

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

Special Attention of:

Notice PIH 2003-16 (TDHEs)

ONAP Administrators;
Tribes; and Tribally
Designated Housing
Entities

Issued: June 19, 2003
Expires: June 30, 2004

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 2001-42 (TDHEs), Total Development Costs (TDC), dated November 30, 2001. This Notice transmits the updated schedule for the maximum amount of funds that may be used for affordable housing under NAHASDA.

The requirement for the development and implementation of these limits is found in 24 CFR 1000.156 through §1000.162 of the Indian Housing Block Grant (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 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. In response to concerns expressed by tribes/TDHEs, the Department revised the program regulations on September 28, 2001, returning to TDC limits to define moderately designed housing.
3. **APPLICABILITY:** The provisions of this Notice apply as follows:
 - a. The provisions of this Notice cover all affordable housing assisted with IHBG funds after October 29, 2001, the effective date of the regulation cited above.

- b. Funds initially provided under the 1937 Act that were not obligated as of October 29, 2001, are subject to 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 unit buildings).

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.

TDCs are intended to include all costs necessary for administration, planning, site acquisition, financing (including payment of carrying charges), and on-site demolition, construction or equipment, and for otherwise carrying out the development of the project. Site-based utility costs are included. Off-site costs such as water, sewer, roads, etc., are excluded.

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 who 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 Office of Native American Programs (AONAP) with relevant information and request a variance. Variances may be requested for an individual project or for adjustments to 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, Denver Program 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 exist that result in higher construction costs and;
- Evidence the tribe/TDHE has worked with the 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 location and 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 previously recognized in published 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 AONAP 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.

11. **REPORTING REQUIREMENTS:** 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. 3501-3520) And assigned OMB control number 2577-0238. 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.

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

Attachment