



SPECIAL ATTENTION OF:

Department of Hawaiian Home Lands

NOTICE PIH 2021-13

Issued: April 26, 2021

Expires: This Notice remains in effect until amended, superseded or rescinded.

Cross References: American Rescue Plan Act of 2021; Title VIII of NAHASDA; 24 CFR Part 1006.

SUBJECT: NHHBG-ARP Implementation Notice

1. PURPOSE

The American Rescue Plan Act of 2021 (Public Law 117-2) (ARP) provides \$5 million for the Native Hawaiian Housing Block Grant (NHHBG) Program and grants the U.S. Department of Housing and Urban Development (HUD) authority to waive the provisions of Title VIII of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) and regulations or establish alternative requirements applicable to the NHHBG Program (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) to expedite or facilitate the use of these funds.

The purpose of this Notice is to establish program requirements, and to provide the NHHBG's sole grantee, the State of Hawaii's Department of Hawaiian Home Lands (DHHL), with instructions on how to apply for this funding. Through this Notice, HUD is also issuing waivers to provisions of NAHASDA and regulations and establishing alternative requirements applicable to the NHHBG Program.

These grants will be called "NHHBG-ARP" grants. This Notice will be referred to as the "NHHBG-ARP Implementation Notice."

2. BACKGROUND

An outbreak of a respiratory disease caused by a novel (new) coronavirus has been detected world-wide, including in the United States. The virus has been named "severe acute respiratory syndrome coronavirus 2" (SARS-CoV-2) and the disease it causes has been named "Coronavirus Disease 2019" (COVID-19). On January 31, 2020, the Secretary of Health and Human Services declared a public health emergency for the United States to aid the nation's healthcare community in responding to COVID-19. On March 13, 2020, the COVID-19 pandemic was declared a national emergency.

The COVID-19 pandemic presents significant challenges for HUD and DHHL in carrying out HUD's fundamental mission to provide decent, safe, and sanitary affordable housing for

low-income Native Hawaiian families. Program operations have been severely impacted as DHHL complies with critically important advisories and directives from public health professionals, including social distancing and other preventive practices that will slow the spread of COVID-19 and reduce the risk of exposure. Vaccines effective against COVID-19 are now available. However, distributing and administering those vaccines will take time. Additionally, individuals and communities may be impacted long into the future by the pandemic.

On March 11, 2021, President Biden signed the ARP into law. It authorizes over \$1.9 trillion in assistance for individuals, families and communities affected by the COVID-19 pandemic. ARP includes \$5 million for the NHHBG program to be used by DHHL to prevent, prepare for, and respond to coronavirus, including to maintain normal operations and fund eligible affordable housing activities under NAHASDA during the period that the program is impacted by coronavirus. In addition, the funds for the NHHBG program may also be used to provide rental assistance to eligible Native Hawaiian families both on and off the Hawaiian Home Lands. Finally, ARP permits the funding made available for the NHHBG program to be used, as necessary, to cover or reimburse allowable costs to prevent, prepare for, and respond to coronavirus that are incurred by DHHL, including for costs incurred after January 21, 2020.

ARP further provides HUD with authority to waive or specify alternative requirements of NAHASDA and regulations (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) applicable to the NHHBG program to expedite or facilitate the use of NHHBG-ARP funds. Through issuance of this Notice, HUD is exercising this authority to provide DHHL with flexibility to adjust program practices where necessary to prioritize mission critical functions when normal operations are restricted and severely constrained, further prevent the spread of COVID-19, and mitigate the health risks posed by COVID-19 to DHHL's staff and the families and communities DHHL serves.

HUD strongly encourages DHHL to coordinate with recipients of other Federal funds provided to Hawaii to address the needs of Native Hawaiians and non-Native Hawaiians (e.g., from the Departments of Treasury and Health and Human Services).

3. PROGRAM REQUIREMENTS

a. Applying for NHHBG-ARP Grant Funding: The NHHBG-ARP grant will be awarded as a separate NHHBG grant.

HUD recognizes that the current COVID-19 National Emergency has caused substantial disruption to DHHL's program operations. To help minimize unnecessary administrative burden and to enable DHHL to expend these funds as expeditiously as possible given the ongoing COVID-19 National Emergency, HUD has streamlined the application process while ensuring NHHBG-ARP grant funds will only be used to prevent, prepare for, and respond to COVID-19, as required under ARP.

In order for DHHL to receive an NHHBG-ARP grant, it must first submit an Abbreviated

Native Hawaiian Housing Plan (NHHP)/Annual Performance Report (APR) form (HUD-50090 Abbreviated) to the Office of Native American Programs (ONAP) Office in Honolulu, Hawaii. DHHL should only complete the Abbreviated NHHP portion of this form to receive an NHHBG-ARP grant, and will be required to complete the Abbreviated APR portion of the form later.

The Abbreviated NHHP/APR is a streamlined version of the regular NHHP/APR. Under the Abbreviated NHHP/APR, HUD is requesting less information than is normally included in a regular NHHP/APR. The regular NHHP/APR form contains a total of 13 sections that DHHL is normally required to complete. Under the Abbreviated NHHP/APR, DHHL is only required to complete 4 sections, as described in more detail below. The Abbreviated NHHP must specify how DHHL will carry out activities or projects that meet the requirements of ARP.

Along with this NHHBG-ARP Implementation Notice, HUD is making the Abbreviated NHHP/APR form available to DHHL. The Abbreviated NHHP portion of the form must be completed and submitted to the Honolulu ONAP Office electronically. Select the checkbox on the first page of the form (Cover Page) labeled “NHHBG-ARP” to indicate this is the Abbreviated NHHP for NHHBG-ARP funds. The Abbreviated NHHP requires DHHL to complete the Cover Page, Sections 3 (Program Descriptions), 5 (Budget), and 7 (NHHP Certification of Compliance).

Specific instructions on how to use and complete the form are included in the form and accompanying Guidance. ONAP staff in Honolulu are also available to provide technical assistance to DHHL.

DHHL is reminded of the regulatory relief pertaining to the Abbreviated NHHP found in this Notice regarding submitting a NHHP that cannot be formally adopted at the time in accordance with normal policies and procedures, and HUD accepting NHHP certifications that were previously submitted for the FY 2020 NHHBG, in lieu of requiring new certifications with the Abbreviated NHHP.

b. Abbreviated NHHP Submission and Review: HUD will review DHHL’s Abbreviated NHHP and will decide whether it complies with ARP and NAHASDA, as quickly as possible. To the extent feasible, HUD will make an initial determination of compliance within 15 days after receipt of a complete Abbreviated NHHP to expedite awarding of the NHHBG-ARP grant. HUD will make every effort to make its initial determination of compliance in less time, when feasible. If HUD is unable to make an initial determination within 15 days, the Abbreviated NHHP will not automatically be deemed to be approved by operation of law. If DHHL fails to adequately describe how the proposed activities are tied to preventing, preparing for, or responding to COVID-19, or meet other Abbreviated NHHP requirements, HUD will reject the Abbreviated NHHP and notify DHHL of any deficiencies in the Abbreviated NHHP. If the Abbreviated NHHP is rejected, DHHL should amend and resubmit the Abbreviated NHHP for further consideration. The ONAP Office in Honolulu will provide necessary technical assistance to help DHHL modify its Abbreviated NHHP, as appropriate, to ensure that it can be found in compliance with the ARP, NAHASDA, and any requirements specified by HUD in the waivers and alternative requirements, and guidance.

DHHL is reminded that, after an Abbreviated NHHP is found in compliance, it may choose to amend its Abbreviated NHHP to adjust any planned eligible activities or programs, provided such activities or programs are eligible and prevent, prepare for, or respond to COVID-19. HUD expects this may be necessary as pandemic circumstances change, and different Native Hawaiian communities are impacted in various ways.

c. Follow-up Actions: Once the Abbreviated NHHP is found in compliance, ONAP will email DHHL an award letter and a grant agreement package to sign and return via email. Funds will be available to draw down from HUD's Line of Credit Control System (LOCCS) when the fully executed grant agreement is returned by DHHL and processed by HUD. All documents will be provided in electronic file format and should be returned in electronic file format. Documents such as the grant agreement can be signed, scanned, and sent back to ONAP electronically. DHHL should maintain all documents with wet signatures in its records.

d. Eligible Purposes: As noted above, Section 11003(a)(1)(B) of ARP provides \$5 million for the NHHBG program to be used by DHHL, under Section 11003(a)(1)(C) of ARP, "to prevent, prepare for, and respond to coronavirus, including to maintain normal operations and fund eligible affordable housing activities under [Title VIII of the NAHASDA] during the period that the program is impacted by coronavirus."

To comply with this requirement, DHHL must ensure that all activities being proposed can be tied to at least one of the following three eligible purposes:

- 1. Activities, Projects, or Programs to Prevent COVID-19**
- 2. Activities, Projects, or Programs to Prepare for COVID-19**
- 3. Activities, Projects, or Programs to Respond to COVID-19**

Pursuant to ARP, these funds may also be used to maintain normal operations and fund eligible NHHBG activities during the period that DHHL's program is impacted by COVID-19. HUD expects and encourages DHHL to expend funds expeditiously given the ongoing COVID-19 National Emergency. However, COVID-19 may have impacts on DHHL's program that range from immediate- or short-term, to medium- and long-term in nature. Accordingly, for purposes of this requirement, HUD will allow DHHL to use NHHBG-ARP grant funds to maintain normal operations both now and after the COVID-19 National Emergency, provided that DHHL can demonstrate that COVID-19 continues to impact its program.

HUD will also consider activities, projects, or programs that are designed to prevent, prepare for, and respond to COVID-19 in the short-term to long-term as activities that meet the purposes of ARP. This includes activities, projects, or programs that will reduce or mitigate the short-term, medium-term, and also longer-term risks and vulnerabilities of Native Hawaiian communities associated with COVID-19 (e.g., activities that reduce overcrowding).

While not required, DHHL is encouraged to consider the short-term and medium-term needs of its communities first before undertaking more long-term activities and projects designed to prevent, prepare for, or respond to COVID-19. HUD also encourages DHHL to prioritize

expending these funds as expeditiously as possible, given the ongoing COVID-19 National Emergency.

NHHBG-ARP grant funds may also be used to cover or reimburse allowable costs incurred by DHHL, provided the funds were used to prevent, prepare for, or respond to COVID-19. This includes covering or reimbursing allowable costs incurred back to the date DHHL began preparing for COVID-19, but after January 21, 2020. Please see paragraph 3.g of this Notice, entitled, “Reimbursement of Costs.”

To assist DHHL in ensuring that the activities being proposed can be tied to one or more of the three eligible purposes of ARP, DHHL should consider the following:

- **Prepare for:** NHHBG-ARP grant funds may be used prior to a local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to develop processes and procedures designed to reduce the risk of exposure to COVID-19 and avoid or slow the spread of the disease. Examples may include housing activities designed to reduce severe overcrowding, providing food delivery services to eligible families (including the elderly, disabled, and other high-risk populations) to allow them to shelter in place, and public health campaigns designed to educate families on how to prepare for a possible outbreak in the community and ways to minimize community spread.
- **Prevent:** NHHBG-ARP grant funds may be used during a COVID-19 local, service area, or regional coronavirus outbreak. This includes, but is not limited to, activities designed to prevent the initial or further spread of the virus to staff, housing residents, and the community. Examples may include distributing Personal Protective Equipment to housing maintenance staff, residents, and members of the community, using NHHBG-ARP funds to clean common areas to prevent infections, and providing access to the COVID-19 vaccine.
- **Respond to:** Once COVID-19 has spread to staff, housing residents, and/or the community, examples of how DHHL may choose to respond to COVID-19 may include using NHHBG-ARP grant funds to care for those who have become infected and to limit the exposure and spread of the virus, provide rent/mortgage assistance to eligible families that have been impacted by COVID-19 and cannot pay rent/mortgage, carry out activities to reduce severe overcrowding, and prevent homelessness to ensure families are stably housed. Funds may continue to be used after the local, service area, or regional coronavirus outbreak on any continuing expenses incurred due to the spread of COVID-19.

In most cases, maintaining normal operations and carrying out eligible activities, projects, or programs during the period that DHHL’s program is impacted by COVID-19 will likely tie back to the “Respond to” COVID-19 purpose. However, HUD recognizes that there may be circumstances where maintaining normal operations and carrying out eligible activities may tie back to the “Prepare for” or the “Prevent” eligible purpose. One example of maintaining normal operations is using NHHBG-

ARP funds to carry out eligible NHHBG activities that the recipient initially planned to carry out with its regular NHHBG funds but did not because it had to use its regular NHHBG funds to carry out an unplanned activity to prevent, prepare for, or respond to COVID-19. In this scenario, the NHHBG-ARP grant funds can be used to carry out the original NHHBG activity that the recipient planned on carrying out, but did not carry out, due to COVID-19.

While these descriptions of the eligible purposes can guide DHHL, certain activities, depending on context, do not always obviously fit under one or more categories. Therefore, DHHL should use its best judgment to determine which category or combination of categories apply based on local circumstances. These descriptions are designed to provide general guidance to DHHL and are not intended to limit the range of eligible NHHBG-ARP grant activities that can be carried out. Provided DHHL, in HUD's judgment, reasonably ties its NHHBG-ARP activities back to one or more eligible purposes, HUD will accept DHHL's classification.

e. **Eligible Activities:** Examples of activities, projects, or programs that could be funded, provided they meet one or more of the above eligible ARP purposes, include, but are not limited to, the following:

Eligible Housing Activities

- Carrying out activities eligible under DHHL's NHHBG program, provided those activities will prevent, prepare for, and respond to COVID-19;
- Payment of tenant and homeowner utilities (including internet connection/service);
- Installing a lockbox or other method for collecting housing payments without the need for personal contact;
- Supporting laundry facilities to assist residents with eliminating the spread of COVID-19;
- Paying for DHHL's NHHBG program operating costs due to a significant reduction in housing payment receipts caused by COVID-19;
- Providing essential housing services to shelter residents including childcare, education services, employment assistance, outpatient health services, legal services, mental health services, and transportation, provided such services are not duplicative of other Federally funded services;
- Working with resident groups to help educate residents on social distancing and other practices designed to minimize the risk of community spread of COVID-19;
- Acquiring, constructing, converting, or rehabilitating structures to reduce and prevent homelessness, and reduce vulnerability to COVID-19;

Emergency Response

- Carrying out activities that would prevent individuals from becoming homeless and rapidly rehousing homeless individuals;
- Acquiring, constructing, converting, or rehabilitating structures that can serve as temporary emergency shelters, or converting existing facilities for this purpose, to

ensure homeless persons are provided safe shelter and to minimize the risk of community spread of COVID-19;

- Providing short-term rental assistance to homeless persons in hotel/motels to minimize infection and spread of COVID-19;
- Providing units or other space for temporary quarantine purposes as a result of COVID-19;
- Providing emergency housing for health care workers;
- Purchasing Telehealth equipment to allow assisted residents access to health care providers from home;
- Purchasing and distributing personal protective equipment (PPE) such as gloves, face masks and shields, hand hygiene products, soap, paper towels, hand sanitizer, hand wipes, tissues, and thermometers;
- Purchasing and distributing cleaning products such as disinfectants, sanitizers, waste disposal supplies, and other supplies to disinfect homes of residents, common areas, housing-related public facilities, and other public spaces like playgrounds;
- Purchasing of sanitation equipment;
- Purchasing and distribution of water, groceries, prescriptions, and other items for quarantined families, kupuna (elders), Veterans, at-risk populations, or disabled households;
- Purchasing beds or cots for isolation/quarantine centers;
- Paying the transportation costs to get NHHBG-assisted families and staff to and from a vaccination site;
- Coordinating with health clinics to provide on-site vaccinations either at a DHHL-owned or operated location or at a mutually agreed upon location;
- Paying the costs of providing public health information to staff and residents so they can learn about the benefits of getting vaccinated and how to get vaccinated;
- Supporting NHHBG-assisted families and staff with online registration for vaccination appointments and keeping them informed as vaccination efforts continue.

Administrative Activities

- Preparing DHHL staff to conduct business in a remote working environment, and providing them with necessary supplies to carry out the NHHBG program;
- Setting up web-based communication options for program participants and staff;
- Implementing policies, procedures, and other measures to protect vulnerable populations;
- Revising the approval process for policies and procedures in order to limit person-to-person contact;
- Paying staff salaries including the salaries of employees who must shelter in place or are otherwise prohibited from interacting with community members due to COVID-19;
- Paying hazard pay for essential workers that are managing or maintaining units, or staffing emergency or isolation centers, provided such costs are considered necessary and reasonable under 2 CFR Part 200;

- Paying transportation costs of staff to perform NHHBG program functions or assist tenants in accessing food, medical care, or prescriptions.

f. Rental Assistance: NHHBG funds are generally limited to low-income Native Hawaiian families who are eligible to reside on the Hawaiian Home Lands. Section 11003(a)(1)(C) of ARP authorizes DHHL to use NHHBG-ARP funds “to provide rental assistance to eligible Native Hawaiian families both on and off the Hawaiian Home Lands.” Pursuant to the waivers in this Notice, HUD is authorizing DHHL to use its NHHBG-ARP grant funding to provide rental assistance to low-income Native Hawaiians, as defined in Section 801(9) of NAHASDA, whether or not the low-income Native Hawaiians are eligible to reside on the Hawaiian Home Lands. These are individuals who are (1) citizens of the United States; and (2) “descendant[s] of the aboriginal people, who, prior to 1778, occupied and exercised sovereignty in the area that currently constitutes the State of Hawaii.” This descendancy can be demonstrated by genealogical records; verification by kupuna (elders) or kama’aina (long-term community residents); or birth records of the State of Hawaii.

g. Reimbursement of Costs: Section 11003(a)(1)(D) of ARP authorizes DHHL to use NHHBG-ARP grants to cover or reimburse any costs incurred by DHHL that are otherwise eligible and allowable under the NHHBG-ARP grant and that were paid by DHHL back to the date that DHHL began preparing for COVID-19, but after January 21, 2020. **Please note, however, that if DHHL used regular NHHBG funds to prevent, prepare for, and respond to COVID-19 prior to receiving its NHHBG-ARP funding, DHHL cannot reimburse its regular NHHBG funds by using NHHBG-ARP grant funds.** On the other hand, if other non-Federal funds from the State of Hawaii or other sources were used for these purposes, those funds can be reimbursed with the NHHBG-ARP grant.

To seek reimbursement, DHHL must indicate on the Cover Page of the Abbreviated NHHP what date it began preparing for COVID-19. However, HUD will only accept dates after January 21, 2020 – the date set in ARP. DHHL must also add a program in the Abbreviated NHHP specific to reimbursement costs. The **Unique Identifier (Line 1.1 of Section 3: Program Descriptions)** must be titled COVID-19 Reimbursement. DHHL must maintain documentation demonstrating when it began preparing for COVID-19, such as notes on formal planning meetings or calls, and must maintain documentation to support any costs DHHL incurred that it plans to cover or reimburse with NHHBG-ARP grant funding.

h. Reporting Requirements: The following reporting requirements apply to the NHHBG-ARP grant:

A. Quarterly Federal Financial Reports (SF-425): These reports must account for the receipt and disbursement of NHHBG-ARP funding.

B. Abbreviated APR: DHHL will be required to submit information regarding expenditure of its NHHBG-ARP grant in an Abbreviated APR. A separate Abbreviated APR must be submitted covering the NHHBG-ARP grant funding. This Abbreviated APR will be in addition to the DHHL’s annual APR, which will cover DHHL’s regular NHHBG grant funding.

The Abbreviated APR for the NHHBG-ARP grant will cover DHHL's typical reporting period and will be due to the ONAP Office in Honolulu within 60 days of the end of its program year unless otherwise specified. The type of information required to be reported, which is subject to change, will include:

- (1) The total amount of NHHBG-ARP grant funding received from HUD.
- (2) The amount of NHHBG-ARP grant funding that was expended or obligated during the program year to:
 - (a) prevent COVID-19;
 - (b) prepare for COVID-19; or
 - (c) respond to COVID-19.
- (3) A list of all activities or projects for which NHHBG-ARP grant funds were expended or obligated under each of the above eligible purpose categories, including:
 - (a) the name or type of the activity or project;
 - (b) a description of the activity, including whether the activity is:
 - (i) eligible under the NHHBG program; or
 - (ii) an eligible activity pursuant to waivers and alternative requirements set forth in this Notice.
 - (c) an explanation of how the activity addresses one or more of the eligible purposes identified in (2) above;
 - (d) an evaluation of the completion status of the activity;
 - (e) an estimate of the number of eligible families that were assisted by this activity, including the number of low-income Native Hawaiian families, non-low-income Native Hawaiian families, and non-Native Hawaiian families; and
 - (f) the name of the person to contact at DHHL if HUD staff have questions about the activity or need additional information.

These reporting requirements are subject to change through future notice. As DHHL develops its Abbreviated NHHP, it should ensure that throughout its implementation of this grant, it will collect this information and plan on reporting on it in its Abbreviated APR.

C. Additional ARP Reporting: HUD is currently considering whether DHHL, as a recipient of NHHBG-ARP funds, will be required to comply with quarterly reporting requirements similar to those required by recipients of funds under the CARES Act. In the near future, HUD will provide additional guidance with respect to reporting requirements under the NHHBG-ARP program. HUD will work in coordination with the Office of Management and Budget to ensure that any reporting requirements can be fulfilled by recipients of ARP funding in a manner that utilizes to the greatest extent possible existing reporting streams, providing the necessary transparency and accountability with minimal additional burden. If additional reporting is necessary, further guidance will be released by HUD.

4. WAIVERS AND ALTERNATIVE REQUIREMENTS

ARP provides HUD with authority to waive or specify alternative requirements for any

provision of NAHASDA or regulation applicable to the NHHBG program (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment) to expedite or facilitate the use of NHHBG-ARP funds.

Any waivers granted by HUD are deemed to be effective as of the date DHHL began preparing for COVID-19, but after January 21, 2020. Accordingly, the relief provided by the following waivers and alternative requirements will apply retroactively to the date that DHHL began preparing for COVID-19, but after January 21, 2020. Additionally, any related costs previously incurred during this time by DHHL that are also eligible and allowable NHHBG-ARP costs may be covered or reimbursed with NHHBG-ARP grant funding.

DHHL should retain documentation demonstrating when it began preparing for COVID-19. Such documentation should be maintained to ensure that both HUD and DHHL can clearly identify the date after January 21, 2020, when waivers and alternative requirements issued by HUD began to apply, and to support costs incurred by DHHL that it covers or reimburses with NHHBG-ARP funding.

The waivers implemented through this Notice provide administrative relief and allow for alternative approaches to various aspects of DHHL operations. With this flexibility, HUD strongly encourages DHHL to continue using available funding to house families, keep families in their homes, and conduct critical operations that can be done remotely and safely. Some critical functions for DHHL include but are not limited to ensuring low-income Native Hawaiian families remain housed, alleviating severe overcrowding, and carrying out eligible affordable housing activities.

HUD encourages DHHL to apply the waivers authorized in this Notice based on local circumstances and needs. HUD also encourages DHHL to document and expeditiously implement plans for alternative procedures in order to provide stable housing for vulnerable families. Alternative processes may include electronic transmission of information to families, conducting briefings online, conducting conference calls, or using self-service features on DHHL's website if available, and providing business-reply envelopes or secure drop-box apparatuses for document or housing payment submission for assisted families that do not have access to the Internet.

Likewise, it is imperative that DHHL work with ONAP to find and share safe and efficient methods to carry out affordable housing activities to support low-income Native Hawaiian families and their health.

The waivers and alternative requirements issued under this Notice are generally available until funds are expended, unless otherwise noted under a specific waiver. HUD is allowing waivers and alternative requirements to remain available to DHHL until funds are expended because all funds subject to these waivers and alternative requirements must be used to prevent, prepare for, and respond to COVID-19.

The following waivers and alternative requirements apply only to NHHBG funding provided under the ARP. DHHL is reminded that these waivers and alternative requirements do not apply to NHHBG funds appropriated in any other Act. In applying these waivers and alternative requirements, DHHL must ensure that it is doing so only with respect to the NHHBG-ARP grant.

HUD will continue to assess the need for further waiver relief during the COVID-19 pandemic, and DHHL is encouraged to submit any additional waiver requests to HUD's ONAP Office in Honolulu. HUD will consider all requests and determine whether to approve additional relief.

HUD has determined that the following waivers and alternative requirements are necessary to expedite or facilitate the use of NHHBG-ARP funds:

a. Application Process for NHHBG-ARP Grants and Native Hawaiian Housing Plan (NHHP) Requirements

Statutory Authority: Section 802(b), Section 803, and Section 804 of NAHASDA

Regulatory Authority: 24 CFR §§ 1006.20; 1006.101; and 1006.110

Description: Sections 802(b), 803, and 804 of NAHASDA and the implementing regulations in Subpart B of 24 CFR Part 1006 require DHHL to submit a NHHP that must be found to be in compliance with NAHASDA as a condition of receiving an NHHBG grant. HUD is required to act on NHHP submissions within 60 days or it is deemed approved. These provisions also provide that DHHL may amend its NHHP and outline the process of HUD review of such NHHP amendments. Certain NHHP amendments that add new activities require HUD to review such modifications and determine that they comply with NAHASDA. HUD is required to act on such modifications within 30 days.

HUD recognizes the challenges that DHHL may be facing at the present time as a result of the COVID-19 pandemic and the severe impact to DHHL's ability to conduct business.

To facilitate and expedite the use of NHHBG-ARP grant funding to prevent, prepare for, and respond to coronavirus, HUD is waiving the requirements in Sections 802(b), 803, and 804 of NAHASDA, and regulations at 24 CFR §§ 1006.20, 1006.101, and 1006.110, only to the extent necessary to establish the following alternative requirements:

In recognition of the limited ability of DHHL to conduct regular business at this time, HUD is minimizing application requirements while also ensuring that DHHL will expend NHHBG-ARP funding in accordance with the ARP, NAHASDA, and program requirements.

1) *Abbreviated NHHP to Receive NHHBG-ARP Grant Funding*

Given the current exigent situation, DHHL will only be required to submit an Abbreviated NHHP, in accordance with the ARP implementation guidance herein, to receive an NHHBG-ARP grant. An Abbreviated NHHP is a streamlined version of the regular NHHP.

The Abbreviated NHHP must specify how DHHL will carry out activities or projects that meet the requirements of the ARP (to prevent, prepare for, and respond to COVID-19), will allow DHHL to rely on certain information included in its previously submitted FY 2020 or 2021 NHHP, as applicable, and provide HUD with the information specified below. To the extent feasible, HUD will expedite its review and approve the Abbreviated NHHP within 15 days to expedite awarding grant funding under the ARP. If HUD fails to act on the Abbreviated NHHP in a timely manner, it will not be deemed to be approved by operation of law.

HUD will also accept an Abbreviated NHHP that cannot be formally adopted by DHHL in accordance with its normal policies and procedures for adopting NHHPs, provided the Director of DHHL provides a statement to HUD indicating that it is not practical or safe for DHHL to assemble the Hawaiian Homes Commission to conduct business to secure required approvals, at the time, due to the impact of COVID-19 on DHHL's operations. DHHL should take the necessary action, at a later date, when it is feasible and safe to do so, to either ratify the Abbreviated NHHP previously submitted by the Director, if required under its policies and procedures, or submit an amendment to the Abbreviated NHHP.

2) NHHP Certifications

HUD is waiving the NHHP certification requirements in Sections 802 to 804 of NAHASDA and establishing the following alternative requirements: DHHL is required to provide HUD with all required NHHP certifications in its Abbreviated NHHP. However, if the Director of DHHL provides a statement to HUD indicating that it is not practical or safe for DHHL to secure new certifications due to the impact of COVID-19 on its operations, HUD will, consistent with Section 804(d) of NAHASDA, accept all NHHP certifications that were previously submitted and accepted by HUD for the FY 2020 or 2021 NHHBG, in lieu of requiring new DHHL certifications to be submitted. If DHHL chooses to use this alternative requirement, it will be deemed to have submitted such past certifications for the NHHBG-ARP grant and will be bound by such certifications, accordingly.

b. Income Verification

Statutory Authority: Section 809(a)(2) of NAHASDA

Regulatory Authority: 24 CFR § 1006.301, 1006.305, 1006.320

Description: With limited exceptions, NHHBG assistance under Title VIII of NAHASDA is limited to low-income Native Hawaiian families.

Given the COVID-19 related challenges facing families seeking NHHBG assistance, families currently receiving NHHBG assistance that are due for income recertification, and DHHL staff charged with verifying income and maintaining documentation, HUD is

establishing the following alternative requirement:

- 1) DHHL may deviate from its current written admissions and occupancy policies, and may allow less frequent income recertifications; and
- 2) DHHL may carry out intake and other tasks necessary to verify income remotely if DHHL or eligible families choose to do so, including allowing income self-certification over the phone (with a written record by the DHHL's staff), or through an email with a self-certification form signed by a family.

c. Public Health Services

Statutory Authority: Section 810(b)(2) of NAHASDA

Description: Section 810(b)(2) of NAHASDA authorizes the use of NHHBG funds for the provision of housing-related services for affordable housing. Under this eligible activity, NHHBG funds can be used to provide services such as housing counseling, activities related to the provision of self-sufficiency and other services related to assisting owners, tenants, contractors, and other entities, participating or seeking to participate in the NHHBG program.

HUD is waiving Section 810(b)(2) and establishing an alternative requirement to the extent necessary to allow NHHBG-ARP funds to be used to carry out a wide range of public health services under this category of eligible activities. Accordingly, in addition to the housing services normally eligible under Section 810(b)(2), NHHBG-ARP funds may be used on a wide range of public health activities designed to allow NHHBG-eligible residents and staff of DHHL to prevent, prepare for, and respond to COVID-19.

Eligible uses of NHHBG-ARP funds under this waiver and alternative requirement include, but are not limited to: providing testing, diagnosis, vaccination or other related services to residents; establishing a fixed or mobile location to conduct testing, vaccination and treatment; paying for necessary equipment, supplies, and materials, including personal protective equipment; carrying out public health services designed to help staff, eligible residents, and other third-party providers serving eligible residents, prevent, prepare for, and respond to COVID-19; delivering meals on wheels or other food delivery services to eligible residents that are sheltered-in-place and complying with a stay at home order, or otherwise maintaining recommended social distancing; and supporting NHHBG-assisted families and DHHL staff with information about vaccination efforts and registration for vaccination appointments.

HUD strongly encourages DHHL to coordinate with recipients of other Federal sources of funding for this purpose, to ensure NHHBG-ARP funds are used to supplement rather than supplant such funding.

d. COVID-19-Related Assistance to Non-Low Income Native Hawaiians and Non-Native Hawaiian Families on Hawaiian Home Lands

Statutory Authority: Sections 801(9), 802(a), 809(a)(2) of NAHASDA

Regulatory Authority: 24 CFR § 1006.301, 1006.305, 1006.320

Description: Sections 802(a) and 809(a)(2) of NAHASDA and its implementing regulations, except for specified exceptions, limit assistance under eligible housing activities to low-income Native Hawaiian families eligible to reside on the Hawaiian Home Lands.

The COVID-19 pandemic poses a unique threat to the health and safety of Native Hawaiian communities. Persons infected with the virus, regardless of income or Native Hawaiian affiliation, pose a health risk to the entire community, and low-income families are especially vulnerable due to overcrowding, substandard housing conditions, and lack of readily available health care services in many remote communities. To effectively prevent, prepare for, and respond to COVID-19, DHHL may find the need to use NHHBG resources or NAHASDA-assisted housing units to provide shelter-in-place housing and public health services to otherwise ineligible persons and families residing on the Hawaiian Home Lands, with the goal of protecting the health and safety of the most vulnerable low-income Native Hawaiian families who may be infected.

Given this, HUD is waiving Sections 802(a) and 809(a)(2) and its implementing regulations, and establishing alternative requirements to the extent necessary to allow NHHBG-ARP funds to be used by DHHL to prevent, prepare for, and respond to COVID-19 through the following limited activities that provide assistance to all affected and threatened people residing on the Hawaiian Home Lands without regard to income limits, or Native Hawaiian status: temporary shelter-in-place, isolation centers, purchasing and making medical testing kits available, purchasing and distributing masks and other personal protection equipment, facilitating vaccinations, emergency food preparation and distribution, cleaning and decontamination, and other directly related activities. The use of NAHASDA-assisted units or funds for shelter-in-place or isolation of any individuals shall be temporary and no individual shall be isolated longer than medically necessary. In addition, the temporary shelter-in-place or isolation of otherwise ineligible families residing on the Hawaiian Home Lands may be in privately owned units, hotels/motels, and similar facilities, as necessary. Permanent rental assistance, mortgage assistance, housing rehabilitation, and new housing construction may not be provided for the benefit of such otherwise ineligible families under this waiver and alternative requirement.

This assistance may only be provided to such otherwise ineligible families residing on the Hawaiian Home Lands if: it is provided during the COVID-19 pandemic; it is designed to protect the health and safety of low-income Native Hawaiian families; it is provided on an urgent basis (as documented by DHHL); and it is temporary in nature. When providing this assistance, DHHL must maintain records documenting that these criteria were met at the time that such assistance was provided.

e. **Useful Life**

Statutory Authority: Section 813 of NAHASDA

Regulatory Authority: 24 CFR § 1006.305

Description: Section 813(a)(2) of NAHASDA requires each dwelling unit in DHHL's housing developed or assisted under NAHASDA will remain affordable, according to binding commitments satisfactory to HUD, for the remaining useful life of the property as determined by HUD. This means that DHHL must describe in its NHP its determination of the useful life of the assisted housing units in its developments in accordance with the local conditions of the area. By approving the NHP, HUD determines the useful life to be in accordance with Section 813(a)(2) of NAHASDA.

HUD is waiving these requirements to determine and maintain affordability during the useful life of housing units assisted with NHHBG-ARP grant funding used to address COVID-19 if that assistance is related to cleanup of COVID-19 contamination and temporary use dwelling units for purposes of housing and quarantining families to inhibit the spread of COVID-19 to low-income Native Hawaiian families and the Native Hawaiian community.

Under this waiver, DHHL is not required to establish an affordability determination or useful life period for assistance related to cleanup of COVID-19 contamination or temporary use of dwellings units used to quarantine families to inhibit the spread of COVID-19.

This waiver only applies during the period that a unit is being temporarily used to prevent, prepare for, or respond to COVID-19. Useful life restrictions are required for other housing activities conducted with NHHBG-ARP funding. For example, if a unit is acquired for the purpose of quarantining families, no useful life restriction will apply to the unit during this temporary period when the unit is being used for COVID-19-related purposes. However, after the unit is no longer needed to temporarily quarantine families, and is no longer needed for other COVID-19 purposes, DHHL must either place useful life restrictions on the property and continue to make it available for NHHBG-eligible families for an affordability period set by DHHL consistent with its NHHBG program, or dispose of the unit.

f. **Prohibition Against Investment of ARP Grant Funds**

Statutory Authority: Section 812(b) of NAHASDA

Regulatory Authority: 24 CFR § 1006.235

Description: Section 812(b) of NAHASDA permits DHHL to invest grant amounts for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by HUD. 24 CFR § 1006.235 describes the types of

investment DHHL may make with NHHBG funding.

HUD is waiving Section 812(b) of NAHASDA and 24 CFR § 1006.235 to the extent necessary to prohibit DHHL from drawing down NHHBG-ARP funds for investment in securities and long-term interest-bearing accounts. Such funding is to be used by DHHL to prevent, prepare for, and respond to COVID-19, including to maintain normal operations and fund eligible affordable housing activities under NAHASDA during the period that DHHL's NHHBG program is impacted by COVID-19. Given the limited scope of this funding to address the immediate health, safety and economic needs of Native Hawaiian families, drawing down funds for investment in securities and long-term interest-bearing accounts is prohibited.

g. Program Income

Regulatory Authority: 24 CFR § 1006.340(b)(3), 1006.370(a)

Description: Section 805(a) of NAHASDA permits DHHL to retain program income realized from grant amounts received by DHHL under NAHASDA if the income was realized after initial disbursement of the grant amounts and DHHL agrees to use the program income for affordable housing activities in accordance with NAHASDA. The NHHBG regulations at 24 CFR § 1006.340(b)(3) further require that DHHL disburse program income before disbursing additional NHHBG funds in accordance with 2 CFR § 200.305. The NHHBG regulations at 24 CFR § 1006.370(a) also require DHHL and subrecipients receiving NHHBG funds comply with the requirements and standards of 2 CFR part 200, "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards".

HUD is waiving 24 CFR §§ 1006.340(b)(3) and 1006.370(a), with respect to requiring compliance with 2 CFR § 200.305(b)(5), and establishing an alternative requirement to allow DHHL to disburse NHHBG-ARP funding before disbursing program income realized from grant amounts received by DHHL under NAHASDA. This waiver is necessary to expedite the use of NHHBG funds provided under the ARP so that DHHL can act quickly to spend this funding to prevent, prepare for, and respond to COVID-19. Prioritizing the expenditure of NHHBG-ARP funding over NHHBG program income is critical because of the additional flexibilities HUD is establishing in this Notice with respect to the NHHBG-ARP funds which are designed to allow DHHL to better address the COVID-19 National Emergency.

h. Rental Assistance to Native Hawaiians Living Off the Hawaiian Home Lands

Statutory Authority: Section 802(a) of NAHASDA

Regulatory Authority: 24 CFR § 1006.20(a), 1006.301(a)

Description: Section 802(a) of NAHASDA and the NHHBG regulations at 24 CFR § 1006.20(a) provide that the Secretary will make a grant to DHHL under Title VIII of

NAHASDA to carry out affordable housing activities for Native Hawaiian families who are eligible to reside on the Hawaiian Home Lands. The NHHBG regulations at 24 CFR § 1006.301(a) provide that assistance for eligible housing activities under NAHASDA and Part 1006 is generally limited to low-income Native Hawaiian families who are eligible to reside on the Hawaiian Home Lands, with some limited exceptions.

The ARP provides that NHHBG-ARP funding may be used to provide rental assistance to eligible Native Hawaiian families both on and off the Hawaiian Home Lands. To implement this ARP requirement, HUD is waiving Section 802(a), 24 CFR § 1006.20(a), and 24 CFR § 1006.301(a) and establishing an alternative requirement to the extent necessary to allow NHHBG-ARP funds to be used to provide rental assistance to low-income Native Hawaiians residing off the Hawaiian Home Lands.

This waiver and alternative requirement allows NHHBG-ARP funds to provide critical rental assistance to both low-income Native Hawaiians that are eligible to reside on the Hawaiian Home Lands, and low-income Native Hawaiians that are not eligible to reside on the Hawaiian Home Lands but that meet the definition of “Native hawaiian” as such term is defined in Section 801(9) of NAHASDA. This waiver will facilitate and expedite the use of NHHBG-ARP funds to assist Native Hawaiians eligible under ARP that need rental assistance.

5. GENERAL RESOURCES

Office of Native American Programs COVID-19 Recovery Programs website:
https://www.hud.gov/program_offices/public_indian_housing/ih/Covid_Recovery

Office of Native American Programs website, including updated COVID-19 related Frequently Asked Questions: <https://www.hud.gov/codetalk>

HUD COVID Resources and Fact Sheets: <https://www.hud.gov/coronavirus>

6. PAPERWORK REDUCTION ACT

The information collection requirements contained in this Notice are exempt from OMB Approval under 5 CFR 1320.3 (c) (4).

7. FURTHER INFORMATION

Any questions concerning this Notice should be directed to the ONAP Office in Honolulu, Hawaii.

/s/

Dominique Blom
General Deputy Assistant Secretary
for Public and Indian Housing

Attachment I

COVID-19 Statutory and Regulatory Waivers for NHHBG-ARP		
Item	Statutory and Regulatory Waivers	Waiver/Alternative Requirement Summary
4a. Application Process for NHHBG-ARP Grants and Native Hawaiian Housing Plan (NHHP) Requirements	Statutory Authority: Section 802(b), Section 803, Section 804 of NAHASDA	DHHL must submit an Abbreviated NHHP specifying how the NHHBG-ARP funding will be used.
	Regulatory Authority: 24 CFR §§ 1006.20, 1006.101, and 1006.110	If DHHL cannot provide HUD with NHHP certifications, it may still submit an Abbreviated NHHP provided an authorized official provides a statement on inability to secure certifications.
4b. Income Verification	Statutory Authority: Section 809(a)(2) of NAHASDA Regulatory Authority: 24 CFR §§ 1006.301, 1006.305, 1006.320	DHHL may deviate from its current written admissions and occupancy policies, including allowing less frequent income recertifications, remote income verification, and self-certification over the phone or email.
4c. Public Health Services	Statutory Authority: Section 810(b)(2) of NAHASDA	DHHL may use NHHBG-ARP funding to carry out a wide range of public health services.

<p>4d. COVID-19-Related Assistance to Non-Low Income Native Hawaiians and Non-Native Hawaiian Families on Hawaiian Home Lands</p>	<p>Statutory Authority: Section 801(9), Section 802(a), Section 809(a)(2) of NAHASDA Regulatory Authority: 24 CFR §§ 1006.301, 1006.305, 1006.320</p>	<p>DHHL may use NHHBG-ARP funding to prevent, prepare for, and respond to COVID-19 through certain limited activities that provide assistance to all affected and threatened people residing on the Hawaiian Home Lands without regard to income limits or Native Hawaiian status.</p>
<p>4e. Useful Life</p>	<p>Statutory Authority: Section 813 of NAHASDA Regulatory Authority: 24 CFR § 1006.305</p>	<p>If the assistance is related to inhibiting the spread of COVID-19 to low-income Native Hawaiian families and the community, DHHL may use NHHBG-ARP funding to assist housing units without determining and maintaining affordability during their useful life.</p>
<p>4f. Prohibition Against Investment of ARP Act Grant Funds</p>	<p>Statutory Authority: Section 812(b) of NAHASDA, Regulatory Authority: 24 CFR § 1006.235</p>	<p>DHHL is prohibited from investing any NHHBG funding provided under the ARP Act in securities or long-term interest-bearing accounts.</p>

4g. Program Income	Regulatory Authority: 24 CFR §§ 1006.340(b)(3), 1006.370(a)	DHHL is allowed to disburse NHHBG funding provided under the ARP before disbursing program income realized from grant amounts received by DHHL under NAHASDA.
4h. Rental Assistance to Native Hawaiians Living Off the Hawaiian Home Lands	Statutory Authority: Section 802(a) of NAHASDA Regulatory Authority: 24 CFR §§ 1006.20(a), 1006.301(a)	DHHL is allowed to use NHHBG-ARP funds to provide critical rental assistance to low-income Native Hawaiians that meet the definition of “Native hawaiian”, as such term is defined in Section 801(9) of NAHASDA, to reside on and off the Hawaiian Home Lands.