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MEMORANDUM

May 10, 2024

TO: TRIBAL HOUSING CLIENTS

FROM:  Edmund C. Goodman & Cari L. Baermann
HOBBS, STRAUS, DEAN & WALKER, LLP

RE: ***Legislative Housing Updates, Build America, Buy America Requirements (BABA), and other Tribal Housing Updates***

This memo provides a synthesis of information presented during meetings with the National American Indian Housing Council (NAIHC) and U.S. Department of Housing and Urban Development (HUD) Office of Native American Programs (ONAP) at a Northwest Indian Housing Association (NWIHA) conference on May 7, 2024.

I. NAIHC Legislative Updates

NAIHC Executive Director Douglas Marconi, Sr. provided a brief update on housing legislation and NAIHC programs.

a. Legislative Updates

Mr. Marconi noted that in March 2024, the President signed the fiscal year (FY) 2024 appropriations package (H.R.4366 – Consolidated Appropriations Act, 2024). The appropriations package includes a significant amount of funding appropriated to Native American and Native Hawaiian housing programs compared to FY 2023, summarized in the table below. On March 11, 2024, the President released his FY 2025 Budget Request, including his proposal for HUD in FY 2025. Importantly, the FY 2025 discretionary budget is capped at roughly FY 2023 enacted levels by the spending limits set by the Fiscal Responsibility Act (P.L.118-5). This means that the President cannot request significant increases for discretionary programs without offsetting the increase with cuts elsewhere. As such, the FY 2025 Budget Request is significantly slimmer across the board than the FY 2024 Budget Request (and below the FY 2024 enacted levels on funding for significant areas). Here is a breakdown of the funding for Native American and Native Hawaiian housing programs.

Native American Programs	FY2023	FY2024	FY 2025 Request
Tribal HUD–Veterans Affairs Supportive Housing (VASH)	\$7.5 million	\$7.5 million	\$0
Indian Housing Block Grant (IHBG)	\$787 million	\$1.11 billion	\$820 million

Competitive Grants	\$150 million	\$150 million	\$150 million
Title VI Loans	\$1 million	\$1 million	\$1 million
Indian Community Development Block Grant (ICDBG)	\$75 million	\$75 million	\$75 million
Training and Technical Assistance	\$7 million	\$7 million	\$7 million
National Organization Funding (per Sec.703 of NAHASDA)	\$2 million	\$2 million	\$2 million
Section 184 Loans	\$5.5 million	\$1.5 million	\$2 million
Imminent threats to health and safety	\$5 million	\$5 million	\$5 million
Native Hawaiian Program			
Native Hawaiian Housing Block Grant (NHHBG)	\$22 million	\$22.3 million	\$22.3 million
Training and Technical Assistance	\$1 million	\$1 million	\$1 million

Mr. Marconi commented that in spite of the lower FY 2025 Budget Request, NAIHC is preparing to request a 4% increase in IHBG funding for the FY 2025 appropriation over the \$1.11 billion appropriated for FY 2024. This request aims to restore the IHBG program to its original purchasing power when the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) was authorized; adjusted to keep pace with inflation. NAIHC will be meeting with Congressmembers and consulting with Congress staffers on the FY 2025 funding levels. Mr. Marconi commented that Representative Tom Cole (R-OK), Chairman of the House Appropriations Committee, is an enrolled member of the Chickasaw Nation and has frequently introduced and supported pro-tribal legislation. Tribal advocates will therefore seek to work closely with Representative Cole on requesting increased funding for tribal housing.

b. NAIHC Trainings and Future Conferences

Regarding HUD programs, NAIHC Program Director Erla Sagg noted that NAIHC provides leadership institute trainings and technical assistance, customized specifically for the Indian housing industry. More information is available on the [NAIHC website](#).

NAIHC will hold its Annual Convention at the Seminole Hard Rock Hotel & Casino, in Hollywood, Florida from June 24-27, 2024. More information can be found [here](#).

II. Build America, Buy America Act

The participants at the NWIHA conference also discussed the BABA and how it will impact tribes and tribally designated housing entities (TDHEs). BABA was enacted on November 15, 2021 and establishes a domestic content procurement preference (“Buy America Preference,” or “BAP”) for Federal infrastructure programs.

The 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 BAP applies to *all sources* of Federal Financial Assistance (FFA) provided to tribes, TDHEs, and other tribal entities (collectively “Tribal Recipients”) involving infrastructure projects.

On May 14, 2022, HUD had published a one-year general applicability–public interest waiver (“Waiver”) of the BAP in connection with HUD funding provided to Tribal Recipients. On May 30, 2023, HUD published a [notice \(“Extension Notice”\)](#) extending the Waiver until **May 23, 2024**. Please see our September 22, 2023 and November 6, 2023 memoranda for a more detailed analysis of the BABA requirements and the effects that BABA will have on tribes.

The participants discussed which tribal housing grants the BAP would apply to if HUD does not issue another tribal waiver. HUD’s [Extension Notice](#) states that the waiver of the application of the BAP applies to all funding awards “that are obligated by HUD during the pendency of the waiver.” [HUD’s FAQs](#) on BABA define “obligation” as “the point at which HUD is legally committed to make funds available to a grantee . . . [and that] the date of obligation is the date the grant agreement is signed by HUD. Based on that language, BAP compliance would not apply to the FY 2024 IHBG formula allocations that HUD released on May 7, 2024 if ONAP and if the grantees sign the grant agreements before the waiver expires on May 23, 2024. Hobbs, Straus, Dean and Walker, LLP, Partner, Ed Clay Goodman reached out to a couple of ONAP staff about this issue, and the ONAP staff stated that they do not expect BABA to apply to the FY 2024 IHBG formula grant. However, we note that there may still be some uncertainty over whether BABA applies to the FY 2024 IHBG funds. It is therefore advisable that TDHEs still look into the steps that might be necessary to begin to bring their procurement into compliance with BABA, or to consider applying for project-specific waivers.

HUD has published a Request for Information (RFI) on the implementation of the BABA requirements. The RFI is soliciting feedback on how the purchasing requirements for iron, steel, construction, and manufacturing materials will impact costs and the ability of tribes and TDHEs to build housing. The RFI can be found [here](#). HUD recently extended the deadline for comments on the RFI to **June 17, 2024**. Comments can be submitted at [regulations.gov](#).

Hobbs, Straus, Dean & Walker, LLP has been working with Senator Alex Padilla’s (D-CA) office on a letter that Senator Padilla plans to send to HUD and the Office of Management and Budget (OMB) to request a blanket, permanent waiver from BABA compliance for Tribal Recipients. Senator Padilla would like to gather signatures for that letter from other Senators and Congressional Representatives. To that end, Mr. Goodman urged the NWIHA participants and other tribes across the country to ask their Senators and Representatives to sign on to that letter. Please email us at the contact information at the end of this memorandum if you would like a copy of the letter.

III. Census Bureau Data

Alaina Capoeman, Tribal Relations Specialist for the U.S. Census Bureau (“Census Bureau”), and Victoria Montgomery, Census Bureau Geographer, provided an overview related to how tribes can access and use Census Bureau information. The presentation also covered information on the Topologically Integrated Geographic Encoding and Referencing (“TIGERWeb”) database.

Ms. Capoeman discussed the Census Bureau's ongoing and current efforts to conduct surveys in tribal lands to collect data, noting that this data is necessary to support tribes and tribal housing. The Census Bureau conducts 1,300 surveys each year, collecting a couple of different types of data. For example, Ms. Capoeman commented that the 2020 census focused on collecting data about racial and ethnic groups, such as tribal identification. She also remarked that the reason why the census data is often different than a tribe's enrollment numbers is because the census data is based on individuals' self-identification as Native American and Alaska Natives. In contrast, the tribal data tabulation for geography collects information on where people live, not on tribal enrollment. The Census Bureau tries to hire local Native Americans to conduct the surveys in each area, to respect tribal sovereignty and engage with each tribe.

One participant asked whether the fact that different surveys include many options for self-identification creates a risk of Natives Americans being excluded from being counted as Native American. Ms. Capoeman responded that individuals can select multiple identifications and each identification will be counted, so that Native Americans would only not be counted as such if they did not select any Native American tribe as one of their identifications.

Ms. Capoeman also describe [My Tribal Area](#), which is a website that provides quick and easy access to selected statistics from the American Community Survey (ACS). The ACS provides detailed demographic, social, economic, and housing statistics every year for the nation's communities. It shows Native American and Alaska Native lands and can be useful for community planners, grant writers, tribal officers, and others.

The Census Bureau also conducts a Boundary Annexation Survey (BAS). The geography of a tribal nation is based on official geographic areas, which do not always match the name of the tribe. The tribal geographies in TIGERWeb is based on maps reviewed by tribes and certified the U.S. Bureau of Indian Affairs (BIA) in the 1980s. The Tribal BAS is the annual opportunity for tribal, state, and local governments to submit boundary changes, name or description changes, or status updates on new reservations or trust land status. Tribal participation in BAS confirms that legal boundaries are current and accurate and ensures that communities receive appropriate federal funding.

The geographies eligible for the Tribal BAS are federally recognized reservations, federally recognized off-reservation trust land, tribal subdivisions, Hawaiians home lands, and census designated places. The Census Bureau does not collect or maintain boundaries for allotted lands, fee lands, restricted status or restricted fee land, service areas, or subsurface rights. If a certain piece of land is in dispute between two tribes or other entities, the Census Bureau does not collect or maintain boundaries on that land until the BIA issues a decision on that land. Native American reservation boundaries are established or defined by treaty, statute, and/or executive or court order. The Bureau does not necessarily store data on boundaries within a reservation — it only stores data on off-reservation boundaries.

If tribes want to submit documentation to change their reservation boundaries, the Census Bureau only accepts legal documentation on boundaries, such as an Act of Congress, a BIA signed letter (e.g., acceptance of a conveyance), reservation proclamations, and warranty deeds. The trust

land legal documentation must include the language “United States of America in trust for [x] tribe” or that the land is in “trust status”. The documentation must also include legal descriptions or parcel numbers and the BIA seal or signature.

Additional information is available on the [BAS website](#). Tribes can also contact BAS at geo.bas@census.gov or Victoria.A.Montgomery@census.gov or call Ms. Montgomery at (812) 218-3147. Anyone with questions about data on a particular geographic area can contact Armando Mendoza, Census Bureau Data Dissemination Specialist, at Armando.mendoza@census.gov or at (818) 554.3606.

IV. HUD Programs and Updates

Staff from the regional ONAP joined the NWIHA meeting to provide an update on HUD programs.

a. IHBG and ICDBG funding

As noted above, HUD allocated the FY 2024 IHBG funding on May 7, 2024. The IHBG FY 2024 grants include a significant funding increase for tribes. ONAP staff encouraged TDHEs to sign their FY 2024 IHBG grant applications as soon as possible so that these funds are obligated before the BABA waiver expires on May 23, 2024.

HUD is currently reviewing the IHBG competitive FY 2023 applications. The ICDBG FY 2024 Notice of Funding Opportunity (NOFO) will be coming soon. In June, HUD will do national ICDBG NOFO training, providing guidance on what the NOFO requirements mean. HUD will be releasing the IHBG FY 2024 competitive NOFO, soon as well. Additionally, ICDBG imminent threat funding is still available, so ONAP staff encouraged tribes to reach out to ONAP about that funding.

HUD has started the rulemaking process to update the ICDBG program regulations (24 CFR 1003). In accordance with HUD’s Tribal Consultation Policy, the Office of Native American Programs is seeking Tribal feedback on these regulations, which have not been updated in nearly two decades. ONAP staff encouraged tribes to provide feedback on all aspects of the ICDBG program and regulations. HUD is particularly interested in receiving feedback on which other data elements to consider when making the ICDBG funding allocations. They noted that not every tribal member that needs housing services lives on trust land, so other factors should be involved to make sure those tribal members are included. ONAP staff encouraged TDHEs to send ONAP an email with the TDHE’s feedback.

ONAP staff encouraged tribes and TDHEs to prioritize expending the various COVID-19 relief related programs administered by ONAP (IHBG–CARES, IHBG–ARP, ICDBG–CARES, ICDBG–ARP, and NHHBG–ARP). The staff noted that there is currently no set deadline after which HUD would recapture these funds. However, Congress may decide to set a recapture deadline at some point in the future, so it is in tribes’ best interest to expend the funding in as timely a manner as possible. Currently, the IHBG ARP funding is only 54% disbursed, the ICDBG ARP is 64% disbursed, the IHBG CARES is 83% disbursed, and the ICDBG CARES is 90%

disbursed. ONAP can assist as needed with providing information on best practices for utilizing the remaining COVID-19 funding.

b. Grants Monitoring

ONAP staff commented on a couple of common issues that ONAP has observed while conducting its grant monitoring. One of the issues is that environmental review records are often not complete for categorically excluded projects. A second issue is that TDHEs do not complete an environmental process prior to the purchase of property acquisition, do not complete appraisals, or do not follow the relocation process or provide relocation assistance for existing residents. A third issue is that TDHEs utilize procurement practices and processes that vary from the TDHE's procurement policy.

One participant asked whether they need to complete the environmental review process and appraisal before stating in their Indian Housing Plan (IHP) that they want to purchase the property. ONAP responded that TDHEs can simply provide broad estimates in their IHP that they intend to purchase certain types of properties, such as stating that they intend to purchase a certain number of duplexes. The TDHEs do need to complete the appropriate level of review for the land they intend to purchase, but they do not need to complete the environmental review until after they submit the IHP. Another participant noted that it is important to make sure the zoning for the land is appropriate for the type of project the TDHE wants to complete, before purchasing the property.

The participants briefly discussed the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 ("Uniform Relocation Act") (42 U.S.C. 4601 et seq.). If a TDHE temporarily or permanently displaces a person because of rehabilitation of their current premises, the TDHE must provide them with relocation assistance at the levels described in, and in accordance with the requirements of, the Uniform Relocation Act. 24 CFR § 1000.14. One of the participants asked whether they must comply with the Uniform Relocation Act if the TDHE is using non-federal funding to purchase a property and then plans to use IHBG funding to rehabilitate the property. ONAP responded that the TDHE would not have to comply with the Uniform Relocation Act during the purchase phase of the project, but the TDHE *would* have to comply with the Uniform Relocation Act at the time that the TDHE uses federal funds to rehabilitate the property.

ONAP staff commented that ONAP grant recipients are expected to submit a single completed Standard Form (SF) - 425 annual report for each open grant ninety (90) days after the reporting year ends. The pandemic grants (IHBG-CARES, IHBG-ARP, ICDBG-CARES, ICDBG-ARP, and NHHBG-ARP) require a final report, which is due ninety (90) days after completion of the project. Final reports should show all funds expended in that project and that the project is complete.

c. HUD Preservation and Reinvestment Initiative for Community Enhancement (PRICE) NOFO

On February 28, 2024, HUD issued a [NOFO](#) which appropriates **\$225 million** in grant funding for the Preservation And Reinvestment Initiative For Community Enhancement competition. PRICE supports communities in their efforts to maintain, protect, and stabilize manufactured

housing and manufactured housing communities (MHCs), as well as the preservation and revitalization of manufactured housing and eligible MHCs. Tribes and TDHEs are eligible to apply, and at least \$10 million of the available funding is intended for Tribal communities. For the PRICE main grant, the minimum funding for a grant is \$500,000 and the maximum funding is \$75 million. There is also a PRICE Replacement Pilot grant, which provides grantees with a minimum funding of \$5 million and maximum funding is \$10 million.

The grant will be particularly useful for developing or repairing manufactured housing. Stick-built housing is ineligible for this funding grant. The PRICE NOFO will accept one application per tribe/TDHE. There is a match requirement for the PRICE Replacement Pilot grant, requiring applicants to match 50% of the funding. There is no match requirement for the PRICE main grant, but applicants are awarded additional points if they are able to match the PRICE grant funding.

HUD will be hosting a number of webinars with more information on PRICE. Tribes and TDHEs can sign up for the [PRICE NOFO](#) webinars [here](#). Grant applications are due **June 5, 2024**.

d. HUD Choice Neighborhood Planning Grant

ONAP staff also encouraged tribes and TDHEs to apply for the HUD Choice Neighborhood grants, for which TDHEs are eligible. There are two available grants: the Choice Planning Grant and the Choice Implementation Grant.

The Choice Planning Grant NOFO was posted to [Grants.gov](#) on April 9, 2024 and announced up to \$10 million for Planning Grant awards. The maximum grant award is \$500,000. Applications are **due June 10, 2024**. The Planning Grant provides funding for a two-year planning process for community revitalization. TDHEs could use it to focus on redevelopment of NAHASDA assisted units. The Planning Grant helps provide a pathway for applicants to then receive the Choice Implementation Grant.

The Choice Implementation Grant support those communities that have undergone a comprehensive local planning process and are ready to implement a plan to redevelop the neighborhood. The FY 2023 Implementation Grants provided approximately \$259 million in funding available for awards of up to \$50 million each. The FY 2024 Choice Implementation Grants funds have been added to the FY 2023 Implementation Grants competition. There will be no separate FY 2024 Choice Neighborhoods Implementation Grants NOFO. More information is available at <http://www.HUD.gov/cn>.

The participants discussed the Choice grant awards, noting that while tribes and TDHEs are technically eligible, the NOFO grant requirements and rating factors often effectively preclude TDHEs from being able to meet the eligibility requirements for the award. As a result, the participants commented that tribes and TDHEs are interested in providing input on the NOFO requirements for any HUD grants before HUD publishes the NOFO. Participants also commented that tribal cultural components should be specifically included in the NOFO, as the NOFO social requirements do not match up with tribal cultural practices. ONAP staff noted that they have made significant efforts to change the NOFOs within HUD, but more work needs to be done to convince HUD that grant requirements need to be revised to better fit tribes.

ONAP staff encouraged TDHEs to consider and apply for other federal grants. The Inflation Reduction Act (IRA) provides a number of other grants for which tribes and TDHEs are eligible. Examples include the U.S. Department of Energy (DOE) Tribal Clean Energy projects, the DOE Tribal Home Electrification and Appliance Rebate Program, and the U.S. Environmental Protection Agency (EPA) Community Change Grant Program.

e. Housing Opportunity Through Modernization Act of 2016 (HOTMA)

On December 8, 2023, HUD published a [Notice PIH 2023-34](#) ("Notice") on the Transition and Implementation of the Housing Opportunity Through Modernization Act of 2016 (HOTMA) and its effects on the IHBG program. HOTMA was enacted in 2016, and on February 14, 2023, HUD published a final rule implementing Sections 102 and 104 of HOTMA ([88 FR 9600](#)). HOTMA made significant changes to various 1937 Act housing programs, but it does not directly apply to NAHASDA. However, since the HOTMA amendments and the implementing regulations revised how annual income is calculated for Section 8 purposes (*see* 24 CFR 5.609), HOTMA indirectly impacts all tribes and TDHEs who use the Section 8 methodology to calculate income. The Notice gives tribes and TDHEs an additional year, until January 1, 2025, to implement and come into compliance with the new Section 8 definition of "annual income" under the IHBG.

ONAP staff remarked that on April 8, 2024, HUD issued Notice [PIH 2024-07](#), which provides updated instructions to IHBG grantees on how to calculate annual income under the IHBG program for the purpose of determining program eligibility. Pursuant to 24 CFR 1000.10, TDHEs may use one of three definitions of "annual income" to calculate a family's annual income for the IHBG program: 1) HUD's 24 CFR Part 5 income definition for Section 8, public housing, and other HUD programs found at [24 CFR 5.609](#); 2) the Census Bureau definition of annual income; or, 3) the adjusted gross income definition used on the IRS Form 1040. The Notice [PIH 2024-07](#) provides step-by-step guidance on calculating income under the three definitions of annual income. It also contains an appendix that provides more details on the HOTMA final rule's changes to the Section 8 income calculations. Additionally, HUD released a fact sheet on HOTMA Income and Assets Final Rule Highlights ("HOTMA Highlights"), which provides a summary of some of the key HOTMA changes.¹ Below are some of the changes that may impact TDHEs:

- "HOTMA creates a 10% adjusted income increase/decrease threshold for conducting interim income reexaminations."² HOTMA Highlights. The HOTMA Highlights states that in most cases, HOTMA "requires that increases in earned income are not processed until the next Annual Reexamination, allowing families to keep more of their earnings before receiving a rent increase." *Id.* The HOTMA changes should therefore lead to fewer interim reexaminations for housing authorities.

¹ U.S. Dep't Housing Urban Dev., Highlights of Final Rule Implementing Sections 102, 103, 104 of HOTMA ("HOTMA Highlights"), https://www.hud.gov/program_offices/public_indian_housing/hotmaresources.

² U.S. Dep't Housing Urban Dev., Highlights of Final Rule Implementing Sections 102, 103, 104 of HOTMA, https://www.hud.gov/program_offices/public_indian_housing/hotmaresources.

- HOTMA includes several provisions intended to “streamline the verification process for housing providers.” *Id.* HOTMA revises the consent form that all adult household members are required to sign, “allowing them to sign the form only once instead of annually.” *Id.* HOTMA also allows housing authorities “to use income determinations made under other federal benefits programs for reexaminations.” *Id.*
- HOTMA also makes changes to income exclusions. It increases the standard deductions for families that have a household head, household co-head, or spouse who is elderly or a person with a disability. *Id.* HOTMA also codifies additional income and asset exclusions from income calculations, including: “[1] Amounts received from Medicaid or other state/local programs meant to keep a family member with a disability living at home [2] Veterans’ aide and attendant care [3] Distributions of principal from non-revocable trusts, including Special Needs Trusts.” *Id.*
- HOTMA makes several changes to deductions for expenses. It “increases the allowance for unreimbursed health and medical care expenses from 3% of annual income to 10%.” Additionally, HOTMA provides hardship relief for expense deductions, which may reduce the impact of the increased threshold for medical expenses. *Id.*

ONAP staff encouraged TDHEs to review the Notice [PIH 2024-07](#) and to update their policies on calculating annual income based on that notice and the HOTMA changes to the Section 8 income.

f. Section 184 Final Rule.

ONAP staff also briefly provided an update on the Section 184 Indian Housing Loan Guarantee (“Section 184”) program. On March 20, 2024, HUD published the final rule on Section 184. The final rule is available [here](#). Section 184 provides a loan guarantee to borrowers in the event of borrower default, which is paid from the Section 184 Loan Guarantee Fund (“Fund”). The Section 184 allows Native American borrowers to purchase a home with a low down-payment and flexible underwriting. The final rule expands and revises the Section 184 program regulations to increase transparency and accountability, and to strengthen the program to better serve tribal communities. The final rule strengthens and modernizes the Section 184 program by:

- Codifying current practices, policies, and procedures, and adopting relevant industry standards;
- Incorporating Tribal comments on the Section 184 program;
- Setting expectations for lenders and servicers and providing an explicit framework within which lenders and servicers must operate;
- Enhancing safeguards for Native American borrowers and increasing partnership opportunities with Tribes; and
- Addressing program weaknesses identified by the United States Office of the Inspector General.

The final rule has a ninety (90) day implementation period, during which time HUD will be drafting the Section 184 handbook implementing the final rule. HUD anticipates sharing draft chapters of the handbook to tribal stakeholders in advance of publication and will provide training to tribes and lenders, as appropriate.

g. Section 504 Accessibility Requirements

ONAP staff also provided a brief overview of the disability requirements with which TDHEs must comply. Section 504 of the Rehabilitation Act of 1973 (“Section 504”) is a national law that protects qualified individuals from discrimination based on their disability. Section 504 forbids organizations and employers (including tribes and TDHEs) that receive federal assistance from excluding or denying individuals with disabilities an equal opportunity to receive program benefits and services. Section 504 regulations impose specific accessibility requirements for new construction and alteration of housing and non-housing facilities in HUD-assisted tribal housing programs.

The Section 504 regulations provide that “[a] minimum of 5 percent or at least one unit (whichever is greater) in a housing project containing five or more dwelling units must be made accessible for persons with mobility impairments. An additional 2 percent or at least one unit (whichever is greater) must be made accessible for persons with hearing or vision impairments.” [Notice PIH 2014-08](#); see 24 CFR 8.22 (a) and (b). Further, “[i]f alterations are undertaken to a project that has 15 or more units, and the cost of the alterations is 75 percent or more of the replacement cost of the completed facility, then the alteration is to be treated as if it were new construction, and the requirements for new construction apply.” [Notice PIH 2014-08](#); see 24 CFR 8.23(a). “When other alterations are undertaken, including (but not limited to) modernization or structural changes, such alterations are required to be accessible to the maximum extent feasible until at least 5 percent of the units in a project are accessible, unless HUD prescribes a higher number or percentage pursuant to 24 CFR 8.23(b)(2).” [Notice PIH 2014-08](#); see 24 CFR 8.23(b). ONAP staff encouraged TDHEs to review the [Notice PIH 2014-08](#) to ensure compliance with Section 504.

Conclusion

If you have any questions, please contact Ed Clay Goodman (egoodman@hobbsstrauss.com) or Cari L. Baermann (cbaermann@hobbsstrauss.com); both may be reached at (503) 242-1745.