



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

Special Attention of:

Tribes; Tribally
Designated Housing Entities;
ONAP Administrators

Notice: PIH-2008-32 (ONAP)

Issued: August 8, 2008

Expired: August 31, 2009

Cross Reference: 24 CFR Part 1000
PIH Notice 2006-19

Subject: Reinstatement of PIH Notice 2006-19, Recipient Inspection of Housing Units Assisted Under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) and Those Assisted Under the United States Housing Act of 1937.

Purpose: This Notice reissues, with minor edits, Notice PIH 2006-19, of the same subject. It serves to clarify the requirements for recipient inspection of housing assisted under NAHASDA and housing assisted under the United States Housing Act of 1937. The purpose of this Notice is to clarify the frequency, reporting requirements, and the expiration of inspection requirements for housing units under the control of Indian Housing Block Grant (IHBG) recipients. HUD has received questions concerning the applicability of inspection requirements found in Section 403(b) of NAHASDA regarding the various types or categories of housing assistance provided and the required frequency of such inspections. It is not the intent of this Notice to define either the content or the scope of inspections of these housing units.

Background: NAHASDA (Section 403(b)) requires recipients to conduct on-site inspection of housing assisted under the Act. Inspections are to be conducted on-site at least annually to determine compliance with applicable requirements which includes maintenance of assisted housing (Section 203(b) and (e)). The results of each review are to be included in the performance report submitted annually per Section 404 of NAHASDA.

Inspections: In developing its policy governing inspection of units, a recipient should consider the underlying reasons and benefits of performing such regular inspections. Although the fact that they are required by NAHASDA is reason enough to perform the inspections, it should be acknowledged that a tribe's investment in affordable housing represents a significant asset of the tribe and tribal members. To protect that investment, a regular program of inspection and maintenance is needed. Inspections should adequately identify maintenance issues before they become crises that affect the viability of the assisted housing. While annual inspections are a generally accepted standard, in some situations the policy may include inspecting units on a more frequent basis. An

effective inspection policy should, at a minimum, address frequency of inspections, standard inspection forms, standards for completing maintenance concerns identified during inspections, procedures for charging tenants for damages (as appropriate), and maintenance of records.

Initial Inspection Requirements:

Initial inspections must be performed on all units constructed, acquired, and/or rehabilitated with NAHASDA funds. These units must be inspected by a recipient subsequent to, during the provision of such assistance, and prior to occupancy by the beneficiary household or, in the instance of owner occupied housing, upon completion of rehabilitation work to ensure work performed and/or condition of the housing meets the approved standards.

While there are no reporting requirements for initial inspections, it is strongly recommended that a record documenting when and by whom the inspections were performed and the results of the inspection. The inspection results should be maintained by the recipient and be made available during an on-site monitoring review.

Recurring Inspection requirements:

While, NAHASDA states that inspection activity must occur at least annually, NAHASDA is not specific regarding the frequency that each unit must be inspected. It is clear, however, that evaluating the condition of housing assisted under NAHASDA is an integral part of a recipient's self-assessment responsibilities under Section 403(b). It is incumbent upon a recipient to include the inspection of such units on a reasonable schedule in its policies governing the management and maintenance of assisted housing (Section 203(e)). Periodic, scheduled inspections will allow a recipient to adequately assess the on-going compliance of such units with the requirements of NAHASDA.

Recurring inspections apply to NAHASDA-assisted housing units, regardless of the location of the unit. When the recipient has ownership of the unit, they have an ongoing responsibility to provide maintenance of the unit, or, to ensure that maintenance is provided by the purchaser/occupant. Examples of units for which a recipient has recurring inspection responsibilities are:

- Rental and Homeownership units constructed, acquired, and/or rehabilitated with funds provided under the United States Housing Act of 1937 (Section 502(b) of NAHASDA);
- All units constructed, acquired, and/or rehabilitated with NAHASDA funds owned by the recipient, and those assisted units not owned by the recipient but for which the recipient has an ongoing responsibility to provide maintenance;
- All units constructed, acquired, and/or rehabilitated with NAHASDA funds and operated or managed by the recipient, but maintained by the occupant/purchaser under a lease-purchase agreement

- Rental units constructed, acquired, and/or rehabilitated with NAHASDA funds and owned by the recipient, but operated or managed by another entity;
- Rental units constructed, acquired, and/or rehabilitated with NAHASDA funds that are owned by another entity, but are operated or managed by the recipient as affordable housing under the Act.

Recurring inspections do not apply to owner-occupied units that receive NAHASDA assistance for rehabilitation, or units that are being purchased by a family with NAHASDA-based financing or mortgage assistance. These units would, however, be subject to an inspection prior to and during the period of rehabilitation, or prior to purchase and occupancy of the beneficiary household to ensure recipient standards of quality are met.

Additionally, recurring inspections do apply not to Section 8-type units or student housing units because these units do not meet the criteria outlined in this Notice. For these inspection requirements to be applicable the recipient must own, operate, or manage the NAHASDA-assisted units.

Period of Recurring Inspection Responsibilities: The recurring recipient inspection requirement ends when the housing unit is no longer required to remain as affordable housing. For rental housing, the requirement expires when the unit exceeds its “useful life” as defined under 24 CFR § 1000.142. For Mutual Help homes developed under Sec. 202 of the United States Housing Act of 1937 and lease purchase housing developed with NAHASDA funds, the requirement expires when unit ownership is conveyed to the homebuyer/purchaser, or when unit ownership should have been conveyed to the homebuyer/purchaser, whichever is sooner, or when the unit is financed/refinanced.

Annual Performance Report (Form HUD 52735 AS) Requirements: The results of initial/recurring inspections provide information that will help a recipient evaluate the effectiveness of its program and must be included in the recipient’s Annual Performance Report (Form HUD 52735 AS) in Part II, Section A.II. However, this Notice removes the requirements for recipients to:

- Maintain recurring inspection responsibilities for NAHASDA-assisted units that they do not own, operate, or manage.
- Describe the process used to inspect housing units that they do not own or manage that were assisted with NAHASDA funds (Question 3, Table 3).

If a recipient does not perform the required inspections, a finding will be made during a subsequent monitoring review, and if the finding is not resolved, HUD may impose corrective and remedial actions (see 24 CFR § 1000.530) before taking enforcement actions outlined in 24 CFR § 1000.532 or § 1000.538.

Paperwork Reduction Act: The information collection requirements contained in this Notice have been approved by the Office of Management and Budget (OMB) under the

Paperwork Reduction Act of 1995 (44 U.S.C. 3501-35200) and assigned OMB control number 2577-0218 (Exp. 05/31/2009). In accordance with the Paperwork Reduction Act, HUD may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a currently valid OMB control number.

Technical Assistance: If you have any questions regarding this policy, please contact your assigned Grants Evaluation Specialist in the local ONAP Area Office.

/s/

Paula O. Blunt, General Deputy Assistant Secretary
for Public and Indian Housing