



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

Special Attention of:

Notice: PIH-2010-31(TDHEs)

Tribes, Tribally Designated
Housing Entities, Indian
Housing Authorities, ONAP
Administrators

Issued: August 6, 2010

Expires: August 31, 2011

Cross Reference: 24 CFR 1000,
Notices PIH 2005-23 (TDHEs), 2006-28 (TDHEs),
2009-7 (TDHEs)

SUBJECT: Reinstatement – PIH Notice 2009-7 (TDHEs) – Depository Agreements for Recipients of the Indian Housing Block Grant (IHBG) Program

- 1. PURPOSE:** This Notice transmits the current depository agreement forms to be used when investing IHBG funds; form HUD-52736-A (10/2004) for banking accounts and form HUD-52736-B (10/2004) for brokers/dealers. Also, the Notice clarifies when to use depository forms and when tribes or tribally designated housing entities (TDHEs) may utilize brokers in the investment of Indian Housing Block Grant (IHBG) funds under 24 CFR 1000.58.
- 2. BACKGROUND:** Section 204 of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), authorizes a recipient to invest certain IHBG funds for the purposes of carrying out affordable housing activities in investment securities and other obligations as approved by the Secretary of Housing and Urban Development. The recipient must invest NAHASDA funds in accordance with 24 CFR §1000.58 which states that "... these accounts shall be subject to an agreement in a form prescribed by HUD sufficient to implement the regulations in this part and permit HUD to exercise its rights under §1000.60." The form prescribed by HUD is the Depository Agreement, form [HUD-52736-A](#) (10/2004) for banking accounts and form [HUD-52736-B](#) (10/2004) for brokers/dealers.
- 3. DEPOSITORY AGREEMENTS:**

IHBG. A general depository agreement is not needed for IHBG funds unless the recipient has been approved to invest IHBG funds in accordance with 24 CFR 1000.58. PIH Notice 99-4, as extended by PIH Notice 2009-06, titled "Administrative Requirements for Investing Indian Housing Block Grant Funds" establishes the basis upon which the

Department will determine if a recipient of IHBG funds has the administrative capacity to draw down IHBG funds for investment purposes. When investing IHBG funds, the recipients shall use form HUD-52736-A (10/2004) for banking accounts (such as saving and certificates of deposit accounts) and form HUD-52736-B (10/2004) when using brokers/dealers to perform brokerage services to invest funds. These funds can only be invested in obligations of the United States or securities that are guaranteed or insured by the United States.

Housing Act of 1937 (1937 Act). A general depository agreement is needed when an IHBG recipient has 1937 Act funds that are held in reserve accounts. In this case, the procedures outlined in PIH Notice 96-33 as extended indefinitely in Notice 2002-13 (HAs), titled "Required HA Cash Management and Investment Policies and Procedures" apply (see Question 46 of the IHBG Program -- Revised Notice of Transition Requirements, 64 FR 15779 (4/1/1999)). Also, the limit on maturity dates outlined in section 6 of Notice 96-33 does not apply. For 1937 Act funds, the General Depository Agreement (Form HUD-51999) shall be executed by the tribe or tribally designated housing entity and the depository.

HUD issued depository agreement forms may not be modified by the depository or the recipient. HUD depository agreements forms may be found on www.hudclips.org.

- 4. USE OF BROKERS:** Recipients may use brokers to invest IHBG funds so long as the brokers invest grant funds exclusively in approved financial instruments outlined at 24 CFR 1000.58 that are obligations of the United States; obligations issued by Government sponsored agencies; securities that are guaranteed or insured by the United States; mutual (or other) funds registered with the Securities and Exchange Commission **and** which invest only in obligations of the United States or securities that are guaranteed or insured by the United States; or, accounts that are insured by an agency or instrumentality of the United States or fully collateralized to ensure protection of the funds, even in the event of bank failure.

Each broker/dealer must be a member of the Securities Investor Protection Corporation (SIPC). Selection of a broker must be made in accordance with the procurement requirements at 24 CFR 85.36.

- 5. 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. 07/31/2012)). 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.

6. **CONTACTS:** Should you need additional information, please contact your Area Office of Native American Programs.

/s/

Sandra B. Henriquez, Assistant Secretary for
Public and Indian Housing