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TO: All Tribal Government Leaders and Tribally Designated Housing Entities (TDHE)

FROM: Jacqueline Johnson, Deputy Assistant Secretary, PN

TOPIC: Performance Measures

SUBJECT: Clarification of Performance Measures and Their Uses

Purpose: This guidance is intended to discuss the purpose and use of Performance Measures included in the Indian Housing Block Grant regulations.

Why do we have Performance Measures?

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) at section 403 states:

(c) PERFORMANCE MEASURES – The Secretary shall establish such performance measures as may be necessary to assess compliance with the requirements of the Act.

The Committee that developed the program regulations identified those areas of a recipient's performance that could be used to indicate whether the recipient was substantially complying with the requirements of NAHASDA. The Performance Measures are listed in the program regulations at §1000.524.

What are the Performance Measures?

The Performance Measures listed in the program regulations are:

- a) Within 2 years of grant award under NAHASDA, no less than 90 percent of the grant must be obligated.**
- b) The recipient has complied with the required certifications in its IHP and all policies and the IHP have been made available to the public.**
- c) Fiscal audits have been conducted on a timely basis and in accordance with the requirements of the Single Audit Act, as applicable. Any deficiencies identified in audit reports have been addressed within the prescribed time period.**
- d) Accurate annual performance reports were submitted to HUD within 60 days after the completion of the recipient's program year .**
- e) The recipient has met the IHP goals and objectives in the 1-year plan and demonstrated progress on the 5-year goals and objectives.**
- f) The recipient has substantially complied with the requirements of 24 CFR 1000 and all other applicable Federal statutes and regulations.**

How does ONAP use Performance Measures?

Performance Measures are used by ONAP to identify those recipients that may be having difficulty in meeting their program objectives. Each year, ONAP completes an assessment of all IHBG recipients, as specified at section 405 of NAHASDA. ONAP also conducts periodic monitoring of recipient operations, both on-site and remotely. ONAP uses the Performance Measures in completing the annual assessments, in developing its monitoring plan, and in determining what areas of a recipient's operations to review during an on-site or remote monitoring review. Additionally ONAP may use Performance Measure information to identify technical assistance needs of recipients and targeting of such assistance.

How should the tribes and tribally designated housing entities (TDHEs) use Performance Measures?

The Performance Measures should be used as part of the self-monitoring process to determine if regulatory and statutory requirements are being met. Performance Measures also help to determine if the goals and objectives of the Indian Housing Plan (IHP) are being or will be met.

What happens if the Performance Measures are not met?

Performance Measures are intended to assist in identifying compliance with statutory and/or regulatory requirements and whether a recipient is accomplishing its affordable housing goals and objectives. Failure to meet the conditions specified under the Performance Measures may be evaluated by a recipient, the recipient's beneficiary tribe, and ONAP to identify technical assistance needs or if additional oversight is warranted.

Will ONAP impose sanctions if Performance Measures are not met?

Performance Measures are indicators of potential problems. Failure to meet a Performance Measure does not automatically lead to the imposition of sanctions. ONAP will work with the recipient to identify the cause of the performance problem and develop recommended actions the recipient may take to resolve the matter. With one exception for violation of statutory environmental requirements, sanctions would be imposed only for failure of the recipient to resolve the performance problem.

Can a performance be waived?

Performance Measures are indicators of how a recipient is meeting requirements of NAHASDA, including its goals and objectives specified in the IHP. There are no penalties directly associated with failure to meet Performance Measures so a waiver is not needed nor will one be considered by HUD.

What should a recipient do if it is not meeting the Performance Measures?

ONAP's primary concern is that recipients are accomplishing their affordable housing objectives while complying with the requirements of NAHASDA. By implementing an effective self-monitoring program as required by § 1000.502, a recipient (and beneficiary tribe, if applicable) will be aware of performance problems long before ONAP identifies the deficiencies. The recipient should develop action plans for correcting performance problems and may include such plans in its Indian Housing Plan as Performance Objectives under the One-Year Plan section. Self-identifying performance problems and implementing action plans to address these problems is a clear indicator to the tribe, the citizens in the jurisdiction of the recipient, and HUD that the recipient is responsibly managing its IHBG program.