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## MEMORANDUM

November 20, 2023

TO: TRIBAL HOUSING CLIENTS

FROM:  Ed Clay Goodman, Cari Baermann, and Jennifer P. Hughes  
HOBBS, STRAUS, DEAN & WALKER, LLP

RE: ***ICDBG and BABA Consultations at NCAI***

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This memorandum provides a report on two ongoing consultations with the United States Department of Housing and Urban Development (HUD). These consultations occurred during the annual National Congress of American Indians (NCAI) meeting in New Orleans the week of November 13.

### **I. HUD Consultation on ICDBG**

On November 13, HUD's Office of Native American Programs (ONAP) held a consultation on its rulemaking process on the Indian Community Development Block Grant (ICDBG) program regulations (24 CFR Part 1003). Deputy Assistant Secretary (DAS) Heidi Frechette and ONAP Director of Performance and Planning Jad Atallah ran the consultation session. DAS Frechette began by noting that the ICDBG regulations have not been amended in approximately 20 years, and that updating them is long overdue. ICDBG is a critical program, and HUD ONAP is looking for input on how to improve the program through amending the regulations.

#### *A. Regional Competitions for Funding*

HUD explained that the ICDBG uses a formula to divide up funding by region and then it runs competitions for the Tribes in each region for the ICDBG funding. HUD asked for comments on this methodology and whether it should change going forward. One commenter stated that it is a very small Tribe and it simply cannot compete with the larger Tribes. HUD said that it has heard this comment and expressed interest in hearing comments about how to address this issue. HUD posed an idea where small Tribes would compete against each other, medium-sized Tribes would compete against each other and large Tribes would compete against each other. One commenter stated that in terms of other Tribes in its area, it is considered small, and posited whether the competition should not be based off size, but rather have it based on need. Another commenter said that it is difficult for small Tribes to show capacity, but it needs to in order to obtain a good score. A commenter told HUD not to "un-regionalize it," and also not to have a HUD staffer from outside the region score the applications. HUD said that it

sounds like people like keeping the competition in the regions. A commenter confirmed, but said that the different regions must conduct scoring consistently.

Another commenter discussed the need to delete the match. HUD explained that this issue is up for debate. A commenter also said that if HUD really is only going to fund rehabilitation projects with ICDBG monies, HUD should just tell the Tribes that so they do not spend time pursuing ICDBG funding for new housing construction, infrastructure or community facilities categories.

### *B. Eligibility*

HUD said that it is seeking comment on whether HUD should expand or modify the activities that are currently eligible under the program. HUD also explained that Tribes cannot directly do new construction; they need to pass it on to a CBDO and this is a statutory requirement. HUD also explained that an ICDBG applicant must be eligible as an Indian tribe (or as a tribal organization), as required by 24 CFR § 1003.5, by the application submission date and that a Tribal organization may apply on behalf of Indian tribes but it must provide a letter from the Bureau of Indian Affairs (BIA) or Indian Health Service (IHS) demonstrating their eligibility under Title I of Indian Self-Determination and Education Assistance Act of 1975 (ISDEAA). HUD asked whether it should tweak this requirement.

One commenter said that HUD should do away with the BIA IHS letter requirement for eligibility on the grounds that it is paternalistic and that Tribes should be able to simply self-certify. Other commenters underscored this notion, saying that a tribal council resolution should suffice. HUD confirmed that commenters proposed that HUD should state that eligible applicants are Tribes and Tribal organizations which are entities designated /delegated by the Tribe.

### *C. Income Criteria*

Regarding income criteria for families receiving ICDBG assistance, low- and moderate-income beneficiaries are those whose incomes do not exceed 80% of the median income for the area. In contrast, under NAHASDA low-income families are those whose income does not exceed 80% of the local area median income or the national median income, whichever is greater. HUD asked whether it should change the ICDBG criteria to be the same as the NAHASDA criteria. Commenters said that HUD should align how it determines whether a household is low and moderate income with NAHASDA income criteria. One commenter said that low-income framework creates a mindset where people do not take a better job because they will lose the assistance. He asked whether there was a way to not use the “low-income label,” but still serve the needy. To this, HUD discussed the “earned income disregard,” pursuant to which a Tribe can still serve a person for a period of time after the person’s income increases to eliminate the disincentive “to take the good job.” Commenters made the point that HUD needs to look at those who struggle even under moderate income, stating that persons between the 80% and 100% still have needs that need to be addressed. A commenter from Alaska emphasized the high cost of living in rural Tribal communities. One commenter stated that the treaties never said that the United States’ treaty obligations to Tribes and their members were to be income-based. Another commenter said that Tribes should be able to set the income criteria themselves.

#### *D. NOFO Rating Factors*

HUD explained that the Notice of Funding Opportunity Rating Factors for ICDBG grants are dictated by 24 CFR § 1003.303. They are: (1) Capacity; (2) Need/Extent of the Problem; (3) Soundness of Approach; (4) Leveraging of Resources; and (5) Comprehensiveness and Coordination. HUD asked for comments on the NOFO Rating Factors. A commenter said that it is difficult to explain the Capability factor when it comes to procurement and proposed that HIB simply look to see whether a Tribe has procurement findings. Another commenter said that the Capability factor is hard to meet because “successful” can be shown in different ways and asked HUD to review that. A commenter said that HUD should be looking at “the whole Tribal family” when applying the rating factors. Several commenters conveyed that the U.S. Census information is incorrect and that HUD should find some other way to determine Need. A commenter said that if the Tribe does not have a strong showing on the Capacity factor, HUD should not deny it funding, but should provide the Tribe with TA and assist it in building capacity. Finally, a commenter said that there should be less points for the Capacity factor in the scoring system.

#### *E. Imminent Threat Grants*

HUD explained that the GAO issued a report that stated the requirements for ICDBG imminent threat (IT) program were cited as a barrier to addressing climate change with Federal funds, and asked Tribes: (1) if they have concerns with changing the “unique, unusual, nonrecurring” requirements for IT projects; and (2) if Tribes should be required to certify that there are no other available Tribal resources before qualifying for an ICDBG IT grant. With respect to the first question, commenters told HUD to remove the requirement and to get the IT funds out fast. With respect to the second question, commenters told HUD to remove the requirement.

#### *F. Next Steps*

HUD encouraged Tribes to submit comments to: [consultation@hud.gov](mailto:consultation@hud.gov). HUD is receiving comments on a rolling basis. HUD will hold a virtual consultation session on December 5, 2023 at 1pm Eastern and then sessions throughout the ONAP Regions through Spring 2024. HUD will publish a draft proposed new rule in the Federal Register and hold additional Tribal consultations on the draft.

## **II. HUD BABA Consultation**

On November 14, HUD ONAP held a Tribal consultation on how the Build America, Buy America Act (BABA) domestic purchase requirements will impact Tribal communities and housing programs. HUD explained that BABA requires HUD to ensure that none of the funds made available for infrastructure projects may be obligated by HUD unless it has taken steps to ensure that all iron, steel, manufactured products, and construction materials used in a project are produced in the United States. Projects include “the construction, alteration, maintenance, or repair of infrastructure in the United States.” The Buy American Preference (BAP) applies to all sources of Federal Financial Assistance (FFA) provided to tribes, TDHEs, and other tribal

entities (collectively “Tribal Recipients”) involving infrastructure projects. HUD explained that BABA applies to infrastructure projects funded under IHBG Formula, IHBG Competitive, and ICDBG grants, but does not apply to pre and post disaster or emergency response expenditures. HUD has issued a general applicability–public interest waiver of the BAP in connection with HUD funding provided to Tribal Recipients, in order to provide HUD with time to complete the tribal consultation process. The BABA therefore will not apply to tribes until May of 2024. HUD said that sometime before May 2024, it will either issue a new extension or a plan for a phased implementation for tribes. HUD is seeking tribal input as HUD moves forward with deciding when and how to implement the BABA requirements for HUD grants for Tribal Recipients.

HUD explained that HUD can issue BABA waivers to Tribes, but HUD must obtain OMB approval of the waivers. Additionally, the waivers must be published in the Federal Register for public comment. There are two types of waivers: (1) general applicable (broad scope) and (2) project specific. A waiver may be issued on the following grounds: (1) public interest; (2) non-availability of materials (not available in the quantity or not available at the quality); or (3) results in an increase in the cost of the “project” by more than 25 percent. HUD asked for feedback from Tribes about the BABA requirement and specifically when HUD should begin to require Tribes to comply with BABA requirements. Commenters conveyed that BABA compliance will hamper the ability to build affordable housing because it will increase costs. Commenters said that it already takes too long to build houses on remote reservations and that BABA requirements will extend those timelines. Commenters also said that HUD should use a million-dollar threshold for when BABA applies to Tribal infrastructure projects. HUD proposed a two-tiered threshold with a higher one for Alaska, and commenters generally agreed with this concept. Commenters also said it takes time and money to pursue getting a waiver and that during the time a waiver is requested and decided upon, the cost of materials increase. Commenters said that a permanent waiver is justified for Tribes and one expressed that in light of the United States’ trust responsibility to Tribes, it should not be a waiver, but that Tribes should be permanently excluded from having to comply with the BABA requirements. He emphasized that Tribes need flexibility. One commenter posed the concept that BABA should prioritize the use of Tribal companies for construction materials.

HUD asked Tribes how they would differentiate themselves from other governments when it comes to BABA compliance. Commenters responded that by virtue of the United States’ trust responsibility to Tribes, Tribes are different than other government housing authorities. Another comment said that Tribes’ costs are extreme compared to elsewhere and that Tribes’ environmental requirements are often more stringent than other governments’ requirements. HUD said it will hold one more consultation session, which will be in Alaska and that it is receiving written comments at: [consultation@hud.gov](mailto:consultation@hud.gov).

If you have questions feel free to contact Ed Clay Goodman at [egoodman@hobbsstrauss.com](mailto:egoodman@hobbsstrauss.com), Cari Baermann at [cbaermann@hobbsstrauss.com](mailto:cbaermann@hobbsstrauss.com), or Jennifer Hughes at [jhughes@hobbsstrauss.com](mailto:jhughes@hobbsstrauss.com).



# **Build America, Buy America Act**

Tribal Consultation  
2023 NCAI Annual Conference

## *What is BABA?*

The [Infrastructure Investment and Jobs Act \(IIJA\)](#), signed on November 15, 2021, included the Build America, Buy America Act (BABA) which is a law applying to *all* Federal agencies and *all* sources of Federal funds.

See the [OMB M-24-02](#) and [OMB BABA Fact Sheet and FAQ](#) for Award Recipients.

# *What does it mean?*

**Section 70914** of BABA requires that:

Products purchased in connection with **infrastructure projects** funded with **Federal financial assistance** programs must be produced in the United States.

BABA applies to any of these products for infrastructure projects:

- ***Iron or steel*** products
- ***Manufactured*** products
- ***Construction*** materials.

# *What do these requirements apply to?*

BABA requirements apply to all awards by a Federal agency to a **non-Federal entity** (Tribes, TDHEs, public housing authorities, states, cities, counties) through Federal Financial Assistance programs.

Federal Financial Assistance programs include:

- Federal Grants
- Cooperative agreements
- Direct appropriations
- Loan guarantees
- Other financial assistance.

**Note:** BABA is not limited only to IIJA funding and includes annual appropriation acts.



# What ONAP Grants do these requirements apply to?

BABA applies to infrastructure projects funded under the following Grants:

- IHBG Formula
- IHBG Competitive
- Indian Community Development Block Grant

# *What ONAP Grants are excluded from these requirements?*

BABA Sec. 70192(4)(B) *excludes* “pre and post disaster or emergency response expenditures”.

- IHBG-CARES
- ICDBG-CARES
- IHBG-ARP
- ICDBG-ARP
- ICDBG-Imminent Threat

# *What Infrastructure is covered?*

Infrastructure Projects include the Construction, Alteration, Maintenance, or Repair of:

- Buildings and real property
- Utilities
- Water systems (both drinking water and wastewater)
- Electrical transmission facilities and systems
- Broadband infrastructure
- Transportation related-infrastructure (roads, highways, bridges), and more

Infrastructure to be construed "broadly".

# *What materials are covered?*

- Iron or steel products
- Manufactured products
- Construction materials

**Note:** Sec. 70917(c) excludes aggregates (cement, stone, sand, gravel) from the definition of construction materials.

# *What Iron or Steel is Considered Produced in U.S.?*

- Iron or Steel that "consist wholly or **predominantly** of iron, or steel, or both"
- All manufacturing processes, from initial melting stage through application of coating, must occur in the U.S.

## *What Construction Materials are covered?*

- Non-ferrous metals (e.g. lead, stainless steel, tin, brass, aluminum)
- Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables)
- Glass (including optic glass)
- Fiber optic cable
- Optical fiber
- Lumber
- Drywall

# *What Construction Materials are considered Produced in U.S.?*

- ALL manufacturing processes for the construction materials must have occurred in the U.S.
- Some examples:
  - Lumber. All manufacturing processes, from initial debarking through treatment and planning, occurred in the United States.
  - Drywall. All manufacturing processes, from initial blending of mined or synthetic gypsum plaster and additives through cutting and drying of sandwiched panels, occurred in the United States.

# *What Manufactured Products are considered Produced in U.S.?*

- Manufactured products are materials, articles or supplies incorporated in an infrastructure project that are not iron/steel and not one of the listed construction materials.
- The manufactured product must have been manufactured in the United States; and
- The cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product



# *Can we apply for waivers?*

- ***Section 70914*** of BABA establishes the scope, criteria, and process for issuing waivers.
- *Executive Order 14005* and OMB management memoranda require that OMB's Made in America Office review all proposed waivers.

All proposed waivers must appear in the Federal Register and allow for 15 days of public comment.

# *What Types of Waivers are Available?*

- General applicability (broad scope), or
- Project specific

# *What is the basis for the waiver?*

- Public interest
  - Non-availability of materials, or
    - (not available in the quantity)
    - (not available at the quality)
- Results in an increase in the cost of the “project” by more than 25 percent.

All proposed waivers must appear in the Federal Register and allow for 15 days of public comment.

# BABA Actions to Date

12/20/21 – OMB Memorandum M-22-08 Notifying Federal Agencies of Reports due to OMB by 1/14/22.



1/19/22 – HUD Notice: Identification of Federal Financial Assistance Infrastructure Programs Subject to the Build America, Buy America Provisions of the Infrastructure Investment and Jobs Act

Family Self Sufficiency (probably not)	Resident Self Sufficiency Service Coordinators (probably not)	Juvenile Re-entry Assistance Program (probably not)	Choice Neighborhood Planning (probably not)	<b>Choice Neighborhoods Implementation</b>	<b>Public Housing Capital Fund</b>	<b>Indian Housing Block Grants</b>	<b>Community Development Block Grant &amp; Indian Tribes and Alaska Native Villages</b>
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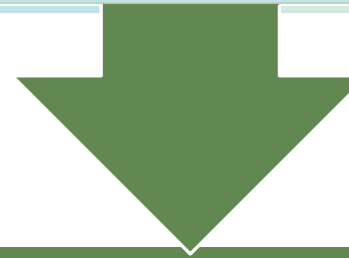
# BABA Actions to Date

11/23/22 - HUD publishes De Minimis Waiver -  
this waiver is important:

Exempts grants that are  
equal to/under \$250,000

Exempts projects equal  
to/under \$250,000

Exempts 5% of  
procurements above  
\$250,000 as long as the 5%  
does not exceed \$1 million



11/23/22 – HUD publishes Exigent Circumstances  
waiver – exempts certain activities from BABA:

Curing exigent health/safety issues

Likely covers ICDBG-Imminent Threat grants  
with no declared disaster

# BABA Actions to Date

2/19/23 – OMB publishes a proposed rule implementing BABA: 2 CFR 184

OMB got thousands of comments

OMB is working with Agencies to go through comments

Lots of significant issues being considered



3/15/23 - HUD publishes Phased Implementation Waiver - this waiver is important:

Choice Neighborhood Implementation grants awarded in 2023 – BABA applies to purchase of iron/steel products

For funds obligated on or after February 22, 2024 – BABA applies to purchase of iron/steel products for the public housing program (excluding maintenance)

For funds obligated on or after August 23, 2024 – BABA applies across the board to all public housing programs for iron/steel, manufactured products and construction materials



5/23/2023 – HUD Waiver to delay applicability of BABA to Tribes/TDHEs effective until **May 23, 2024**

## HUD hosts In-person Tribal Consultation Sessions

NCAI Mid-Year June 2023

SPIHA July 2023

NWIHA September 2023

HUD Housing Summit Nov 2023

NCAI Annual Conference Nov 2023

August 2023 – OMB publishes a final rule implementing BABA: 2 CFR 184 effective October 2023

The new regulations will be codified in 2 CFR Parts 184 and 200.

The new part 184 provides guidance to Federal agencies on how to implement the BABA requirements and standards in a consistent and coordinated way.

Clarifies how to classify construction materials vs. manufactured products

OMB Publishes Final BABA Implementation Memo [M-24-02](#)

# *What does the current Tribal waiver do?*

- Provides HUD with an additional year, until May 23, 2024, to Consult with Tribes on the applicability of BABA and the impact it will have on projects.

*Your input is extremely important as we move forward.*

- Until May 23, 2024, ONAP grants funded with Indian Housing Block Grant and the Indian Community Development Block Grant are exempted from the requirements of BABA.
- This waiver only applies to HUD funding sources. If your project combines funds with other federal sources, you will need to determine if BABA is in effect for that agency's funds.



# *Questions for Consideration*

- What are the expected impacts of BABA on construction and infrastructure development?
- Do you know whether the iron, steel, construction materials, and manufactured goods you currently buy are made in the US?
- Do you have access to viable American suppliers of iron, steel, construction materials, and manufactured goods?

# *Questions for Consideration*

- Do you anticipate that BABA will increase the cost of construction of infrastructure projects?
  - Should HUD consider a different de minimis threshold requirement when BABA applies to Tribal infrastructure projects?
- When should HUD begin to require Tribes and TDHEs to comply with BABA requirements?

# *Questions for Consideration*

- How will BABA impact your Tribe differently than neighboring communities?
- What additional steps are required to comply with BABA?
- Are there other comments you'd like to share, or other issues HUD should consider?

# *Resources*

- Office of Management and Budget Guidance and Other Resources
- HUD BABA Webpage
  - OMB Final Rule

# *Thank you for your input*

Please ensure that your Project Managers, Contractors, and Housing Staff are aware of BABA and provide input on how BABA will impact future projects, costs, and timelines

**Submit comments to: [Consultation@hud.gov](mailto:Consultation@hud.gov)**



# Indian Community Development Block Grant Regulations [24 CFR 1003](#)

**TRIBAL CONSULTATION**

2023 NCAI ANNUAL CONVENTION & MARKETPLACE

NEW ORLEANS, LA

NOVEMBER 12, 2023



**Heidi Frechette, Deputy Assistant Secretary  
Office of Native American Programs  
U.S. Dept. of Housing and Urban Development**

# Agenda

- ICDBG Overview
- Current ICDBG regulations
- Consult on needed updates to the regulations
- Gather comments and feedback



# Office of Native American Programs

- Jad Atallah, Director, Office of Performance and Planning
- Hilary Atkin, Director, Office of Grants Management
- Damon Adams, Grant Management Specialist

# Overview

The Indian Community Development Block Grant (ICDBG) Program provides funding to Tribal communities to **develop housing, community development** and **support economic development** for low- and moderate-income persons.

# Overview

FY2022

## **Funding Available**

**\$95,565,820**

## **Minimum Award Amount**

**\$500,000**

## **Maximum Award Amount**

**\$5,000,000**

## **Awards**

Applications received: 143

Number of awards: 55

Announced date: May 22, 2023

[Press Release](#)

[Project Summaries](#)

# Overview

FY2023

## **Funding Available**

**\$75,000,000**

## **Minimum Award Amount**

**\$500,000**

## **Maximum Award Amount**

**\$5,000,000**

Applications received: 150

Anticipated number of awards: 80

Application due date: October 5, 2023

Anticipated awards: April 2024

[Press Release](#)

# Project Examples

<u>Rehabilitation</u>	<u>New Housing Construction, Infrastructure</u>	<u>Community Facilities</u>
Rehabilitate the plumbing and electrical systems for 20 homes and acquire 10 homeownership modular units for low- and-moderate income Tribal families.	Provide infrastructure installation for 8-10 homes for low- and-moderate income Tribal families.	Build an education center for low- and-moderate income Tribal members.
Replace roofs on 196 low-rent, single-family and duplex units for low- and-moderate income Tribal families.	Construct 3 housing units to increase access to affordable housing for low- and-moderate income Tribal families.	Construct a multi-purpose Community Facility that will provide space for community support programs, youth programs, a Tribal library, and a computer center.
Rehabilitate 27 homes to improve access to affordable housing for low- and-moderate income Tribal households.	Construct Tribal Community Elder Facility which includes residential units, community gathering areas, dining, office space, and storage space. The facility will exclusively benefit low- and-moderate income elders.	Constructing a 4,282 square foot Wellness Center to benefit low- and-moderate income Tribal members.

# Overview

## Grant Types

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### **Single Purpose Grants**

Competitive grants awarded through NOFO

\*Apply through Grants.gov

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### **Imminent Threat Grants**

Noncompetitive grants awarded 1<sup>st</sup> come, 1<sup>st</sup> served – no due date

\*Apply directly through the Area ONAP

More Information:

- Imminent Threat grant guidance: [ONAP Program Guidance 2018-04](#)
- ICDBG regulations: [24 CFR Part 1003](#)

# Overview

## Categories of Major Eligible Activities

### **Housing**

Rehabilitation, land acquisition, and under limited circumstances, new housing construction.

### **Community Facilities**

Infrastructure construction, e.g., roads, water and sewer facilities, and single or multipurpose community buildings.

### **Economic Development**

Commercial, industrial, agricultural projects which may be recipient owned and operated or which may be owned and/or operated by a third party.

\*\*\* Please note, a more detailed description along with exceptions may be found in 24 CFR 1003 Subpart C

# Overview

## ICDBG Imminent Threat (IT) Grants

- Intended to **alleviate or remove imminent threats** towards health or safety.
- **Conditioned** upon that an emergency exists or would exist if the threat was not addressed.
- **Must address** threats that were not evident at the time of the ICDBG single-purpose funding cycle, **or** that require immediate action.

### **MAXIMUM AWARD AMOUNT:**

\$450,000 for disasters that are **not** Presidentially-declared

\$900,000 for Presidentially declared disasters, also referred to as Major Disaster Declarations by the Federal Emergency Management Agency (FEMA).

**\*\* We plan to update ICDBG-IT program guidance soon**



# Current ICDBG Regulations

- The current regulations promote community development with a focus on capital costs (“bricks and mortar”) and an emphasis on community facilities, infrastructure and economic development.
- The regulations outline the requirements we all know and love:
  - Eligibility
  - Imminent threat
  - NOFO rating factors
  - And more!

# Consultation

- 24 CFR part 1003 has not been updated in two decades.
- ONAP seeks to follow HUD's Tribal Consultation Policy to seek feedback from tribal communities on ways to revise and improve the ICDBG regulations.
- HUD is interested in hearing about all topics but is particularly interested in the areas in the following slides.

# Comments and Feedback

Area ONAP allocation of ICDBG funds ([24 CFR 1003.101](#))

Comments regarding the distribution of funds to each region?

- \$1,000,000 base amount for each AONAP
- Remaining amount (less IT set-aside) distributed as follows, based on ACS data:
  - 40% allocated based upon each AONAP's share of the total eligible Indian population
  - 40% allocated based upon each AONAP's share of the total extent of poverty among the eligible Indian population; and
  - 20% of the funds allocated based upon each AONAP's share of the total extent of overcrowded housing among the eligible Indian population.

# Comments and Feedback

Should HUD expand or modify the activities that are **currently eligible** under the program?

- Program **emphasizes hard costs** such as construction (public facilities, infrastructure, housing)
- **Not eligible:** equipment, furnishings, operating & maintenance (statutory limitations)
- **New housing construction** is subject to specific **threshold requirements** and must be undertaken by a CBDO
- **Housing rehabilitation** is subject to specific **threshold requirements** (statements around rehab standards/policies and homeowner payments)

\* Please note, more detailed description of eligible & ineligible activities are located at [24 CFR 1003 Subpart C](#)

# Comments and Feedback

## Eligible Applicants:

- Tribal Organizations may apply on behalf of Indian tribes, but must provide a letter from BIA or IHS demonstrating eligibility under Title I of ISDEAA
- TDHEs sometimes have challenges with this

# Comments and Feedback

Should HUD align how it determines whether a household is low and moderate income with NAHASDA income criteria?

ICDBG Criteria	NAHASDA Criteria
<ul style="list-style-type: none"><li>• Low- and moderate-income beneficiaries are those whose incomes do not exceed 80% the median income for the <u>area</u>.</li></ul>	<ul style="list-style-type: none"><li>• Low-income families are those whose income does not exceed 80% the median income for the area or the <u>United States</u>, whichever is greater.</li></ul>

# Comments and Feedback

## NOFO Rating Factors

1. Capacity
2. Need/Extent of the Problem
3. Soundness of Approach
4. Leveraging of Resources
5. Comprehensiveness and Coordination

\*Rating Factors included in the Notice of Funding Opportunity ([24 CFR 103.303](#))

# Comments and Feedback

## Imminent Threat Grants ([24 CFR 1003 subpart E](#))

- In 2022, the Government Accountability Office issued a report on how agencies can address environmental threats for Alaska Native Villages. The requirements for the ICDBG IT program **were cited as a barrier to addressing climate change with Federal funds.**
- Would you have any concerns with changing the “unique, unusual, nonrecurring” requirements for IT projects?
- Should Tribes be required to certify that there are no other available Tribal resources before qualifying for an ICDBG IT grant?



# Comments and Feedback

- Status and Evaluation Report (due within 45 days end of FFY)
  - **Progress.** The progress made in completing approved activities should be described. This description should include a listing of work remaining together with a revised implementation schedule, if necessary.
  - **Expenditure of funds.** A breakdown of funds spent on each major project activity or category should be provided.
  - **Program performance.** Data on program outputs and outcomes, in a form prescribed by HUD.
  - **Grantee assessment.** If the project has been completed, an evaluation of the effectiveness of the project in meeting the community development needs of the grantee should be provided.
- Minority Business Enterprise Reports Grantees shall submit to HUD, by October 10, a report on contract and subcontract activity during the fiscal year.
- Close Out

\*Reporting requirements ([24 CFR 1003.506 Reports](#) & [24 CFR 1003.508 Grant closeout procedures](#))

# Comments and Feedback

Please state your name, Tribe, and which area of the regulation you are responding to.

- Eligible and ineligible activities (24 CFR 1003 subpart C);
- Area ONAP allocations of ICDBG funds (24 CFR 1003.101);
- Compliance with the primary objective (24 CFR 1003.208);
- Rating factors included in the Notice of Funding Opportunity (24 CFR 1003.303);
- ICDBG Imminent Threat Grants (24 CFR 1003 subpart E);  
and
- Reporting requirements (24 CFR 1003.506).

# Consultation

## Upcoming Sessions

1. National Virtual Tribal Consultation, **December 5, 2023**, 1:00 PM Eastern Standard Time.
2. Throughout the ONAP Regions through spring 2024

## Next Steps

- ✓ Publication of a draft proposed new rule in the Federal Register in 2024.
- ✓ Once published, DTL will be issued for another series of tribal consultations.

# Thank You For Your Input!

Please ensure interested members of your community are aware of the proposed updates to 24 CFR part 1003 and provide input on changes to the regulation.

## **Next Session:**

National Virtual Tribal Consultation, December 5, 2023, 1:00 PM  
Eastern Standard Time.

Submit comments to: [Consultation@hud.gov](mailto:Consultation@hud.gov)