

**Welcome to NAHASDA
IHBG Self-Monitoring**

October 6-7, 2021

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Course Goals

Participants will be able to:

- Understand the importance of timely self-monitoring
- Able to create a customized self-monitoring schedule
- Identify weak management practices that may lessen the ability of the organization to provide affordable housing

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Course Agenda

- Overview of Self-Monitoring
- Approaches to Self-Monitoring
- Partner Perspectives for Self-Monitoring
- What Areas Do You Need to Monitor Based on Your IHP
- Program Areas to be Monitored
 - Management and Organizational Structure
 - Internal Controls
 - Conflict of Interest
 - Indian Preference
 - Admission and Occupancy
 - Financial Management
 - Procurement
 - Labor Standards

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Course Structure


- Ask questions!
- Share techniques and advice
- Participant Materials
- Timing of breaks and lunch



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Participant Materials

- PowerPoint presentation
- Self-Monitoring Guide
- Sample Self-Monitoring Checklists



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Overview of Self-Monitoring

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What Is Self-Monitoring?

- Self-monitoring is the process of:
 - Recording the operation of a system
 - Observing/reviewing activities over the course of a year
 - Detecting deficiencies and taking steps to correct them
 - Recording/reporting through the Annual Compliance Assessment and Annual Performance Report

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Self-Monitoring from ONAP's Perspective

- Monitor performance against goals
- Check relevance and quality of activities
- Identify issues internally before other partners
- Solve problems promptly
- Apply random selection (10% or 10 files, whichever is higher)

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Self-Determination and Self-Governance

- NAHASDA recognizes these rights
- NAHASDA provides flexibility and this flexibility brings added responsibility:
 - Direct Control = Direct Accountability
- Monitoring facilitates good management.

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Self-Monitoring Requirements

- NAHASDA: Section 403(b), Periodic Monitoring
 - 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 on-site inspection of housing to determine compliance with applicable requirements.
 - The results of each review shall be included in the performance report of the recipient submitted to the Secretary under Section 404 and made available to the public.
- 24 CFR 1000.502
 - The recipient is responsible for monitoring grant activities to ensure compliance with the applicable Federal requirements and monitoring performance goals under the IHP.

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Why Conduct Self-Monitoring?

- Demonstrate accountability for performance
- Build organizational capacity
- Ensure compliance with regulations
- Identify system weaknesses
- Improve efficiency and effectiveness of practices

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Self-Monitoring Overview

- Observe/review activities over the course of a year
- Detect deficiencies and take steps to correct them
- Record/report through the Annual Compliance Assessment and APR
- Assessing compliance with the IHP, the law, and regulations

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Monitoring Partners

- Recipient (Tribe or TDHE)
- Subrecipients
- Grant beneficiary (Tribe)
- HUD

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Recipient Responsibilities

- Monitoring grant activities to ensure compliance with applicable federal requirements } PREPARE COMPLIANCE ASSESSMENT
- Monitoring IHP activities } PREPARE PERFORMANCE REPORT
- Undergoing audit, as applicable

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Tribe Responsibilities

- If housing is a department of the tribe:
 - As the IHBG recipient, the tribe is responsible for monitoring grant activities for:
 - Annual Performance Report (APR) within 90 days of end of program year
 - Progress reports
 - A 2 CFR Part 200 audit within 9 months of end of program year

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Recipient Responsibilities

- If recipient is not a department of the tribe, it must:
 - Provide periodic progress reports to the tribe
 - Monitor to ensure TDHE is compliance with NAHASDA and implementation of the Indian Housing Plan (IHP)
 - Implement comments from the tribe and public after review of the APR
 - Conduct an annual audit

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Subrecipient Responsibilities

- Recipients should enter into a written agreement with subrecipients specifying:
 - Terms of the agreement
 - Compliance requirements of all provisions of law/regulations
 - Reporting/monitoring requirements
- Subrecipients should monitor themselves
- Recipients must monitor subrecipients

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HUD Responsibilities

- Reviewing the APR submitted and providing TA as needed
- Conducting review of records, reports, and audits
- Making on-site visits, as appropriate
- Providing TA and training when requested by the recipient

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Components of Self-Monitoring

1. Performance Monitoring

Are you doing what you said you would do?

2. Compliance Monitoring

Are you doing what you are required to do?

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Approaches to Self-Monitoring

- Goal: objective and impartial assessments of performance and compliance
- Approaches to internal review:
 - Management interviews
 - Facilitated sessions
 - Standard operating procedures reviews

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Management Interviews

- Evaluator conducts interviews with managers
- Additional information from interviews with directors and managers
- Evaluator determines consistency and degree of adherence to internal controls and applicable regulatory requirements

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Facilitated Sessions

- Convene a working session of IHBG recipient managers and program and/or administrative staff
- Facilitated by an independent third-party, who leads discussion and brings group to consensus
- Talk through the topics and questions as a group

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Standard Operating Procedures Review

- Assess the existence and use of internal controls by reviewing:
 - Codes of conduct
 - Personnel policies
 - Financial management policies and procedures
 - Procurement policies and procedures
 - Construction contract policies and procedures
- Evaluator should select a random sample of transaction files and determine whether these cases comply with policies, procedures and customary operating practices

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Performance Monitoring

- Create a self-monitoring schedule
 - Track progress and activities
 - Spreadsheets are helpful
- Monthly or quarterly
 - Prepare progress reports
 - Develop corrective action plans as needed
 - Implement corrective actions

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Review by Third Party

- Independent contractor procured to review IHBG programs and activities, or
- Another tribe with IHBG experience, or
- Staff of another tribal office or agency with no IHBG responsibilities but knowledge of grant administration

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Critical Monitoring Areas

- Conflict of Interest
- IHP/APR
- Financial management
- Occupancy
- Procurement and contract administration
- Other federal requirements as applicable (e.g., environmental, labor standards, lead paint, relocation, etc.)

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Beginning Annual Self-Monitoring

- Planning
- Scheduling
- Reviewing and implementing internal controls

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WHAT AREAS DO YOU NEED TO MONITOR?

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Identify Your Self-Monitoring Areas

- Conflict of interest
- IHP compliance
- Management
- Organizational structure
- Financial management
- Admissions and occupancy
- Procurement and contract administration
- Indian preference
- Non-Low-Income Families
- Essential Families
- Labor standards and tribally designated wage rates
- Total Development Costs
- Environmental reviews
- Program policies
- Final self-monitoring report
- 504 Compliance
- Maintenance
- Inspections

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Your Indian Housing Plan

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Programs Summary

PROGRAM/PROJECT NAME/TYPE	CHECKLIST TYPE

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Programs Summary

PROGRAM/PROJECT NAME/TYPE	CHECKLIST TYPE

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Indian Housing Plan Compliance

Objective:

- Determine the Recipient's compliance with the goals and objectives described in your Indian Housing Plans (IHPs), including the timely implementation of the planned activities, is the purpose of this review

ONAP's Responsibility:

- NAHASDA Sec. 405 (b)(1)(B) requires HUD to verify the accuracy of information contained in the APR

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Indian Housing Plan Compliance

- Has the Recipient carried out its eligible activities in a timely manner? ___Yes ___No
- Has the Recipient carried out its eligible activities and certifications in accordance with the requirements and the primary objective of NAHASDA and other applicable laws? ___Yes ___No
- Has the Recipient complied with the IHP of the grant beneficiary and submitted APRs that are accurate? ___Yes ___No
- Has the Recipient achieved what was stated in the One-Year Goals and objectives with its IHBG funds? ___Yes ___No
- Establish corrective actions and timelines for second review for compliance for all "no" answers

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IHP/APR File Checklist

- Resolutions
- Application
- Grant Award
- ER
- Correspondence
- Budget
- Correct IHP
- Project Activity
- Goals & Objectives
- Reports
- APR

NOTES

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Management and Organizational Structure Review

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Management and Organizational Structure - ONAP Perspective

- The Board of Commissioners (BOC) can significantly influence a recipient's organizational internal controls
- The Council/Board members should:
 - Have appropriate knowledge and experience to ensure the organization operates in a legal and ethical manner
 - Maintain its independence from management; select and hire an Executive/Housing Director
 - Approve the annual budget
 - Act as community liaison

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Management and Organizational Structure - ONAP Perspective

- The Council/Board members are responsible for ensuring:
 - Policies are adopted and properly carried out
 - Annual audits and self-monitoring are conducted
 - Findings and issues are resolved in a timely manner by the Executive Director

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Definition of a Board

- A Board is an organized group of people with the authority collectively to control and foster an institution that is usually administered by a qualified executive and staff.
~ Cyril O. Houle

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Purpose of a Board

- Represent and Balance
- Interests of:
 - Shareholders
 - Stakeholders
 - Exists only when in a formal meeting

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Focus of the Board

- Where do we want the Authority to be in five years?
 - Not on
- How are we going to get this done?

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Fiduciary Responsibility

- From the Latin *fiducia* meaning "trust"...
- A fiduciary is a person (or entity) that has the power and obligation to act for another under circumstances that require
 - Total trust
 - Good faith
 - Honesty

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Legal Liabilities

- Funds
- Wages
- Negligence of staff
- Contracts
- Disclosure of Interest
- Assets
- Delegation
- Government Regulations

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Legal Accountability

- The Organization and its membership
- The Government
- Other Stakeholders
- To Minimize the Risk (Insurance coverage)

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Responsibilities - Overview

- Management capacity
- Systematic planning & evaluation
- Identifying programs, services & resources
- Establishing an annual budget
- Developing & monitoring policies
- Establishing internal controls
- Degree of control
- Allocating a significant amount of time to housing

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Typical Organizational Options

- Tribal housing department
- Tribally designated housing entity (TDHE)
- Regional Housing Authority (RHA)

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Sample

- ❖ Is the CDTHA in compliance with certifications described and included in the IHP?
- ❖ Does the CDTHA have all the necessary policies needed to operate a full-scale housing management and development operation consistent with its mission?
- ❖ Are travel reimbursements made in accordance with CDTHA Board adopted policies?
- ❖ Is there a method to track complaints and formal grievances to ensure timely follow-up and response?
- ❖ Do the CDTHA grievance procedures provide for a hearing before an impartial party?
- ❖ Are there policies and procedures for non-NAHASDA programs? List the programs in comments.

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Management and Organizational Structure

- 24 CFR Part 1003 (ICDBG); Subpart F, § 1000.26 (IHBG) 1000.26
- Objective:
 - Determining whether the Recipient's implementation of key areas of authority, appropriate lines of reporting, and internal controls are adequate to ensure assets are safeguarded is the purpose of the management and organizational structure review

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Management and Organizational Structure Checklist

- Are the duties and responsibilities of staff clearly defined and understood by both management and staff? ___ Yes ___ No
- Are lines of authority clearly outlined and understood by both management and staff? ___ Yes ___ No
- Are lines of authority and practices clearly outlined for BOC/Tribal Council? ___ Yes ___ No
- Are there systems in place that establish deadlines and track employee performance of specific tasks? ___ Yes ___ No
- Are there systems to ensure that staff receives the appropriate information to enable them to complete tasks timely? ___ Yes ___ No

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Management and Organizational: Board

- Are Board members paid a stipend? (If so, is the amount of payment reasonable and in line with local area practice, other tribal boards, etc. NOTE: If the housing entity is a department of the Tribe, stipends are not allowable.) ___ Yes ___ No ___
- Is there a Personnel Policy and is it available to staff? ___ Yes ___ No ___
- Monitor HUD grants without undue interference? ___ Yes ___ No
- Approve any ineligible activities? ___ Yes ___ No
- Maintain minutes of each meeting that are transcribed timely (pursuant to bylaws)? ___ Yes ___ No
- Meet on a regular basis at reasonable intervals? ___ Yes ___ No
- Justify meetings that occur more often than once per month? ___ Yes ___ No
- Establish corrective actions and timelines for second review for compliance for all "no" answers

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Management and Organizational: Policy Review

- Does the Personnel Policy indicate native/Indian preference in hiring practices (required by 24 C.F.R. § 1000.48- § 1000.50)? ___ Yes ___ No
- Any complaints regarding Indian Preference could be part of the policy. Does the policy include Indian Preference Complaint Policy/Procedures as required by 24 C.F.R. § 1000.54? ___ Yes ___ No

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Organizational Structure Review

- Review of current organizational chart:
- Is it designed to ensure adequate supervision? ___ Yes ___ No
- Is there proper delegation of authority and responsibility?
___ Yes ___ No
- Does it provide for management control over finance and operations? ___
Yes ___ No
- Is there evidence that an individual is overriding controls?
___ Yes ___ No
- Are position descriptions current and accurate? Yes ___ No ___
- Establish corrective actions and timelines for second review for compliance
for all "no" answers

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INTERNAL CONTROLS

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Compliance

2 CFR Part 200

- More commonly known as the "Uniform Guidance for Federal Awards"
- Consolidates and streamlines eight OMB circulars and into 2 CFR Part 200

N A T H C / HUD OMB

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Uniform Administrative Requirements Focus

- Management systems
- Procurement
- Reporting
- Recordkeeping
- Drug free workplace
- Conflict of interest
- Allowable, unallowable costs
- Audit requirements



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What are Internal Controls?



A system of checks and balances



Address both accounting & management activities



Required by 2 CFR 200.61 & 200.303



Processes to ensure management has the capacity to operate and achieve its objectives.

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Why are Internal Controls Important?

- Assign responsibility and delegation of authority
- Instill trust and confidence in the community
- Protect assets
- Help ensure NAHASDA funds are spent appropriately on Recipient's priorities
- Assist in using staff and other resources efficiently

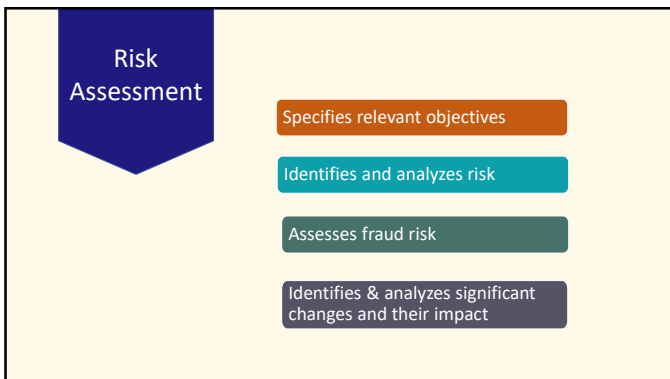
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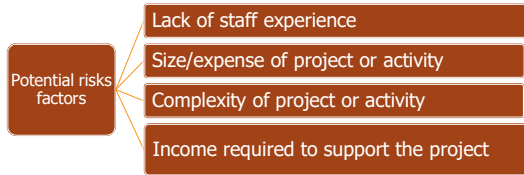


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Examples of Risk Assessment



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Other Activities

Control Activities	<ul style="list-style-type: none">• Selects and develops control activities• Selects and develops general controls over technology• Deploys through policies and procedures
Information & Communication Activities	<ul style="list-style-type: none">• Uses relevant information• Communicates internally• Communicates externally
Monitoring Activities	<ul style="list-style-type: none">• Conducts ongoing and/or separate evaluations• Evaluates and communicates deficiencies

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Control Activities

- Ensure staff know their duties and perform them consistently
- Establish written policies:
 - Values and desired outcomes
- Establish written procedures:
 - Describe tasks and how they are done

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Management Capacity

- Program policies
- Financial capacity
- Development capacity
- Organizational capacity
- Facilities and equipment
- Standard operating procedures (SOP)

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Property Management Includes . .

- | | |
|---|--|
| <ul style="list-style-type: none"> ■ Day-to-Day Operations ■ Record Keeping ■ Compliance with Regulations and Obligations ■ Planning ■ Internal Controls ■ Fiscal Management ■ Maintenance ■ Tenant Relations ■ Resident Selection | <ul style="list-style-type: none"> ■ Collections ■ Security ■ Annual Budgeting ■ Capital Planning ■ Public Relations ■ Crisis Management ■ Hiring Accountant, Lawyers, Contractors ■ Cash Management |
|---|--|

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Separation of Duties: The Focus

BOARD	STAFF
<ul style="list-style-type: none"> ■ The Board(Governance) ■ Leadership/Vision/Strategic ■ Establish policy ■ Issues affecting the entity as a whole ■ Doing the right thing ■ Long-term 	<ul style="list-style-type: none"> ■ The Executive Director or CEO (Management) ■ Management Operations ■ Establish procedures to implement policy ■ Issues affecting clients, partners ■ Doing things right ■ Day-to-day

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CONFLICT OF INTEREST

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Conflict of Interest Policies

- Two types of conflict of interest policies required:
 - Employee Conflict of Interest – consistent with NAHASDA requirements.
 - New Requirement: Organizational Conflict of Interest



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Conflict of Interest Requirements

- Potential conflict of interest prohibited including:
 - Person who participates in decision making process
 - Person who gains from inside information
 - Any interest in any contract or proceeds thereof
 - Ties to business and family relationships
- Report a potential conflict of interest to ONAP for exception based on program benefit
- When exception is approved, public disclosure is required

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Policies and Conflict of Interest

- Must address conflict of interest in
 - Admissions
 - Procurement
- Mandatory disclosure

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Applicable Rules

- 2 CFR 200.318(c)(1) covers conflict of interest in procurement
- 24 CFR 1000.30 addresses all conflict of interest issues, including admissions and occupancy.
- The above standards apply only to grant funds

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2 CFR 200.318(c)(1)

- The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

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What Does That Mean?

- Conflict would arise when an employee, board member, council person or a member of their immediate family has a financial interest or other benefit from the firm considered for contract.
- Conflict would also arise if the firm considered for contract employs or is about to employ one of the people listed above.
- If it appears to be a conflict, you should treat it as a conflict

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What Does That Mean?

- Tribal employees, board members, and council members may neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or subcontractors.
- Tribe/TDHE may establish a maximum amount for gifts that are not significant or the gift is an unsolicited item of nominal value
- Amount established is usually \$20/gift or up to \$50 in total per year from the same source.

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Conflicts Prohibited: 2 CFR 200.211

- Grantees and **subgrantees will maintain a written code of standards of conduct governing the performance of their employees engaged** in the award and administration of contracts. No employee, officer, or agent shall participate in the selection or in the award or administration of a contract supported by federal funds if a conflict of interest, real or apparent, would be involved.

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Example

The Housing Director tells the Board that the program needs to purchase 5 acres

You (a board member) have some land for sale


EXPLAIN WHY THIS MIGHT BE A CONFLICT??

Professional interest – housing program would benefit from the purchase

Personal interest – you would benefit from the sale

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Mitigation Measures



- Recusal – declare yourself disqualified to participate
- Code of Ethics – policies that prohibit certain activities or conduct
- Third-parties – independent, well-qualified individual outside the organization
- Disclosure – sharing information not previously known

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Conflicts in Admissions

- Program Guidance 2002-13
 - Ensure fair and equitable treatment for all
 - Determine if a conflict exists
 - Disclose to the public and report to HUD prior to providing assistance
 - HUD may make an exception
 - If family is low-income and qualifies, this is not a conflict but disclosure is required
 - If conflict is only apparent or perceived, make disclosure and inform HUD

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Conflict of Interest Requirements

- Report a potential conflict of interest to ONAP
- Disclose to the public the conflict of interest, the nature of the assistance to be provided the individual, and the specific basis for which there is no conflict.

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Violations

- Standards of conduct MUST include disciplinary action for any violations of the conflict of interest standards
- Wording in most policies is "up to and including termination".

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Conflict of Interest Review, cont.

- Admissions and occupancy (24 CFR § 1000.30 (C))
 - Decision makers and those with inside information may not benefit
 - Does not apply to low-income applicant for assistance
 - Exceptions are possible on a case-by-case basis
 - Mandatory public disclosure is required prior to delivery of any assistance

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HUD Perspective

According to the HUD NAHASDA regulations, the conflict of interest provision does not apply in instances where a person, who might otherwise be included under the conflict of interest provision, is low-income and is selected for assistance in accordance with the recipient's written policies for eligibility, admission and occupancy of families for housing assistance with NAHASDA funds. Additionally, there is no conflict of interest under applicable tribal law.

A copy of this public disclosure will be provided to the HUD Area office prior to providing any financial assistance. If you have any questions, please feel free

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SAMPLE: Notice of Disclosure

In accordance with the Native American Housing Assistance and Self-Determination Act regulations anyone receiving assistance under NAHASDA and who participates in the decision-making process or who gains inside information with regard to NAHASDA assisted activities and benefits from such activities, must make a disclosure to the public and to HUD.

In 1997 Comp Grant funds were awarded for window repair work for eligible participants in Projects 13 and 14. Scheduling is done by site in order to keep costs affordable. Michelle Ellenwood, Executive Assistant, occupies a home for which project assistance was planned under the old Comp Grant program. Mrs. Ellenwood meets the low-income criteria and does not have to repay for this assistance. Selection was based on submission of all the required documentation which was processed and verified to be true and accurate by NPTHA staff. Mrs. Ellenwood has no debt to the NPTHA and would have been eligible for this assistance regardless of her status as the Executive Assistant. Consequently, her role as a Executive Assistant of the NPTHA and as a participant in the program do not present a conflict of interest.

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Program Guidance

PROGRAM: Indian Housing Block Grant (IHBG)

FOR: All Tribal Government Leaders and Tribally Designated Housing Entities (TDHE)

FROM: Ted Kay, Acting Deputy Assistant Secretary, IY

TOPIC: Conflict of Interest in IHBG Housing Administration

Purpose: The purpose of this Guidance is to help TDHE recipients manage those situations where conflicts of interest arise within housing programs provided by the Native American Housing Assistance and Self-Determination Act (NAHASDA) and to ensure fair and equitable treatment for all eligible participants of those programs.

References: NAHASDA Sections 2010, 2016, 2070b and 400; 24 CFR 85.3600(a); 24 CFR 100.03; 100.14 and 100.30

Background: On August 2, 2001, the Department of Housing and Urban Development's (HUD) Office of Inspector General (OIG) published its report of a nationwide audit of the implementation of NAHASDA. Finding Number 4 of that audit found, in part, that among the housing entities surveyed there were undisclosed conflicts of interest and preferential treatment in the admission to these housing programs. Over half of the housing entities audited had no process to ensure adherence to the conflict of interest requirements or that admissions were made to eligible families and that all members of the tribe were treated fairly.

Application of Requirements: The conflict of interest provisions apply to anyone who participates in the IHBG recipient's decision-making process or who gains inside information with regard to the IHBG assisted activities. Such individuals could be, but are not necessarily limited to, housing staff, housing or tribal board members, members of their immediate families, and such individuals' business associates.

The requirement prohibits any such individuals from benefiting from these positions personally, financially or through the receipt of special benefits other than payment of their salary and/or appropriate administrative expenses. This does not prevent housing staff board members, their family members and/or business associates from owning housing benefits in which they qualify as low-income individuals. (See Exceptions to the Requirement below.)

Applying the Conflict of Interest Requirement in Administration: In order to effectively comply with the conflict of interest requirements, recipients should have in place a set of procedures for determining when a conflict of interest exists and for reporting the conflict to HUD and disclosing it to the public as required by the regulations. These procedures should include:

- a method of determining whether or not there is a potential conflict of interest with an applicant (e.g., does the housing application ask applicants to disclose any personal, family or business relationships with the housing entity decision maker? Does the housing entity maintain a list of persons having immediate family or business ties to its decision maker?); and
- administrative steps for reporting a potential conflict of interest to the Area Office of Native American Programs (ONAP) and disclosing to the public the conflict of interest, the nature of the assistance to be provided the individual and the specific basis for which the selection of the individual was made.

Exceptions to the Requirement: Exceptions may be made to the conflict of interest provisions. HUD approval must be obtained through the recipient's local Area ONAP before providing benefits to any individual as an exception to §100.20(b). Exceptions will be considered on a case-by-case basis and when making the exception can be shown to further the primary objective of NAHASDA. [See Section 2010(a) of NAHASDA] and the effective and efficient implementation of the recipient's program, activity or project. Before any exception may be granted, a public disclosure of the conflict of interest must be made and a determination that the recipient would not receive federal or any applicable state laws on conflict of interest. All records relating to exceptions made to the conflict of interest provisions must be retained for at least three years after the exception has been granted.

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Conflict of Interest Review, cont.

- If yes, do these policies and procedures specifically address:
 - Tribal leadership, including members of a Board of Commissioners and/or Tribal Council? Yes No
 - Housing staff? Yes No
 - Finance staff? Yes No

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Conflict of Interest Review, cont.

- Did the recipient provide program assistance to persons who participate in the program decision-making process or who gained inside information with regard to IHBG assisted activities (except for salaries or other related administrative expenses)? Yes No
 - If yes, did the recipient make public disclosure, including the nature of assistance provided and the selection criteria? Yes No
 - Was a copy of disclosure document(s) forwarded to the Area ONAP prior to the award of assistance?
 - Yes No

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Conflict of Interest Review

- Are there any substantiated complaints against the recipient? Yes No
- If complaints did occur during review period, were the issues resolved in an acceptable and timely manner? Yes No
- Establish corrective actions and timelines for second compliance review for all "no" answers.

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Indian Preference

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NAHASDA Indian Preference Requirements

- NAHASDA Title I—Block Grants and Grant Requirements, Sec. 101 (k), establishes the legal basis for tribal preference:

(k) Tribal Preference in Employment and Contracting- Notwithstanding any other provision of law, with respect to any grant (or portion of a grant) made on behalf of an Indian tribe under this Act that is intended to benefit 1 Indian tribe, the tribal employment and contract preference laws (including regulations and tribal ordinances) adopted by the Indian tribe that receives the benefit shall apply with respect to the administration of the grant (or portion of a grant).

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NAHASDA Indian Preference Requirements 108

- Applicable NAHASDA Indian preference regulations
 - § 1000.48 Are Indian or tribal preference requirements applicable to IHBG activities?
 - § 1000.50 What tribal or Indian preference requirements apply to IHBG administration activities?
 - § 1000.52 What tribal or Indian preference requirements apply to IHBG procurement?
 - § 1000.54 What procedures apply to complaints arising out of any of the methods of providing for Indian preference?

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Program Guidance No. 2013-07 (R)

- Updates on how to administer 2014 NAHASDA regulatory changes regarding tribal preference in employment and contracting
- Addresses distinction between Indian preference and tribal preference

INDIAN PREFERENCE
GUIDANCE

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Program Guidance No. 2013-07 (R)

- Tribe may adopt a tribal preference law (Tribal Rights Employment Office (TERO)), regulation, or ordinance governing preferences in employment and contracting under IHBG program.
 - provide tribal member with preferential treatment over other Indians that are not enrolled members,
 - may specify any preferences in reductions in workforce and layoffs,
 - tribal law would prevail over requirement of 7b of the Indian Self-Determination and Education Assistance Act and of Section 3.

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Implementing Indian Preference in Procurement

- Options
 - Certify to HUD that your policy meets 7(b) requirements
 - Limit solicitation to Indians Owned Firms Only
 - 2-Stage Process:
 - Request Indians submit "notice of intent" to bid
 - If more than one indicates intent, limit to Indians

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Procedures - Indian Preference

- Publicize Indian preference
- Include preference requirements in all bid documents
- Require proof of Indian ownership
- Include 7(b) clause in contracts, subcontracts
- Handle complaints
 - In writing
 - Filed within 20 days
 - Communicate within 20 days of receipt
 - Resolve within 30 days

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Two-Stage Process

- Intent to apply
- Based on results indicating Indian contractors in the area, restrict solicitation to qualified Indian-owned and operated businesses.
 - If competition is lacking, re-advertise without limits
 - If only one bid is received, ONAP approval is required
- Comply with TERO and/or tribe requirements for licensing if applicable.

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Near Peace Tribal Housing Authority
Invitation for Indian-Owned and Operated Businesses Intent to Bid

The Near Peace Tribal Housing Authority (NPTHA) is seeking interested Indian-owned and operated contractors, subcontractors or material suppliers for future residential construction. All Indian-owned operated enterprises and organizations qualifying will be placed on a list that will be provided to the Tribal Employment Rights Office (TERO) and to contractors or subcontractors holding on NPTHA projects. In accordance with the NAHASDA of 1996, NPTHA projects funded with NAHASDA funds are subject to the following:

5 Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 4601(b)) Section 7(b) provides that any contract, subcontract, grant or subgrant pursuant to an act authorizing grants to Indian organizations or for the benefit of Indians shall require that, to the greatest extent feasible:

- (1) Preference and opportunities for training and employment shall be given to Indians; and
- (2) Preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned economic enterprises as defined in section 3 of the Indian Financing Act of 1974 (25 U.S.C. 1622).

The NPTHA considers an enterprise to be an Indian-owned and operated enterprise based on a determination made by the Near Peace TERO. If there are sufficient qualified Indian-owned and operated enterprises to meet related requirements for competition, the NPTHA will restrict the bidding to those businesses. Otherwise, the NPTHA will accept bids from all businesses and provide Indian Preference based on a minimum formula as set forth in the NPTHA policies and procedures. All interested businesses must demonstrate the capacity to perform the job as demonstrated by experience, financial capability, evidence of producing quality work on time. Contractors will have to meet bonding and insurance requirements per the NPTHA standards. These contractors, subcontractors and suppliers who have previously worked for the NPTHA must be in good standing with the NPTHA. All bids must be received by the NPTHA and all work will be inspected by the NPTHA and licensed inspectors to ensure that work meets prevailing codes. Diversion wages for residential construction apply to NPTHA work. The NPTHA has the right to choose retaining the bid advertisement or to re-originate the bid advertisement.

These Indian-owned and operated firms who are not already certified by TERO as a CB must obtain and complete the TERO CB application. A copy of the application is to be sent to JAMES BOND at the Near Peace Tribal Housing Authority, 301 Veterans Drive, Lapwai, ID 83540, and the original application and fee must be sent directly to the TERO Office, P.O. Box 104, Lapwai, ID 83540. Existing CBs must submit a letter of intent, a description of your area of expertise and the date in which TERO approved you as a CB, to JAMES BOND at the Near Peace Tribal Housing Authority, P.O. Box 682, 301 Veterans Drive, Lapwai, ID 83540. Additionally, you must be approved by METAL MOUNTY Bank as a Contractor. This form can be obtained from JAMES BOND as well. The information requested is due on or before April 30, 2003. Contact James Brown, 843-7763 at the TERO to obtain the required TERO CB submission forms.

Indian Preference Intent to Bid

114

Admissions and Occupancy Review

115

- ### Admissions and Occupancy Review
- Program areas to explore include:
 - Waiting list administration and tenant selection
 - Mutual Help
 - Low-rent
 - Other funds (e.g., Section 184, Title VI, HOME, ROSS, ICDBG, Competitive, LIHTC)
 - Downpayment assistance
 - Inspections
 - Payments/tenant financial compliance
 - Housing Counseling
 - Other

116

- ### Admissions & Occupancy Policy and Procedures Review
- Ensure policies and procedures are up-to-date
 - Any updates to the policy and procedures during the year? Yes ___ No ___
 - If yes, incorporate changes to the policy and procedures with resolutions attached.
 - Identify each staff working on occupancy:
 - Are the policies and procedures being followed? Yes ___ No ___
 - If not, identify gaps and train staff.

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**Admissions & Occupancy Review
Tenant Files**

- Examine initial tenant selection:
 - Waiting list position: Were tenants screened and selected in accordance with policy and procedures? Yes ___ No ___
 - Income and family size: Were tenants screened and qualified eligible in accordance with policy and procedures? Yes ___ No ___
 - If the answer is No, document outcome and correct in accordance with policy and procedures.

118

**Admissions and Occupancy Review
Tenant Files, cont.**

- Initial inspections:
 - Move-in inspection completed: Yes ___ No ___
 - Was there a follow-up Work Order to the move in inspection? Yes ___ No ___
 - If yes, was the work order completed? Yes ___ No ___
- Annual inspection followed according to policy and procedures? Yes ___ No ___
 - If no, establish corrective actions, and timeline for second review of corrective actions.

119

**Admissions and Occupancy Review
Tenant Files, cont.**

- Work orders:
- Is there a work order form? Yes ___ No ___
 - If no, establish corrective actions, and timeline for second review of corrective actions.
 - Are work orders being completed timely (defined in policies): Yes ___ No ___
 - Are tenants charged for work in accordance to policies? Yes ___ No ___

120

**Admissions and Occupancy Review
Tenant Files, cont.**

- Annual income certifications:
- Is there an annual certification? Yes ___ No ___
 - If no, establish corrective actions, and timeline for second review of corrective actions.
- Income calculated correctly? Yes ___ No ___
 - If no, establish corrective actions, and timeline for second review of corrective actions.

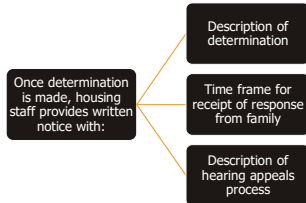
121

**Admissions and Occupancy Review
Tenant Files, cont.**

- Annual income certifications, cont.:
- Tenant current on payments? Yes ___ No ___
 - If not, are policies being followed? Yes ___ No ___
- Establish corrective actions and timelines for second review for all "no" answers.

122

TERMS AND CONDITIONS



123

Verifications Overview

Cuts across all occupancy areas

All information in tenant file must be verified and properly documented

Recipient needs to establish verification standards and procedures in the A&O Policy

Documentation and verification is a joint responsibility of the Recipient and family

Obtaining information for verification purposes, requires a signed consent for release of information from the family member whose information is being requested

124

Homeownership Agreement

- Allows homebuyer to purchase unit or lease unit with option to purchase
- Specifies resident's obligations to:
 - Pay for required maintenance and utilities
 - Maintain ability to contribute land, materials, cash, or labor
 - Maintain capacity to pay monthly homebuyer payments
- Policies may require mandatory housing counseling to help resident understand financial and social responsibilities of homeownership

125

Rental Housing Lease Topics

- Using unit as primary, private residence
- Making monthly payments
- Keeping unit in good and safe condition
- Cooperating with recertification and inspection procedures
- Understanding maintenance process
- Understanding how disputes and grievances will be handled
- Reviewing insurance coverage options

126

Vacancy Report

Summary of Monthly Occupancy

Project	Avail Units	Occupied Units												Ytd Oct	Ytd Nov	Ytd Dec	Ytd Tot
		Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec				
006	45	32	32	32	32	32	32	31	30	32	35	35	387	340	72		
008	16	16	16	14	14	14	14	14	14	13	14	15	170	192	89		
010 HSE Conversion - 010	2	1	2	2	2	2	2	2	2	2	2	2	23	24	96		
018	11	9	10	10	10	10	9	8	8	8	9	9	110	132	83		
021	9	9	9	9	9	9	9	9	9	9	9	9	107	110	99		
022 HSE Conversion - 022	1	0	0	0	0	0	0	0	0	0	1	1	2	12	17		
028	5	4	4	4	4	4	4	3	3	3	4	5	48	60	77		
TOTAL	89	70	72	71	71	71	71	70	67	66	67	74	78	845	1065	79	

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NON-LOW-INCOME ASSISTANCE

131

Summary of Requirements
For Serving Non-Low-Income Families

Applicability	HUD Approval Required	Rent/Homebuyer Payment differential Required by HUD	Counts Against 10% Authority
Essential Family	No	No	No
Law Enforcement	No	No	No
Continued Occupancy	No	Determined by Tribe/TDHE Occupancy Policy	No
Non-Low-Income Families (10% Authority) between 80-100% of median income	No	Yes	Yes
Secretary Approved: Exceeding 10% Authority to serve Indian families at 80 - 100% of median income	Yes	Yes	By definition these families exceed the 10% cap.
Secretary Approved: Indian family over 100% of median income	Yes	Yes	No

132

MODERATE INCOME CHECKLIST

I. Eligibility	2. Temporary Housing	A. Documentation
1. Applicant	1. Length of Stay	1. Health Insurance
2. Income	2. Income	2. Employment
3. Assets	3. Expenses	3. Bank Statements
4. Credit	4. C. Homeless	4. Support for a primary housing center
5. Other	5. D. Cost Burden: Recipient's costs exceed 20% of AGI (including utilities)	5. Public Programs
6. Other	6. E. Inhabitability & Frailty	6. Health Care
7. Other	7. F. Determination that Housing Need cannot Reasonably Be Met	7. Social Safety
8. Other	8. Other Housing or Assistance in Area	8. Other
9. Other	9. Other	
10. Other	10. Other	
11. Other	11. Other	
12. Other	12. Other	
13. Other	13. Other	
14. Other	14. Other	
15. Other	15. Other	
16. Other	16. Other	
17. Other	17. Other	
18. Other	18. Other	
19. Other	19. Other	
20. Other	20. Other	

133

Recipient can only use 10% of annual IHBG which is \$356,000. What is their 10% authority amount? Calculate the assistance provided based on the information below:

Example 1: The recipient is assisting a non-low income Indian family with rental assistance. The tribe has decided to use the monthly Fair Market Rent (FMR) of \$698 as the rental value for assistance.

\$698 FMR value x 12 months = \$8,376 of NAHASDA assistance.

Example 2: The recipient is assisting a non-low-income Indian family with homeownership assistance. The monthly value of the homebuyer unit is \$850.

\$850 value x 12 months = \$10,200 of NAHASDA assistance.

Example 3: The recipient is assisting a non-low-income Indian family with down payment assistance. Amount of assistance being provided to non-low-income Indian family is \$7,400.

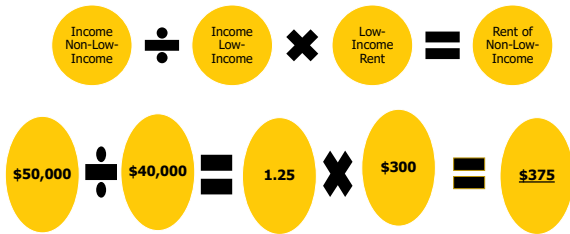
134

Non-Low-Income Rental Payment Requirements

- The rent (including homebuyer payments under a lease purchase agreement) to be paid by a non-low-income family cannot be less than [income of non-low-income family/income of family at 80 percent of median income] x [rental payment of family at 80 percent of median income], but need not exceed the fair market rent or value of the unit.

135

Rent Payment for Non-Low-Income Families



136

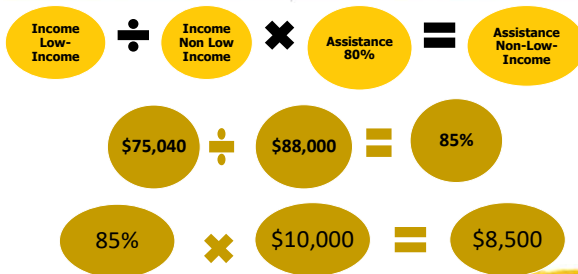
Non-Low-Income Other Assistance Payment Formula

- Other assistance, including down payment assistance, to non-low-income families, cannot exceed [income of family at 80 percent of median income/income of non-low-income family] × [present value of the assistance provided to family at 80 percent of median income].



137

Down Payment Assistance for Non Low-Income Families



138

TDCs

139

- Purpose - limit cost and design to moderate standards
- Establishes the maximum amount of funds that may be used on a per units basis
- Applies to all housing assisted:
 - Acquisition, new construction, reconstruction, rehabilitation, homebuyer assistance, model activities

139

TDCs

140

- Includes all expenditures from all sources of funds
 - Administrative, planning, financing, site acquisition, on site utility development, site development, profit, design, etc.
- Recipient must maintain records to show cost per unit is within cost limits
- Recipients may request a variance to exceed cost limits for cause

140

Financial Management Review

141

Financial Management Monitoring

- Questions to ask:
 - Do we have appropriate financial management staff and tools to ensure accurate records and compliance?
 - Are our policies and procedures sufficient and up to date?
 - Do we have any outstanding audit findings or HUD monitoring findings?
 - Do we track matching funds?
 - Do we track costs by unit?
 - Do we track costs by project?

142

Financial Management Monitoring

- Reporting:
 - Timely submission of SF 425s?
 - Detailed budgets and comparison against actual?
 - Expenditure of drawn down funds within 3 days?
 - Timely completion of audit?

143

Financial Management Monitoring

- Internal controls:
- Segregation of duties?
 - Written policy on who can authorize payments?
 - Adequate documentation for all payments?
- Investments:
- ONAP approval received?
 - Written investment policy?
 - IHBG investments separate from other investments?

144

Financial Management Monitoring

- Allowable costs:
- Reasonable and necessary costs/expenditures?
- Costs meet 24 CFR Part 200 costs principals?
- Costs allocated appropriately?

145

Managing Multiple Sources Of Funding

- Whose money is spent when?
- What are each fund's restrictions?
- What are each fund's reporting requirements?
- Monitoring work quality & progress
- What are each fund's drawdown, disbursement requirements/procedures

146

Uniform Administrative Requirements

- OMB leads development of government-wide policy to assure that
 - Grants are managed properly and that
 - Federal dollars are spent in accordance with applicable laws and regulations.

147

Recipient Requirements

- Each Recipient must establish a system to guarantee that funds are
 - Paid in a timely manner,
 - Money is handled in compliance with OMB guidelines, funder's requirements, and Recipient's policies and procedures, and
 - All funds are tracked and documented appropriately.

148

Tracking System Overview

- Preparation of financial records:
 - Determine what grant reimbursement requests are outstanding (encumbered funds), and which grants are not obligated (unencumbered funds),
 - Determine & document matching funds expended
 - Determine reporting requirement for each fund, and
 - Establish a Grant Tracking Worksheet, Year To Date (YTD) Template to track multiple funds.
- Use progress meetings to reconcile any discrepancies

149

Good Financial Management Practices

- Generate regular reports about account activity
- Establish clear processes for reimbursements and tracking and spending different types of funds
- Track all account expenditures and revenue throughout the year
- Track all approved grants, reimbursement requests, and unencumbered funds

150

SAMPLE REPORTING SCHEDULE

Month	Day	Item	Preparer
January	31st	General Partner Certificate (dated 12-31)	HA
		Tenant Income/Rent Summary	HA
		Annual Business Reports	HA
		Property Inspection Reports (separate reports for each housing unit inspected)	HA
		Property Inspection Schedule for first quarter (included in TIRS)	HA
February	12th	Tax Returns and Supporting Schedules	CPA
March	1st	Audited Financial Statements	CPA
April	30th	General Partner Certificate (dated 3-31)	HA
		Tenant Income/Rent Summary (dated 3-31)	HA
		Quarterly Unaudited Financial Statements	CPA
		Property Inspection Reports (separate reports for each housing unit inspected)	HA
		Property Inspection Schedule for second quarter (included in TIRS)	HA
July	31st	General Partner Certificate (dated 6-30)	HA
		Tenant Income/Rent Summary (dated 6-30)	HA
		Quarterly Unaudited Financial Statements	CPA
		Property Inspection Reports (separate reports for each housing unit inspected)	HA
		Property Inspection Schedule for third quarter (included in TIRS)	HA
October	31st	General Partner Certificate (dated 9-30)	HA
		Tenant Income/Rent Summary (dated 9-30)	HA
		Quarterly Unaudited Financial Statements	CPA
		Proposed Annual Operating Budget (for the upcoming calendar year)	HA & CPA
		Property Inspection Reports (separate reports for each housing unit)	HA
		Property Inspection Schedule for fourth quarter (included in TIRS)	HA
November	20th	Finalized Annual Operating Budget (approved by RJ)	RJ & CPA
December	15th	Final Executed Operating Budget (approved by HA)	HA
		Current Executed Utility Allowance Schedule	HA
		Insurance Renewal Certificates are due annually one month prior to expiration of current policy	HA
Annually		Asset Management Fees Paid to RJ	HA

151

Sources and Uses by Phase

- Much like sources and uses
- Shows timing of sources and uses
- May be in phases – planning/predevelopment/development/operations
- May be in months – especially useful during construction
- Also called Cash Flow

152

Financial Management Monitoring Policy and Procedures Review

- Ensure Policy and Procedures are up-to-date:
 - Any updates to the policy and procedures? Yes ___ No ___
 - If yes, incorporate changes to the policy and procedures with resolutions attached.
 - Identify each staff working on financial and fiscal management:
 - Are the policies and procedures being followed? Yes ___ No ___
 - If not, identify gaps and train staff on current policy and procedures.

153

Financial Management Monitoring

- HUD grants:
 - Identify all HUD grants for the review period
- 24 CFR Part 200 audits:
 - Audit completed on time? Yes ___ No ___
 - If no, explain the reason for delay
 - Any findings identified? Yes ___ No ___
 - If yes, are corrective actions in place? Yes ___ No ___

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Financial Management Monitoring

- Financial Cash Transactions Reports (425):
 - Were reports filed on time? Yes ___ No ___
 - If no, identify why and establish corrective action plan with timelines.
- Reconciliation of the APR:
 - Review the latest APR to determine the total amount reported as expended.
 - Does the reconciled APR match the audited financial statements? Yes ___ No ___
 - If no, identify reasons and create a plan for reconciliation.

155

Financial Management Monitoring

- Transactions Testing:
 - Were the grant expenditures allowable, allocable, and reasonable? Yes ___ No ___
 - If no, prepare a corrective action plan and establish a timeline for completion.
- Expenditures meet the program income requirements?
Yes ___ No ___
- LOCCS:
 - Were funds drawn from LOCCS supported by adequate documentation?
Yes ___ No ___
 - If no, prepare a corrective action plan and establish a timeline for completion.

156

Environmental Review Compliance

- Areas to examine:
 - 24 CFR Part 58
 - 24 CFR Part 50
 - Exempt activities, categorically excluded activities, or activities that would require an Environmental Assessment or Environmental Impact Statement
 - Categorical Exclusions, Not Subject to 24 CFR § 58.5
 - Categorical Exclusions, Subject to 24 CFR § 58.5
 - Availability of ERR

160

ER Compliance Purpose and Overview

- Determine the grant recipient's compliance with HUD's environmental review and clearance requirements, as outlined in 24 CFR Part 50 and Part 58

161

ER Compliance Purpose/Overview cont.

- Under NAHASDA [Indian Housing Block Grant (IHBG), Title VI, and Section 184 programs], the Tribe may decline the responsibility for carrying out the environmental review responsibilities under 24 CFR Part 58
- If a Tribe declines the responsibility, the environmental review responsibilities are carried out by HUD under 24 CFR Part 50

162

ER Compliance Purpose/Overview cont.

- Funds cannot be committed or used to undertake a program or activity listed in 24 CFR 58.1(b) if the activity or project would have an adverse environmental impact or limit the choice of reasonable alternatives

163

Environmental Review Compliance

- Without exception, all Environmental Review Records must include a determination that an action did or did not trigger the requirements of the Flood Disaster Protection Act, the Coastal Barriers Resources Act and include a disclosure of properties located in airport runway clear zones.

164

Environmental Review Compliance: Who is Responsible?

- Tribe assumed responsibility for the environmental reviews under 24 CFR Part 58? Yes No
 - If no, show documentation that the ERR responsibilities are carried out by HUD under 24 CFR Part 50.
 - Review the Form HUD-4128, Environmental Assessment and Compliance Findings for the Related Laws, completed for each activity, and
 - Summarize the decision made by the ONAP conducting the environmental review.

165

**Environmental Review Compliance:
Who is Responsible?**

- Tribe assumed responsibility for the environmental reviews under 24 CFR Part 58? Yes No
- Is the information related to all types of environmental reviews (exempt activities, categorically excluded activities, or activities that would require an Environmental Assessment or Environmental Impact Statement) done by or for the Recipient located in one place and available to public? Yes No
 - If no, create a central EER file for all environmental reviews

166

**Environmental Review Compliance
24 CFR Part 58**

- Has the Tribe assumed responsibility for the environmental reviews under 24 CFR Part 58? Yes No
- Is there an ERR for each covered activity in the file?
 Yes No

167

Environmental Review Compliance

- Federal funds may not be used for acquisition and construction (including rehab), even if the activity is exempt or categorically excluded, in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, unless:
 - The community is participating in the National Flood Insurance Program (NFIP) 24 CFR 58.6(a)(1)(i), and
 - The Recipient purchases and maintains flood insurance under that program
- Do the conditions above apply to the Recipient?
 Yes No

168

**Environmental Review Compliance:
Exempt Activities**

- Environmental and other studies
- Development of plans and strategies
- Information and financial services
- Public services not having a physical impact or resulting in physical changes (i.e., employment, crime prevention, education, counseling, etc.)
- Inspections and testing for hazards or defects
- The purchase of insurance
- Engineering or design costs
- Technical assistance and training
- The purchase of tools

169

**Environmental Review Compliance:
Exempt Activities, cont.**

- Is there an ERR for the exempt activities? ___ Yes ___ No
 - If there is not adequate documentation for this review:
 - Provide a copy of the Sample Environmental Review for Projects that are Exempt Per § 58.34
 - Complete it, and include it in the records for each activity or activities in this category. Include in the documentation a copy of correctly completed record(s) and/or documents to support that each error is remedied

170

**Environmental Review Compliance
Categorical Exclusions, Not Subject to 24
CFR § 58.5**

- Tenant-based rental assistance;
 - Supportive services (i.e., health care, housing services, etc.)
 - Operating costs (i.e., maintenance, security, utilities, etc.)
 - Economic development activities (i.e., equipment purchase, operating expenses not associated with construction or expansion, etc.)
 - Downpayment or closing cost assistance to homebuyers for existing units

171

**Environmental Review Compliance
Categorical Exclusions, Subject to 24 CFR § 58.5**

- Typical categorically-excluded activities, which are subject to § 58.5, include:
- Acquisition, repair, improvement, reconstruction, rehabilitation of public facilities (other than building) when the facilities:
 - Are in place, and
 - Will be retained in the same use without change in size or capacity
- Removal of material and architectural barriers

172

**Environmental Review Compliance
Categorical Exclusions, Subject to 24 CFR § 58.5**

- Rehabilitation of buildings and improvements
- An individual action (e.g., disposition, new construction, demolition, acquisition) on up to four dwelling units; or
- An individual action on five or more units scattered on sites more than 2,000 feet apart and no more than 4 units per site
- Determine if the activities listed in the ERR are included in the list of categorical exclusions, subject to 24 CFR § 58.5. Did the Recipient review compliance with applicable regulatory requirements? ___ Yes ___ No

173

**Environmental Review Compliance
Categorical Exclusions, Subject to 24 CFR § 58.5**

- Review each ERR to establish if compliance with the applicable laws and authorities was determined and documented; i.e., if there is a completed statutory worksheet.
- Determine if recognized authoritative sources were used to support the conclusions reached.
- If it was determined and documented that there were no circumstances which required compliance with any of the applicable federal laws or authorities, the project converts to exempt under the provisions of 24 CFR § 58.34(a)(12).
- Subsequent to obtaining compliance, were the request for release of funds RROF responsibilities, including public comment, met? ___ Yes ___ No

174

Environmental Review Compliance, cont.

- If an activity is not exempt or categorically excluded, an Environmental Assessment (EA) must be completed

175

Environmental Review Compliance Summary

Summarize the compliance review sections to include:

- Compliance with requirements
- Violations of the applicable statutes, regulations, or local laws and authorities
- Issues that should be noted as a concern because they could lead to a violation
- Significant accomplishments and/or best practices
- For all no answers and deficiencies, complete the required ERR, and include in the documentation a copy of correctly completed record(s) and/or documents to support each error disclosed is remedied

176

PROJECTS 2012	FUNDING SOURCE	EST. \$\$	Exempt (Exempt) (X= EA)	Dept Lead	date Initiated		
					Year started	Year ended	Project Date
TDHE OFFICE BUILDING							
fencing replacement		10,000	X				
roof replacement		10,000	X				
speaker system for office building		4,000	X				
paint office building		5,000	X				
addition		85,000					
ELDERLY COMPLEX							
handicap counters		18,000	X				
handicap parking		37,000	X				
handicap showers		30,000	X				
vinegar under building		10,000					
repairs		180,000	X				
fencing perimeter of complex		18,000	X				
PROJECT 12							
Landscaping		23,000	X				
Clean up		2,000	X				
Speed bumps		8,000	X				
Fencing		45,000	X				
ACQUISITION							
acquisition of 4 sgl farm homes & 2 duplexes & 1 empty lot		650,000		X			
PRAIRIE WIND PROJECT							
arborist for existing full trees		5,000	X				
arborist removal fee		65,000		X			
Landscaping (C&P)		15,000		X			
Demolition		80,000		X			
Housing Designs		75,000		X			
DEVELOPMENT - NEW CONSTRUCTION							
Build 2 new houses		240,000		X			

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PROJECTS 2012	FUNDING SOURCE	EST. \$\$	Exempt		Dept	date Initiated		
			EA	EA		Lead	Start	End
HOUSING SERVICES NETWORKING								
1	Pathways Materials	10,000	X					
2	Home Fair	5,000	X					
3	CASA	2,000	X					
4	Maintenance Counseling Materials	3,000	X					
5	Elderly Dinner Booth	1,000	X					
6	General Counsel Booth	2,000	X					
7	Cultural Power Show Booth	2,000	X				4	
LANDSCAPING CREW								
8	Contract		X					
SECURITY								
9	Project 10 & 11 holiday security	7,000	X					
RETREAT								
10	Staff meeting	3,000	X					
HOME IMPROVEMENTS - REVOLVING LOANS								
11	10 to 20 loans	250,000	X					
IDA								
12	2 to 4 families	18,000	X					
DOWN PAYMENT ASSISTANCE								
13	3 families	25,000	X					
ENVIRONMENTAL								
14	Contract special work out	18,000	X					
SOFTWARE REPLACEMENT								
15	Finance	100,000	X					
REHAB								
16	100 I.R. homes	18,000,000	X					

178

Procurement and Contract Administration Review

179

- ### Procurement and Contract Administration Review
- Review policies and procedures
 - Staff interviews
 - Review 2 CFR Part 200 audits
 - Sample transactions for testing
 - Review inventory for maintenance

180

Procurement Review

- Full and open competition required by 2 CFR Part 200, plus IHBG requires Indian and/or tribal preference
- If value under \$10,000 - neither required so depends upon Recipient's procurement policies

181

Procurement Review cont.

- Process :
 - Invite Indian-owned businesses to indicate intent to bid
 - If sufficient response, advertise for bids and select most advantageous bid
 - If insufficient bids received, re-advertise with or without Indian preference OR
 - If one approvable bid or proposal received, request Area ONAP review and approval
- Recipients should have written policies and procedures to ensure fairness, federal compliance and best value

182

Procurement Review cont.

- Is the policy in compliance with all applicable statutes?
Yes ___ No ___
- Any updates during the year to policy and procedures?
Yes ___ No ___
 - If yes, incorporate changes to the policy and procedures with the approving resolutions attached.
- Staff responsible for procurement and contract management are familiar with and follow the requirements under the policy and procedures? Yes ___ No ___
 - If no, establish a training method for staff.

183

Procurement Review cont.

- 24 CFR Part 200 audits:
 - Any procurement findings identified during the audit ? Yes ___ No ___
 - Any findings identified? Yes ___ No ___
 - If yes, are corrective actions in place? Yes ___ No ___

184

Procurement Review cont.

- Sample transactions for testing:
- Select samples from each of the following: small purchases (less than \$250,000), micro purchases (less than \$10,000, if used), sealed bids, competitive proposals, and non-competitive proposals. Do they meet the requirements under policy and procedures? Yes ___ No ___
- If areas of weaknesses identified, develop a corrective action plan and set a timeline for review. Include documentation for testing.

185

Procurement Review cont.

- Inventory for maintenance:
 - Does the tribe have an inventory of materials?
Yes ___ No ___
 - If yes; is there a designated person for inventory control? Yes ___ No ___
 - Are materials stored in a safe location? Yes ___ No ___
 - Test a sample (10% or 10 whichever is higher) of purchase orders for compliance with policy and procedures.
- Establish corrective actions and timelines for second for compliance review for all "no" answers.

186

Contract Administration - Construction

- Inspect the work being performed
- Monitor the work for timeliness of completion according to the contract construction schedule.
- Monitor the budget:
- Issue Certificate of Completion
- Issue Certificate of Occupancy
- Execute the Permanent Loan, if applicable
- Negotiate certificate of substantial completion
- Manage construction close out

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187

Contract Administration - Construction

SDH Construction Schedule												
Sept. 2004 - Aug. 2004												
Lots 1-16, 18-21, 38-40, 48-50, 52, 53, 59, 60, 62, 63 - Sundown Heights												
Items	Sept.	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.	Apr.	May	June	July	Aug.
Lots 1-5												
Lots 6-10												
Lots 10-15												
Lots 16-21, 38												
Lots 39, 40, 48-50												
Lots 52, 53, 60, 62, 63												

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Contract Administration – Construction Documents

- Plans/Specs
- Site Map/Plot Plan
- Construction Schedule/Draws
- Builders Contract
- Builders Certification
- Section 184 Applicant Acknowledgment
- Construction Loan Rider/Agreement
- HUD 4128 - Environmental

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Contract Administration – Post Endorsement Documents

- Compliance Inspection Reports
- Final Pictures
- Warranty of Substantial Completion
- Draw Requests
- Mortgagor’s Letter of Completion
- Clearance docs (i.e. CO,well/septic)
- Final Release to be signed by HUD

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Cost Estimate Summary

Alternative	Description	Total Est.			Total Tech. Support (Nearest \$1,000)	TOTAL EST. COST (Nearest \$1,000)
		Water	Wastewater	Contingency \$1,000		
1	Do Nothing	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
2	Comm. Water & Indiv. STDF's	\$677,400.00	\$267,825.00	\$94,522.50	\$104,000.00	\$1,144,000.00
3	Comm. Water & Comm. Drainfield	\$677,400.00	\$453,325.00	\$113,072.50	\$124,000.00	\$1,368,000.00
4	Comm. Water & Sewer, Expand City Lagoon & Land Application	\$677,400.00	\$612,325.00	\$128,972.50	\$142,000.00	\$1,561,000.00
5	Comm. Water & Sewer, Expand City Lagoon & Discharge to Lapwai Creek	\$677,400.00	\$608,925.00	\$128,632.50	\$141,000.00	\$1,556,000.00
6	Comm. Water & Sewer and Construct New Wastewater Treatment Facility	\$677,400.00	\$4,423,625.00	\$510,102.50	\$561,000.00	\$6,172,000.00

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Labor Standards and Tribally Designated Wage Rates Review

- 24 CFR § 1000.16
- Apply to all laborers and mechanics working on new or existing affordable housing units
- Tribes may develop their own designated wage rates (TDWs) or use:
 - Davis-Bacon wage rates for new development
 - HUD-determined wage rates for maintenance of existing units

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Labor Standards and Tribally Designated Wage Rates Review, cont.

- Did the tribe or recipient elect to utilize TDCs for development and/or maintenance work? Yes ___ No ___
 - If yes, does the law or regulation require the payment of not less than prevailing wages (not "minimum", "average", "fair" wages, etc.)? Yes ___ No ___
 - Is the law or regulation applicable to all, or only a portion, of development and/or maintenance work? Yes
- Did the tribe use Davis-Bacon or HUD wages for any development or maintenance work not covered by TDWs? Yes ___ No ___

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Labor Standards and Tribally Designated Wage Rates Review, cont.

- If the tribe has elected to use Davis-Bacon wages for development work and/or HUD wages for maintenance work:
 - Does the tribe have designated staff for labor standards administration and enforcement? Yes ___ No ___
 - Does the tribe maintain labor standards records for covered development and maintenance work, including copies of contracts (if applicable); payroll reports; correspondence; and evidence that any discrepancies or violations were corrected? Yes ___ No ___

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Labor Standards and Tribally Designated Wage Rates Review, cont.

- If the tribe has elected to use Davis-Bacon wages for development work and/or HUD wages for maintenance work, cont.:
 - For both contracts and force account labor, has a Davis-Bacon wage decision been assigned for development work and a HUD wage decision is assigned for maintenance work? Yes ___ No ___
 - Are the applicable wage decisions (and Davis-Bacon poster for development work) posted at a location accessible to all laborers and mechanics covered by such wage decisions? Yes ___ No ___

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Labor Standards and Tribally Designated Wage Rates Review, cont.

- If the tribe has elected to use Davis-Bacon wages for development work and/or HUD wages for maintenance work, cont.:
 - Are confidential interviews conducted at the job site with laborers and mechanics performing covered work? Yes ___ No ___
 - Are complaints or other allegations of wage violations addressed promptly and followed to resolution? Yes ___ No ___

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CONTRACT PROVISIONS	THRESHOLD \$ AMOUNT
Indian Preference Section 7b	\$10,000
Equal Employment & Certification of Nonsegregated facilities	\$10,000
Davis-Bacon	\$2,500
Copeland Anti-kickback Act	\$2,000
Bonding	\$150,000
Clean Air & Federal Water Pollution Control Act	\$150,000
Debarment, Suspension-Executive Orders 12549 & 12689	All contracts
Termination for Cause & Convenience	\$10,000
Violations/Breaches	\$150,000
Sm, Labor Surplus Area, Women Owned Businesses	All contracts
CWHSS	\$100,000
Byrd Anti Lobbying Amendment	\$100,000

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Final Self-Monitoring Report

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Final Self-Monitoring Report

- Corrective actions are the steps that must be taken to correct instances of noncompliance, poor management, or poor performance that are identified as a result of self-monitoring
- Final Self-Monitoring report should include all conclusions and corrective actions completed for areas of weakness and deficiencies
- The chart below provides examples of noncompliance and corrective actions that can be identified

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Final Self-Monitoring Report

Finding or Concern	Possible Corrective Actions
Policies, procedures, or forms used in program operations do not accurately state HUD requirements, or do not sufficiently ensure compliance.	Require the adoption or revision of policies, procedures, or forms. • Provide specific guidance on issue to be improved.
Staff are unfamiliar with HUD requirements in general; or, one or two specific program areas are not in compliance, but overall program is well-administered.	Require staff to attend training and/or participate in technical assistance (recommended when staff is new or inexperienced) • Large TDHEs should conduct training and technical assistance and tap HUD Field Office resources for technical assistance, where possible.
HUD funds spent on ineligible costs	Repay/return HUD funds
Costs are unsubstantiated	Withhold payments until there is evidence that costs are justified and reasonable
Tenant paid too much for rent due to miscalculation	Calculate tenant's overpayment and make tenant whole

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Questions?

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