

U.S. Department of Housing and Urban Development
Public and Indian Housing

Special Attention of:

Notice PIH 2001-42 (TDHEs)

ONAP Administrators;
Tribes; and Tribally
Designated Housing
Entities

Issued: November 30, 2001
Expires: November 30, 2002

Cross Reference: 24 CFR Part 1000

SUBJECT: Total Development Costs (TDC) for Affordable Housing under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA)

1. **PURPOSE:** This Notice supersedes Notice PIH 2000-30 (TDHEs), Dwelling Construction and Equipment (DC&E) Costs, dated August 14, 2000. This Notice transmits the schedule for the maximum amount of funds that may be used per unit for TDC costs of affordable housing under NAHASDA.

Because of recent amendments to the IHBG regulations, new cost limits are being published at this time. The requirement for the development and imposition of these limits is found in 24 CFR 1000.156 through §1000.162 of the IHBG regulations published in the Federal Register on September 28, 2001 and effective October 29, 2001.

2. **BACKGROUND:** Under the United States Housing Act of 1937 (“1937 Act”) (42 U.S.C. 1437 et seq.), the construction cost limits were called Total Development Cost limits, informally referred to as TDCs. These limits covered the total cost of development, including both soft and hard costs of construction. Under the NAHASDA (25 U.S.C. 4101 et seq.), the regulations provided for a new system of construction cost limits called Dwelling Construction and Equipment costs, also referred to as DC&Es.

DC&E limits only included the hard cost of constructing a housing unit. In response to concerns expressed by tribes/TDHEs, the Department has revised the program regulations, returning to TDC limits to define moderately designed housing.

3. **APPLICABILITY:** All housing units assisted with IHBG funds are covered by the provisions of this Notice. Funds initially provided under the 1937 Act that were owned by or in possession or under control of the Indian housing authority

for the tribe and unobligated on the effective date of NAHASDA are considered assistance under the Act (see section 210), and therefore subject to the provisions of this Notice.

4. **RESPONSIBILITY:** The tribe/TDHE is responsible for ensuring that the amount of funds from **all** sources used for each unit does not exceed these limits. The tribe/TDHE must maintain records showing that housing was developed in keeping with this and other applicable requirements.
5. **TDC:** A TDC is published for each tribe and covers the tribally recognized land base. It specifies the bedroom size for single family units (one to four units). The TDC costs include all development and construction costs (including profit and overhead of a contractor) of an individual dwelling. It includes any administrative, planning, financing, site acquisition, site based utility development, and site development. TDC amounts are based on a moderately designed house and are determined by averaging the current construction costs as listed in two nationally recognized residential construction cost indices for publicly bid construction of a good and sound quality. Multipliers for each area are applied against these basic numbers to provide costs that are specific to each geographical location. A second multiplier is then applied to account for non-construction costs. These indices draw their data from surveys of construction costs in each specific area.
6. **AFFORDABLE HOUSING/MODERATE DESIGN:** As specified in §1000.156, affordable housing must be of moderate design. For these purposes, moderate design is defined as “housing that is of a size and with amenities consistent with unassisted housing offered for sale in the Indian tribe's general geographic area to buyers who are at or below the area median income.” The local determination of moderate design applies to all housing assisted under an affordable housing activity, including development activities (e.g., acquisition, new construction, reconstruction, moderate or substantial rehabilitation of affordable housing and homebuyer assistance) and model activities. Acquisition includes assistance to a family to purchase housing, such as down payment, closing costs or loan assistance. Units with the same number of bedrooms within a project must be comparable with respect to size, cost, and amenities.
7. **RECIPIENT DEVELOPMENT OF STANDARDS FOR HOUSING OF MODERATE DESIGN:** A recipient must either use the TDC limits published by HUD or the recipient may adopt written standards for its affordable housing programs that reflect the requirement specified in §1000.156. The standards must describe the type of housing, explain the basis for the standards, and use similar housing in the Indian Tribe's general geographic area. For each affordable housing project, the recipient must maintain documentation substantiating compliance with the adopted housing standards. For purposes of this requirement, a project is one or more housing units, of comparable size and design, developed with assistance provided by IHBG funds.

Please note: §1000.158 specifies that a recipient that develops standards for its affordable housing programs, may not exceed 10% of the published TDC limits without prior HUD approval.

8. **VARIANCE:** If a tribe/TDHE determines that the published TDC amounts are not representative of construction costs in its area, it may provide the Area ONAP with relevant information and request a variance. Variances may be requested for a single project or adjustments of current cost limits. The AONAP Administrator has authority to approve variances up to 110% of the published TDC. Variances beyond 110% must be approved by the Director of the Office of Grants Management. Relevant information to support a variance, can include, but is not limited to documentation demonstrating:

- Material costs have significantly increased since last publication of TDCs;
- Unusual site acquisition costs;
- Transportation costs of materials have increased since the last publication of TDCs;
- Natural disasters occurring after the last TDC publication date have caused an increase in material, labor and other construction costs;
- Special local conditions that result in higher construction costs and;
- Evidence the tribe/TDHE has worked with the Area Office on Native American Programs (AONAP) to lower the costs of the project, etc.

Please note: Construction bids for projects that exceed the published TDC limits cannot be the sole justification for a variance.

Special Request 1: If a tribe/TDHE chooses to fund the development of housing outside of its tribally recognized land base, thereby rendering the published TDCs for that tribe inapplicable for that specific housing, it shall request TDCs that are appropriate for that housing.

Special Request 2: If a tribe/TDHE decides to fund the development of housing of a construction type which is not covered by these TDCs, it shall request HUD to provide TDC costs specific to the type of housing it is developing.

These special requests shall be sent to the AONAP for evaluation.

9. **TDCs for ALASKA:** TDCs for **rural** areas of Alaska reflect adjustments to the general construction cost data where permitted by the nationally recognized residential construction cost indices. This means that TDC amounts accommodate increased construction and transportation costs of building materials not previously recognized in published DC&E or TDC cost limits. Additionally, this Notice constitutes HUD approval for a 2% increase above the attached TDCs for construction projects in Alaska to meet Building Energy Efficiency Standards (BEES) requirements. BEES are only required when funds provided by the State of Alaska are used in conjunction with HUD funds. Tribe/TDHEs can contact the Alaska ONAP for applicability of BEES requirements.

10. **TIME ADJUSTMENTS:** Data used for the calculation of the TDCs have been adjusted for time to coincide with the publication. No additional adjustments to the published TDCs are authorized.

_____/s/_____
Michael Liu
Assistant Secretary for Public
and Indian Housing

Attachments: 9/28/01 TDC Final Rule-official printed Notice
11/2001 TDCs