

UPDATES

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NAHASDA REAUTHORIZATION

- NAHASDA adopted in 1996 by P.L. 104-330
- Last re-authorized in 2008 by P.L. 110-411
- Was scheduled for reauthorization in 2013

- Senate Bill S.710
 - Senate Committee on Indian Affairs approved June 4, 2015
 - Banking Committee - 60 days to take action
 - At Senate for consideration

- House Bill H.R. 360
 - Introduced by Representative Steve Pearce (R-NM) on Jan. 14, 2015
 - 13 original co-sponsors
 - supported by NAIHC
 - has bipartisan support
 - Highlights of H.R. 360
 - Authorizes use of IHS sanitation facilities funding on IHBG projects
 - includes a demonstration program that would privatize housing - tribes would give funding to a developer who would build and sell homes to tribal members. (an opt in program)

2016 APPROPRIATIONS

	President's budget	Senate	House	FY2015
IHBG	\$748 ml	\$650	\$650	\$650
Title VI Loan Guarantee		\$2 ml	\$2 ml	\$2 ml
Sec. 184		\$7 ml	\$8 ml	\$7 ml
T & TA		Recommends all T & TA be provided by HUD's Policy Research & Development	\$3.5 ml with no less than \$2 ml to a national organization	
ICDBG • Imminent threats		\$60 ml • \$1 ml	\$60 ml	\$66 ml
Limitation on IHBG funding		No tribe shall receive an allocation amount greater than 10% of the IHBG allocation	Unexpended funds provision: • FY2016 \$ must be spent within 10 years • If tribe's funding is \$5 ml or more, no funding if have unexpended funds greater than 3x its formula allocation	

NEGOTIATED RULEMAKING

1. Purpose - to amend IHBG regulations (at 24 CFR Part 1000) pertaining to the formula
2. Negotiated rulemaking with tribes. 24 tribal reps appointed by HUD.
3. NM rep - Navajo
4. Other SW reps - Michael Reed (AZ), Deidra Flood (NV) and Pete Delgado (AZ)
5. Sessions began in 2014. Seventh session August 11 -13, 2015 in Scottsdale.
6. Formula - FCAS and Need.
 - First to FCAS. Remainder to Need.
7. Highlights:
 - FCAS - 1937 Housing units under management
 - MH, Low Rent, Section 8
 - Low Rent and Section 8 units get counted indefinitely. Can demolish so long as begin replacing within 1 year of determining that demolition required, and complete demolition within 4 years. (New proposed rule).

- MH units - no funding upon conveyance. Must convey as soon as practicable after unit becomes eligible. New rule to determine this. Section 1000.318(a).
- Section 1000.318(a) - New proposed rule:
 - tribe responsible for addressing legal impediments to conveyance.
 - If legal impediment, can count if:
 - within 4 mos of becoming conveyance eligible or the date of adoption of the regulation (whichever is later), tribe develops action plan to resolve impediment within 24 mos;
 - carries out plan and documents;
 - 3rd party (court, federal/state agency, etc.) provides evidence of continuing legal impediment
- NPHE v. HUD: Court said tribe can fix bad title. Insufficient to claim that don't have good title as a legal impediment.
- Need - Based on population and need factors and each given a weight.
 - Current formula uses 2010 decennial census to determine AIAN population. HUD ages this data using IHS and other data.
 - HUD recommended American Community Survey because collected uniformly, and is verifiable, reliable and available to all. Not accepted by many tribes because would receive less funding than current formula which uses the decennial census.

- Study group formed in 2014 to collect all data sources and study them. Group presented data to Neg Reg comm in August 2015.
- No consensus on what data source to use for formula. No consensus on the formula
- HUD will determine an appropriate data source to use beginning in 2018. Will assess the 2010 decennial census for AIAN population variable.
- HUD will make decision in near future
- Undisbursed IHBG funds (new proposed factor in the formula)
 - if get \$5 ml or more & have undisbursed IHBG \$ in LOCCS on Oct. 1 of FY greater than the total of your prior 3 years allocation:
 - tribe will get the greater of: 1) the allocated amount minus the amount in LOCCs above the total of the prior 3 years allocation; or 2) the 1996 minimum
 - Ex: tribe gets allocation of \$10 million in FY 2018 and has \$20 million in LOCCS. It received \$9 ml each in 2017, 2016, and 2015 (total of \$27 ml). Tribe will receive its full allocation in FY2018 because its undisbursed IHBG \$ in LOCCS is less than the total of its prior 3 years funding.
 - Ex: tribes gets allocation of \$10 million in FY 2018 and has \$30 million in LOCCS. It received the same amounts as above in FYs 2017, 2016 and 2015 (total of \$27 ml). Tribe will receive \$7 in FY 2018 (\$10 ml - (\$30 ml - \$27 ml))

8. Will be 1 final session in 2016 to review public comments and finalize final rule for adoption.

9. Process of rule adoption:

- Proposed regulations will undergo HUD clearance - OGC
- OMB - 90 days to review
- HUD's authorizing committee review
- Publication for public comments - 60 days
- Review of comments (by HUD and Neg Reg committee)
- Final review approved by Neg Reg committee
- Publication of final rule

<http://ihbgrulemaking.firstpic.org> – to get minutes, docs, draft of proposed rule

OTHER NEWS

1. Super Circular - 2 CFR Part 200

- Published December 26, 2013
- Supersedes, consolidates, & streamlines 8 OMB circulars, including A-87, “Cost Principles for State, Local & Indian tribal governments”
- Sets forth administrative requirements (including procurement, contract, and financial management requirements), cost principles, audits, & reporting
- Applies to all recipients receiving federal funds, including IHBG, ICDBG, unless statute adopting law/program says otherwise
 - ex: tribal preference continues to apply to IHBG funds
 - ex: micro purchasing stays at \$5,000 for IHBG funds
- Effective date for IHBG – FY 2016
- Effective date for ICDBG - NOFA says FY2015; HUD says 2016
- Highlighted changes:
 - Audits – threshold increased from \$500,000 to \$750,000
 - Procurement:
 - Micro-purchasing - \$3,000 (\$2,000 for construction acquisition)
 - Small purchasing – threshold increased from \$100,000 to \$150,000
 - Must address organizational conflicts – w/ a parent company, affiliate, or subsidiary

2. HUD working on:

- Interagency efforts to streamline environmental review process
- HUD-VASH Program - housing needs for veterans (a demonstration project. Will be announced in the fall
- Housing Needs Study - final report due Summer 2016
- Hearth - working with BIA to implement Hearth and to have tribes conduct title activities.

3. White House working on Gen - I Initiative: an initiative to improve the lives of Native Youth.

- HUD will add a housing component