


MEMORANDUM

June 17, 2020

To: Tribal Housing Clients

From:  Ed Clay Goodman

Re: **ICDBG-CARES Act Funding Implementation Notice**

On June 17, 2020, the U.S. Department of Housing and Urban Development (“HUD”) hosted a conference call to provide updates on CARES Act resources for Tribes and TDHEs. The call has been recorded and will be uploaded as an unlisted YouTube link within a week after the call. This memo provides a summary of the call and CARES Act resources.

I. Opening Presentation

HUD Assistant Secretary Hunter Kurtz and ONAP Deputy Assistant Secretary Heidi Frechette each gave brief opening remarks. Ms. Frechette and Jad Atallah, Performance and Planning Director of HUD Office of Native American Programs, then provided an update of the current status of CARES Act funding. Directors from the regional ONAP offices also shared some of the activities for which tribes have used CARES Act funding.

a. CARES Act Grants

HUD received over 233 applications for IHBG-CARES grants, with a total amount requested of over \$234 million. HUD recommends that tribes and Tribally Designated Housing Entities (“TDHE”) make sure that their grant contacts closely monitors their email inboxes in order to respond quickly to HUD emails regarding funding so that HUD can send out money quickly. HUD is currently in the process of reviewing of IHBG-CARES Abbreviated IHPs and ICDBG-CARES applications.

b. IHBG and ICDBG Grants & other HUD Initiatives

On June 4, 2020, HUD announced the FY2020 ICDBG awards, totaling nearly \$120 million in funding for tribes. HUD continues its work on the IHBG competitive NOFA announcement, the Tribal HUD-VASH expansion, and the NAHASDA reauthorization, and will provide updates on these activities as they become available.

Additionally, HUD will be hosting a Telehealth 101 conference call on Monday, **June 22nd** at 3:00 PM EDT. HUD, representatives of the Choctaw Nation, and representatives from HHS's Health Resource Services Administration ("HRSA") will provide information about how public housing authorities and TDHEs can encourage and provide telehealth services to residents. More information can be found on the HUD Codetalk website.

c. FY 2021 Indian Housing Block Grant Formula Allocation Estimates

On May 29, 2020, HUD published a Dear Tribal Leader letter to inform Tribes and TDHEs of their IHBG formula allocation estimate for FY 2021 and to transmit the forms required for correcting the FY 2021 IHBG formula data and the FY 2022 IHBG Needs data. In the past, HUD would mail this information. However, due to the COVID-19 pandemic, HUD is posting the following information on-line at:

<https://ihbgformula.com/fy2021/>:

- FY 2021 Formula Response Form (FRF) including the FY 2021 FRF Appendices A through D and the FY 2022 IHBG Needs Data (Attachment A).
- Calendar of Critical Deadlines and Frequently Asked Questions.
- FY 2021 Correction/Challenge Log showing changes to the IHBG database between January 25, 2020, and May 12, 2020.

Tribes/TDHEs must review their data on the FY 2021 Formula Response Form and report any changes no later than **August 1, 2020, to the IHBG Formula Customer Service Center**. Census Challenges for the FY 2022 IHBG Needs data must be submitted no later than March 30, 2021, for consideration for the FY 2022 IHBG formula allocation estimates. Additional information can be found at

https://www.hud.gov/program_offices/public_indian_housing/ih/codetalk/onap/ihbgformula.

d. CARES Act Resources

The following resources are available on the HUD Codetalk website, which provide detailed information regarding the IHBG-CARES and ICDBG-CARES applications, funding, waivers, and use of funding.

- Notice PIH 2020-05 – COVID-19 Waiver Notice
- Notice PIH-2020-06 – IHBG-CARES Implementation Notice
- Notice PIH 2020-11 – ICDBG-CARES Implementation Notice
- Guidance to Reprogram and Utilize FY2020 IHBG funding Under the CARES Act

On May 19, 2020, HUD published a Dear Lender Letter, informing lenders of the special loss mitigation options available to Section 184 Indian Home Loan Guarantee

program (“Section 184”) and Section 184A Native Hawaiian Housing Loan Guarantee program (“Section 184A”) borrowers under Section 4022 of the CARES Act, and the 120-day eviction moratorium that is currently in place pursuant to Section 4024 of the Act. The Dear Lender Letter extended the foreclosure moratorium initially provided under the CARES Act until June 30, 2020 and extends loans processing flexibilities related to appraisals, verification of employment and IRS transcripts. The Federal Housing Administration extended its similar moratorium through the end of August, so HUD expects that it will likely extend the moratorium through the end of August for Section 184 and 184A borrowers as well.

ONAP HUD has also issued five different CARES Act FAQs, which provide information to assist Tribes and TDHEs while they navigate the impact of COVID-19 on their day-to-day functions. The FAQs can be found on the HUD Codetalk website, and HUD expects to issue additional FAQs in the near future. Additionally, HUD has created a website with numerous COVID-19 resource materials. The site includes a COVID-19 Interaction Playbook for Housing Partners, COVID-19 Guidance for Housing Partners, and a Public Housing Authority Disaster Readiness and Preparation Guide, among other resources. The resources can be found at https://www.hud.gov/coronavirus/public_housing_agencies.

e. Regional ONAP Updates on CARES Act Actions

Directors from the regional ONAP offices then provided updates on how tribes and TDHEs have used CARES Act funding to prevent, prepare for, and respond to COVID-19.

Alaska ONAP Office – Andy Concepcion, Director of AKONAP Grants Management Division

Mr. Concepcion noted that Alaska has severely overcrowded conditions and severely travel-restricted areas due to COVID-19. There are many communities that are only accessible by plane. The COVID-19 pandemic has decreased access to these communities, with some communities only having one flight a week, or sometimes no flights at all. Many communities also have restrictions on who is coming into local communities, in attempts to prevent the spread of COVID-19.

Mr. Concepcion highlighted that Alaska Tribes have used CARES Act funding for the following activities:

- Upgrades to technological equipment to allow tribal and TDHE staff to work from home—many communities did not have such equipment before

- Construction for housing to address overcrowding and to provide houses for quarantining individuals
- Construction and rehabilitation of houses for quarantining influx of people coming in from out of state for seasonal fishing and construction
- Food distribution and supplies, including for freezers, and trailers to use for distribution
- Normal activities that were halted or slowed by crisis

The Alaska ONAP office will continue to take IHBG Abbreviated IHPs.

Northwest ONAP – Tom Carney, ONAP Administrator

Mr. Carney noted that Tribes in the Northwest have used CARES Act funding for the following activities:

- PPEs, protective barriers, and cleaning supplies
- Increasing access to broadband and Wi-Fi to allow for tele-school, tele-work, telehealth because of shelter in place orders and building mobile internet facilities
- Improvements to housing entities processes and tools to allow for processing payments electronically and providing resources online
- Community facility upgrades for safety and for quarantine facilities
- Adding bathrooms to powwow grounds to use those as quarantine areas
- Acquisition of housing and housing rehabilitation, primarily for quarantine use and to reduce overcrowding

Northern Plains ONAP – Randy Akers, ONAP Administrator

Mr. Akers noted that all 34 tribes in the Northern Plains region have been severely impacted by COVID-19. He highlighted the actions that three tribes have taken in response to COVID-19.

- Winnebago Housing and Development Commission
 - Collaborating with tribal health program to provide quarantine lodging
 - Rehabilitating housing units to provide housing for elders
 - Entering into a cooperative agreement with the tribal wildlife and parks program to provide quarantine lodging to individuals exposed to COVID-19 and to purchase trailers to be placed next to cabins owned by the tribal wildlife and parks program, to be used to provide quarantining for families and individuals
- Tonkawa Tribe
 - Providing food delivery services to elders and high risk families

- Providing medical delivery service to elder and high risk families
- Providing technological support, including mobile internet hotspots
- Providing in-home emergency response devices similar to Life Alert for elders
- Omaha Tribe of Nebraska
 - Purchasing and operating a tiny home development for quarantine purposes for short term occupancy

Southwest ONAP – Jody Moses, ONAP Administrator

Ms. Moses noted that tribes in the Southwest region have used CARES Act funding for the following activities:

- Providing rental assistance, PPE, and cleaning supplies
- Providing rental assistance to eligible college students
- Covering the costs of hotel rooms for quarantining to address overcrowding
- Upgrading slow speed broadband to high speed to provide broadband for tele-health, tele-school, and tele-work
- Delivering and distributing of food to those most vulnerable
- Constructing temporary medical facilities
- Setting up quarantine areas in elder homes for those who return to the residence after going to medical appointments

Southern Plains ONAP – David Southerland, ONAP Administrator

Mr. Southerland noted that tribes and TDHEs in the Southern Plains region have used CARES Act funding to:

- Maintain current operations and to supply PPEs and cleaning supplies
- Obtain a consultant to help write emergency policies
- Provide tele-health devices
- Cover the costs of emergency housing through hotels for quarantining and to house medical personnel
- Construct or purchase housing units for those affected by COVID-19

Eastern Woodlands ONAP – Mark Butterfield, ONAP Administrator

Mr. Butterfield noted that tribes and TDHEs in the Eastern Woodlands region have used CARES Act funding to:

- Provide equipment to allow employees and tribal members to work from home

- Increase Wi-Fi hotspots and lay fiber-optic cable for tele-health, tele-work, and tele-school
- Prepare quarantine units
- Provide payment of rent and utilities for those laid off
- Purchase vehicles for food delivery for elders
- Build cell towers for better communication services
- Renovate food distribution centers

Hawaii ONAP– Claudine Allen, Native Hawaiian Program Specialist

Ms. Allen noted that Hawaiian natives have used CARES Act funding to:

- Provide COVID-19 emergency rental assistance
- Provide mortgage payments for up to six months

f. Questions and Answers

After the general presentations, Mr. Atallah then addressed questions from callers about CARES Act funding.

- What is the right place to send masks to help tribes?
 - Individuals should send their name and contact to ONAP, who will coordinate with them where to send masks.
- Does the HUD 15 day IHP review period include weekends or just business days?
 - The 15 day period is unofficial, and HUD is doing its best to review the IHPs much quicker than 15 days. There is no automatic approval of the IHPs after the 15 day period, but this should not be a cause for concern given that HUD has been approving them in two or three days.
- Can payment of salaries be taken out of IHBG CAREs funding or is it only for essential workers?
 - Similar to the normal IHBG and ICDBG programs, tribes and TDHEs can use up to 20% of the grants for administration and planning. If tribes and TDHEs are paying salaries for essential workers, the same rule applies.
- Regarding the ICDBG-CARES funding, do you anticipate that HUD will withhold the \$20 million for tribes with the greatest need?
 - HUD has not decided yet and is weighing multiple factors. HUD's decision as to whether to reserve the funding will depend on the factors listed in Notice PIH 2020-11 – ICDBG-CARES Implementation Notice.

- Can a tribe provide utility assistance for utility bills that were overdue before the COVID-19 pandemic?
 - Tribes with this concern should reach out to their Area ONAP. The CARES Act allows for reimbursement for costs incurred by tribes prior to the CARES Act enactment but not for costs incurred before January 21, 2020.
- Is there any guidance for TDHEs on providing hazard or hero pay for workers?
 - HUD has not issued any formal guidance on this. Tribes and TDHEs can use grant funds to pay hazard pay for essential workers or workers going to work under current COVID-19 conditions. However, the amount of hazard pay must match what is normal in your area for that industry and must be reasonable and necessary.
- When do you plan to award ICDBG-CARES grants?
 - HUD will be making the initial announcements in the next couple weeks and will likely do this on rolling basis, as applications are reviewed on a first-come first-serve basis.
- Regarding the potential reservation of ICDBG-CARES imminent threat funding for tribes that have active cases of COVID-19, my TDHE has 28 tribes in one region that share the same health facility. The tribal area is therefore broader than geographic location of any one tribe. When they have COVID-19 cases come into the area, it impacts all tribes. How will HUD define whether tribal areas have active COVID-19 cases? Does HUD have any guidance on this? Will this fall under the criteria for the reserved \$20 million?
 - HUD encourages all TDHEs and tribes to share questions such as this with their Area ONAP. HUD may not exercise the option of reserving funds, but if it does, HUD will publish the methodology it uses. HUD is aware of the service area issue, and if it reserves the \$20 million, HUD will take into account issues such as when the service area does not match up with the geographic area.

g. General Resources

1. **HUD Guidance on Eligible Uses** for Community Development Block Grant Funds to Support COVID-19 Responses: while the language in the guide specifically references CDBG, ICDBG has the same eligible activities, and therefore the guide can be considered applicable for both programs.

2. **ONAP COVID-19 Recovery Programs website:**
https://www.hud.gov/program_offices/public_indian_housing/ih/Covid_Recovery.
3. **ICDBG-CARES Waivers and Alternative Requirements, PIH Notice 2020-05:** <https://www.hud.gov/sites/dfiles/PIH/documents/PIH2020-05.pdf>.
4. **ONAP website, including updated implementation notices and COVID-19 related frequently asked questions:** <https://www.hud.gov/codetalk>.
5. **HUD COVID-19 resources and fact sheets:**
<https://www.hud.gov/coronavirus>.
6. **List of Indian Entities Recognized and Eligible to Receive Service from the United States Bureau of Indian Affairs** (85 FR 5462 published January 3, 2020: <https://www.federalregister.gov/d/2020-01707>).

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If you have any questions regarding this memorandum, please contact Ed Clay Goodman at egoodman@hobbsstrauss.com or by phone at (503) 242-1745.