



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

Special Attention of:
Tribes and Tribally Designated
Housing Entities; ONAP
Administrators

Notice PIH 2011-9 (TDHE)

Issued: February 8, 2011
Expires: February 28, 2012

Cross Reference(s):
24 CFR 1000
American Recovery and Reinvestment Act of 2009

SUBJECT: Recapture Provisions for Native American Housing Block Grant (NAHBG) Funds Authorized under the American Recovery and Reinvestment Act of 2009

- 1. PURPOSE:** The purpose of this notice is to provide tribes and tribally designated housing entities (TDHEs) with information on the NAHBG American Recovery and Reinvestment Act of 2009 (ARRA) recapture provisions.
- 2. APPLICABILITY:** This Notice applies to tribes and TDHEs that are recipients of NAHBG funds under ARRA.
- 3. BACKGROUND:** ARRA, Public Law 111-5 dated February 17, 2009, established obligation and expenditure requirements for the NAHBG Program. It states:

“Provided further, That recipients of funds under this heading shall obligate 100 percent of such funds within 1 year of the date funds are made available to a recipient, expend at least 50 percent of such funds within 2 years of the date on which funds become available to such recipients for obligation and expend 100 percent of such funds within 3 years of such date: Provided further, That if a recipient fails to comply with the 2-year expenditure requirement, the Secretary shall recapture all remaining funds awarded to the recipient and reallocate such funds through the funding formula to recipients that are in compliance with these requirements: Provided further, That if a recipient fails to comply with the 3-year expenditure requirement, the Secretary shall recapture the balance of the funds originally awarded to the recipient.”

On July 21, 2010, Congress enacted the Dodd-Frank Wall Street Reform and Consumer Protection Act, P.L. 111-203 (the Act). Section 1306(b) of the Act amended ARRA by adding a new section 1613 which provides new requirements for handling recaptured ARRA funds. Section 1613 provides as follows:

“Notwithstanding any other provision of this Act [ARRA], if the head of any executive agency withdraws or recaptures for any reason funds appropriated or otherwise made available under this division, and such funds have not been obligated by a State to a local government or for a specific project, such recaptured funds shall be—

“(1) rescinded; and

“(2) deposited in the General Fund of the Treasury where such amounts shall be—

“(A) dedicated for the sole purpose of deficit reduction; and

“(B) prohibited from use as an offset for other spending increases or revenue reductions.”

Pursuant to this language of the Act, NAHBG funds recaptured after the two-year and three-year expenditure provisions in ARRA are no longer available to be reallocated to recipients and must be returned to the Treasury.

- 4. NAHBG TIMELINES:** In the NAHBG grant award letter for both formula and competitive funds, the Area Office of Native American Programs (ONAP) Administrator established the specific dates that recipients had to obligate and expend NAHBG funds. These dates were based on when the grant funds were made available to the recipient in the Line of Credit Control System (LOCCS) and vary from recipient to recipient. The information was provided in a format similar to the following:

100 Percent Obligation Due Date	mm/dd/2010
50 Percent Expended Due Date	mm/dd/2011
100 Percent Expended Due Date	mm/dd/2012

If a recipient fails to expend 50 percent of ARRA funds by the designated 2-year date or 100 percent by the designated 3-year date, the funds must be recaptured.

- 5. REVIEW OF RECOVERY ACT EXPENDITURE INFORMATION:** The Area ONAP staff will use various reporting tools to monitor recipient expenditure activities. ARRA recipients provide expenditure information through the Recovery Act Reporting System at FederalReporting.gov and the Federal Financial Report (Standard Form 425). In addition, the staff will use the Line of Credit Control System (LOCCS), which tracks disbursements.

- a. **Recovery Act Reporting Systems:** Area ONAP staff will monitor activity and expenditure information provided in the ARRA reporting system and compare data with the Federal Financial Report to determine if the information is consistent between reporting formats and to assist in determining if expenditure deadlines are being met.
- b. **LOCCS Withdrawals:** Area ONAP staff will review the data in LOCCS to determine if 50 percent of the NAHBG funds have been disbursed. This data will be compared to the information in the above mentioned ARRA Reporting System to determine if the funds have been both disbursed and expended.

Tribes and TDHEs that have been approved for investment may also draw down ARRA funds from LOCCS for that purpose but remain subject to the expenditure requirements. For investment tribes, Area ONAP Staff will review the information in the ARRA

Reporting System and the Federal Financial Report rather than the LOCCS disbursement data.

- 6. NOTIFICATION AND RECAPTURE PROCESS:** If a review of the ARRA Reporting System, NAHBG financial reports, LOCCS withdrawals or other relevant information indicates that a recipient may not be on target to meet the expenditure requirements, then the Area ONAP staff will take the following steps:
- a. A status letter will be sent to the ARRA recipient approximately 60 days prior to the recipient's expenditure deadline dates advising the recipient of its expenditure deadline. The status letter will provide a comparison of LOCCS withdrawals to expenditure requirements, and expenditure information from FederalReporting.gov.
 - b. A second letter will be sent to the recipient certified mail approximately 15 days prior to the expenditure deadline notifying the recipient that the deadline date is approaching and funds will not be available in LOCCS after the deadline date. The recipient should contact the Area ONAP immediately if the recipient has information indicating that the deadline has been met.
 - c. If the recipient has not contacted the Area ONAP by the expenditure deadline and the Area ONAP staff do not have information that the deadline has been met, staff will place an edit on the LOCCS account on the first business day after that deadline and the recipient will not be able to make further draw downs from the ARRA grant without providing documentation regarding expenditures that is satisfactory to the Area ONAP.
 - d. The recipient will be afforded 30 days after the expenditure deadline to provide information to the Area ONAP documenting that the expenditure deadline was in fact met. If satisfactory information is not provided during that 30-day period, funds will be immediately recaptured and rescinded to the U.S. Treasury.
- 7. WAIVERS:** The Recovery Act does not provide for a waiver of the obligation and expenditure requirements nor does it allow for an extension of the 1-, 2- and 3-year deadlines.

If you have questions regarding the above procedures, please contact your Area ONAP.

/s/
Sandra B. Henriquez
Assistant Secretary for
Public and Indian Housing