



No. 2002-13
July 25, 2002

PROGRAM GUIDANCE

PROGRAM: Indian Housing Block Grant (IHBG)

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

FROM: Ted Key, Acting Deputy Assistant Secretary, PN

TOPIC: Conflict of Interest in IHBG Housing Admissions

Purpose: The purpose of this Guidance is to help IHBG recipients manage those situations where conflicts of interest arise within housing programs governed 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: 201(b), 203(d), 207(b) and 408; 24 CFR 85.36(a)(3); 24 CFR 1000.30, 1000.32, 1000.34 and 1000.36

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 6 of that audit found, in part, that among the housing entities reviewed there were undisclosed conflicts of interest and preferential treatment in the admission to their 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 would be, but are not necessarily limited to: housing staff, housing or tribal board members, members of their immediate families, and such individuals business associates.

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The requirements prohibit any such individuals from benefiting from their position 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 receiving housing benefits for which they qualify as low-income individuals. (See **Exceptions to the Requirements** below.)

Applying the Conflict of Interest Requirements in Admission: 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. Those 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 entities decision makers? Does the housing entity maintain a list of persons having immediate family or business ties to its decision makers?); 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 Requirements: 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 §1000.30(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 201(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 must also be made and a determination that the exception would not violate tribal or any applicable state laws on conflict of interest. All records relating to exceptions made to the conflict of interest provisions must be maintain for at least three years after the exception has been granted.

Low-income individuals to whom the conflict of interest provisions would normally apply (e.g. housing staff and board members), but who qualify for assistance under the recipient's written policies for eligibility, admission and occupancy do not fall under the category of an "exception" and ONAP approval is not required to provide them with the assistance for which they qualify [See §1000.30(c)]. However, the recipient must make a public disclosure of the nature of the assistance to be provided such individuals and the specific basis for the selection of the person. The recipient must also provide its Area ONAP with a copy of the disclosure before the assistance is provided to the person.

Actions to be Taken: All IHBG recipients should be sure that they have written and adopted all policies required by NAHASDA (i.e. eligibility, selection, admission, occupancy, rents charged, management and maintenance). These policies must be in accordance with NAHASDA and program regulations and enforced by a set of procedures that ensure that those policies are being adhered to in both the actions of the staff and the decisions of the Board. They should also be reviewed to ensure that they do not contain provisions that inherently allow conflicts of interest. If the housing entity

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does not have the necessary policies, systems, and control procedures to comply with NAHASDA requirements, they should be written and adopted immediately. All policies should be made public and copies should be available to the public upon request.

Assistance is available from ONAP staff to recipients that would like help in preparing or reviewing their policies and procedures. The ONAP Training Institute also provides workshops at sites throughout the country. For technical assistance, contact your Area ONAP or check www.codetalk.fed.us for scheduled workshops.

Recipients should identify any conflict of interest for participants previously admitted under NAHASDA that have not been properly reported. The necessary action should immediately be taken to make these conflicts of interest public and report them to the recipient's Area ONAP.

HUD Approval: If the person receiving assistance is of low-income and they qualify for eligibility, admission and occupancy, only public disclosure and HUD notification is required [See §1000.30(c)]. However, as stated above, HUD approval for an exemption is required when there is a potential conflict of interest that would be in violation of §1000.30(b). An example of a situation requiring HUD approval for an exemption to the conflict of interest provision would be housing assistance to a TDHE Board member whose income is between 80% and 100% of median income.

Review: A recipient's compliance with conflict of interest requirements should be included in the tribe and/or TDHE's, self-monitoring program. HUD will also review conflict of interest policies, procedures, and performance during its regular monitoring of a recipient compliance with program requirements.



Coquille Indian Housing Authority

2678 Mexeye Loop • Coos Bay, OR 97420

CONFLICT OF INTEREST Provision of Housing Assistance to Related Party

Applicant Name: _____ **Date:** _____

Program: _____

Relationships Requiring Disclosure: Are you or a member of your household related to any of the persons listed below in any of the following capacities: self, father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, partner, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, and half-sister; business associate; or other close affiliation? If so, please check all that apply and provide the name of the related party and nature of the relationship.

- ___ Member of the CIHA Board of Commissioners: _____
- ___ Immediate family member of a CIHA Board member: _____
- ___ Business associate of a CIHA Board member: _____
- ___ Member of the Coquille Tribal Council: _____
- ___ Immediate family member of a Tribal Council member: _____
- ___ Business associate of a Tribal Council member: _____
- ___ Member of CIHA staff: _____
- ___ Immediate family member of a CIHA staff member: _____
- ___ Business associate of a CIHA staff member: _____
- ___ Other: _____

Applicant Signature

For CIHA Staff Use Only:

Posted: _____ Removed: _____ Calendar Days: _____
Date/Initials Date/Initials

Notice to HUD: _____ Began Participation: _____
Date/Initials Date/Initials



Coquille Indian Housing Authority

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PUBLIC NOTICE Disclosure of Potential or Apparent Conflict of Interest

Date: _____

The following public disclosure is made in accordance with 24 CFR 1000.30.

A/an

(circle all that apply)

Immediate Family Member | **Business Associate** | **Other Related Party**

of a

(circle all that apply)

CIHA Commissioner | **Tribal Council Member** | **CIHA Employee**

has applied and been determined eligible for CIHA services in accordance with CIHA policy. The nature of the assistance to be provided is:

(circle all that apply)

Rental Unit | **Rental Assistance** | **Other**

For additional information, please contact CIHA Housing Programs Coordinator Tracey Mueller at traceymueller@coquilleiha.org or (541) 888-6501.

This notice shall be posted in a conspicuous place at the Coquille Indian Housing Authority office for a period of not less than 14 calendar days.



MEMORANDUM

DATE: _____
TO: HUD Northwest Office of Native American Programs
FROM: Coquille Indian Housing Authority
SUBJECT: Disclosure of Potential or Apparent Conflict of Interest

Per 24 CFR 1000.30, this notice is to inform your office that the applicant named below has been determined eligible for assistance through the Coquille Indian Housing Authority.

Applicant Name: _____

This applicant's participation in a low income housing program operated by the Coquille Indian Housing Authority creates a potential or apparent conflict of interest for the following person(s):

- _____ Member of the Board of Commissioners for the Housing Authority
- _____ Immediate family member of a Board member of the Housing Authority
- _____ Business associate of a Board member of the Housing Authority
- _____ Member of the Coquille Tribal Council
- _____ Immediate family member of a Tribal Council Member
- _____ Business associate of a Tribal Council Member
- _____ Employee of the Coquille Indian Housing Authority
- _____ Immediate family member of a Housing Authority employee
- _____ Business associate of a Housing Authority employee
- _____ Other (specify) _____

Public notice disclosing the circumstances of the potential or apparent conflict of interest was posted at the Coquille Indian Housing Authority office for 14 calendar days.