | | | | |
| 2. Contract Documents | | | | |
| a) Are the following documents included in the contract file? | | | | |
| b) Proper wage decision in contract/specifications | | | | |
| c) Labor standards provisions in the contract/specifications | | | | |
| d) Evidence of contractor eligibility verification | | | | |
| e) Additional classifications and wage rates processed as needed | | | | |
| 3. Payroll Review | | | | |
| a) Are payrolls submitted in a timely manner? | | | | |
| b) Are payrolls signed by employer or authorized representative? | | | | |
| c) Are discrepancies/violations noted? | | | | |
| d) Is there evidence of payroll review? | | | | |
| e) Are discrepancies/violations followed through to full resolution? | | | | |
| 4. Employee Interviews | | | | |
| a) Were employee interviews conducted by the recipient? | | | | |
| b) Were a representative number of trades and workers covered? | | | | |
| 5. Investigations and Enforcement | | | | |
| a) Are worker complaints handled and resolved in a timely manner, and investigations conducted where appropriate? | | | | |
| b) Are escrow accounts established and funds withheld to cover labor standards violations? | | | | |
| c) Are enforcement reports submitted to HUD where underpayments total \$1,000 or more? | | | | |



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| Force Account Construction | | | | |
|--|--|--|--|--|
| 1. Do you have an adequate system of written controls over force account activities to ensure that assets are protected, used only for authorized purposes and in accordance with program requirements? | | | | |
| 2. Do you have adequate number of qualified workers to complete the planned work? | | | | |
| 3. Do you have the necessary tools and equipment to complete the project on time and in budget? | | | | |
| 4. Do you have a system to manage and maintain equipment and tools? | | | | |
| 5. Do you have qualified staff and procedures to procure materials and manage material distribution and storage? | | | | |
| 6. Does your financial system have the capacity to process and track the anticipated payroll and material expenditures? | | | | |
| 7. Do you have an experienced construction supervisor to supervise the construction crew(s)? | | | | |
| 8. Do you have an experienced project superintendent who can manage the project including budgets, schedules, sequencing, contract management, material management, quality control, and problem resolution? | | | | |
| 9. Do you have clear plans and specifications which are reasonable in scope for development by force account? | | | | |
| 10. Do you have arrangements for independent inspections to verify the quality of work and compliance with the plans and specifications? | | | | |
| 11. Do you have arrangements for independent monitoring of progress and costs to ensure the force account construction is on track? | | | | |
| 12. Do you have an adequate budget for contingencies to address unforeseen delays, the cost of changes, and budget over runs? | | | | |
| 13. Do you have a management system to ensure compliance with labor requirements including the maintenance of records? | | | | |
| 14. Do you have a budget and plan to resolve development deficiencies including warranty problems? | | | | |
| 15. Do you have adequate insurance to protect you from loss and liability including workmen's compensation, property damage, builder's risk and vehicular liability? | | | | |

Reviewer _____ Date of Review _____



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12.0 Environmental Review

This chapter deals with your environmental review responsibilities as an IHBG recipient. The law requires that the environmental effects of activities carried out with NAHASDA assistance must be evaluated before you may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds in conjunction with NAHASDA assisted activities. Environmental review responsibilities may be assumed by the tribe or retained by HUD, at the tribe's request.

This chapter includes the following topics:

- Statutory and regulatory requirements
- Assuming environmental review responsibilities
- Declining environmental review responsibilities

Key Terms

- Environmental review record (ERR)
- Environmental assessment (EA)
- Environmental impact statement (EIS)

Tools and Templates

- Checklist for a tribe that assumed environmental review responsibilities
- Checklist for a tribe that declined to assume environmental review responsibilities

12.1 Introductory Overview

NAHASDA allows tribes to assume environmental review and decision-making responsibilities. The entity that assumes HUD's environmental responsibility for the project under 24 CFR Part 58 is called the Responsible Entity (RE). Environmental responsibility includes responsibility for environmental reviews, decision-making and action. Because the RE will be responsible for the project's environmental consequences (if necessary) in Federal court, an entity must have general governmental capabilities in order to be legally qualified to be an RE. The RE can only be an Indian tribe as defined in NAHASDA.

For tribes that assume responsibility as RE, there are a number of requirements. This chapter will give an overview of these requirements, as well as those that apply to tribes that decline environmental review and decision-making responsibilities. As an overview, this chapter does not provide the level of detail that can be found in the National Environmental Policy Act of 1969 or its implementing regulation, 24 CFR Part 58 or HUD Notice PIH-99-37. Knowledge of this statute and regulations is still necessary. In addition, HUD has produced and made available a Guidebook for Performing Environmental Reviews.

What kinds of questions does this self-monitoring activity answer?

- Are we complying with the environmental review requirements of our IHBG funds?

- If we opted to conduct the environmental review and decision-making, are we in compliance with the requirements?
- If we declined environmental responsibilities, are we in compliance with the requirements?

How will this chapter help you?

Environmental regulations, requirements and procedures can be confusing. This chapter provides an overview summary of the responsibilities associated with environmental review, whether you or your tribe assume the role of the Responsible Entity or not.

12.2 Statutory and regulatory requirements

As stated earlier, the law requires that the environmental effects of activities carried out with NAHASDA assistance be evaluated before a recipient may acquire, rehabilitate, convert, lease, repair or construct property, or commit HUD or local funds in conjunction with NAHASDA assisted activities.

Activities subject to environmental review

Activities **subject** to environmental review include:

- Any activity that may have a significant impact on the human environment including: (a) new construction, (b) conversion of land use (including demolition) from non-residential to residential or from residential to non-residential use; and (c) acquisition of undeveloped land including acquisition for future development;
- Major rehabilitation and improvement of existing structures;
- Minor rehabilitation and repair of existing structures;
- Acquisition of existing structures; and
- Leasing or rental assistance involving existing structures.

Activities not subject to environmental review

Certain activities **do not** require environmental review, but do require documentation/written determination of exemption. These activities include, among others:

- Information and financial advisory services
- Administrative and management expenses
- Public and supportive services that will not have a physical impact or result in any physical changes
- Inspections and testing of properties for hazards or defects
- Engineering or design costs

- Technical assistance and training
- Tenant-based rental assistance
- Operating costs including maintenance, security, operation, utilities, furnishings, supplies, staff training and recruitment and other incidental costs
- Housing pre-development costs including legal, consulting, developer and other costs related to site options, project financing, administrative costs and fees for loan commitments, zoning approvals, and other related activities which do not have a physical impact.

12.3 Assuming Environmental Review Responsibilities

If the tribe assumes environmental review responsibilities, it must have a Certifying Officer who will be legally responsible for the content of the environmental review, for implementation of the subsequent action, and who, if necessary, will represent the Responsible Entity in Federal court. The Certifying Officer should be the tribal chairperson, (Chief Executive Officer of the jurisdiction) or a person delegated environmental responsibilities by the tribe.

The RE must follow the requirements of 24 CFR Part 58. If you assume environmental review responsibilities, it is imperative that you become familiar with and understand 24 CFR Part 58.

One important requirement is that no funds may be committed to a grant activity or project before the completion of the relevant required environmental review and approval by HUD of the request for release of funds and related certification. This includes HUD as well as non-HUD funds. The purpose of these limitations is to avoid biasing the environmental review through the amount of work completed in a desired direction or the potential loss of funds and labor by disapproving an in-process project.

You must maintain a written environmental review record (ERR). The ERR contains all of the documentation which was produced during the review and which has been used as evidence for compliance and decision-making. This should include:

- Project description and the activities that you have determined to be part of the project, including, when applicable, geographic boundaries and all related HUD or non-HUD funded activities proposed
- Evaluation of the effects of the project or the activities on the human environment
- Document compliance with applicable statutes and authorities, in particular those cited in 24 CFR Part 58.5 and 24 CFR Part 58.6
- Written determinations in those cases in which the recipient claims that projects or activities are "exempt" under 24 CFR Part 58.34 or "categorically excluded" under 24 CFR Part 58.35

The ERR should also contain verifiable source documents and relevant base data used or cited in environmental assessments, environmental impact statements, or other project review documents.

Once you complete the requirements in 24 CFR Part 58, you must:

- Certify the completion
- Submit the nonrecipient responsible entities' certification of completion, if applicable
- Submit a Request for Release of Funds if required. The Certifying Officer attests to the performance of the environmental assessment by a qualified person and its compliance with NEPA and HUD requirements. (This submission is not required in cases in which the applicant determines, in accordance with Part 58 that its program components are exempt.)

HUD will not release grant funds if you (or any other party) commit grant funds (i.e., incur any costs or expenditures to be paid or reimbursed with such funds) before you submit and HUD approves your Request for Release of Funds.

12.4 Declining Environmental Review Responsibilities

If you select HUD to fulfill the environmental review responsibility, you must meet fewer requirements, but must still follow regulations. If you decline environmental responsibilities, you must submit an environmental assurance in accord with 24 CFR Part 50.3(h).

The environmental assurance records an assurance that you will:

- Not enter into a contract for, or otherwise commit HUD or local funds for, acquisition, rehabilitation, conversion, lease, repair, or construction of property to provide housing under the program, prior to HUD's completion of the review and approval of the project;
- Supply HUD with information necessary for HUD to perform any applicable environmental review when requested under 24 CFR Part 50; and
- Carry out mitigating measures required by HUD or ensure that alternate sites are utilized.

You must provide separate data for each property or community area. If available, you may also provide HUD with previously issued environmental reviews prepared by other local, State, or Federal agencies for the subject property. You are encouraged to obtain outside information at the earliest possible stage, because late submission of information may delay the environmental review process and thereby the implementation of your affordable housing activities.

For further information, please consult "Indian Housing Block Grant Program: Guidance and Procedures If Tribes Do Not Assume Environmental Review Responsibilities under 24 CFR Part 58," PIH-ONAP Notice 99-37.

12.5 Compliance Checklist

The following checklist provides detailed questions related to these specific NAHASDA requirements and general management practices that will allow you to assess your adherence to the standards. These checklists provide questions with "Yes," "No," "Not

Applicable,” and “Recommendations/Notes” response fields. Although the checklist is designed to facilitate questions that the appraiser may use, it is intended that the checklist be answered by the appraiser through interviews, observation or document review.



Indian Housing Block Grant Recipient Self-Monitoring Compliance Assessment Guidebook

Environmental Review Checklist for Program (or Fiscal) Year _____

| Tribes Assuming Environmental Review Responsibilities | Yes | No | N/A | Recommendations/Notes |
|--|-----|----|-----|-----------------------|
| 1. Is there a separate Environmental Review Record (ERR) for each project? | | | | |
| 2. Was the current HUD recommended (or an equivalent) format used for the ERR? | | | | |
| 3. Does each ERR contain the following: | | | | |
| a) Project description and the activities that you have determined to be part of the project, including, when applicable, geographic boundaries and all related HUD or non-HUD funded activities proposed? | | | | |
| b) Evaluation of the effects of the project or the activities on the human environment? | | | | |
| c) Documented compliance with applicable statutes and authorities, in particular those cited in §58.5 and 58.6? | | | | |
| d) Written determinations in those cases in which the recipient claims that projects or activities are "exempt" under §58.34 or "categorically excluded" under §58.35? | | | | |
| e) Finding of No Significant Impact (FONSI)? (If a negative response is based on the fact that the recipient found that a significant impact may occur, please go to number 7 below to continue the review) | | | | |
| f) Copy of published Notice of FONSI or a Combined Notice? | | | | |
| g) Copy of published of Notice of Intent or Request Release of Funds (NOI/RROF) or a Combined Notice of FONSI and NOI/RROF? | | | | |
| h) Form HUD 7015.15, Request for Release of Funds and Certification? | | | | |
| i) HUD 7015.16, Notice of Removal of Grant Conditions signed and dated by HUD, indicating that at least 15 days were allowed for objections? | | | | |
| 4. Do records show that: | | | | |
| a) With the exception of exempt activities, no grant funds were obligated or spent prior to the receipt of the HUD 7015.16 (or the date specified in the HUD 7015.16, if earlier)? | | | | |
| b) With the exception of categorically excluded activities determined to be exempt under the provisions of §58.34(a)(12), no physical development activities began prior to the receipt of the HUD 7015.16 (or the date specified in the HUD 7015.16, if earlier)? | | | | |
| c) Identify the source of the information used to answer 4a and 4b. | | | | |



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Reviewer _____

Date of Review _____



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| Tribes Declining Environmental Review Responsibilities | Yes | No | N/A | Recommendations/Notes |
|---|-----|----|-----|-----------------------|
| 1. Did you either supply HUD in a timely manner all available, relevant information necessary for HUD to perform for each property any environmental review required by 24 CFR part 50 or prepare for an Environmental Assessment for HUD review and evaluation? | | | | |
| 2. (If applicable) Did you carry out mitigating measures required by HUD as a consequence of its review? | | | | |
| 3. (If applicable) Did you select an alternative property rather than carry out mitigating measures? | | | | |
| 4. Did you not acquire, rehabilitate, convert, lease, repair or construct property, nor commit local funds for these program activities with respect to any eligible property until HUD approval of the property was received? | | | | |

Reviewer _____ Date of Review _____