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

Special Attention of:

Tribes; Tribally

Designated Housing Entities;
and ONAP Administrators

Notice PIH 2012-45 (TDHEs)

Issued: November 2, 2012

Effective until revoked, superseded,
or amended

Cross Reference(s):

24 CFR Part 1000

PIH Notice 2011-49

PIH Notice 2010-36

PIH Notice 2009-30

PIH Notice 2008-32

Subject: Recipient Inspection of Housing Units Assisted Under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA).

Purpose: This Notice modifies and updates the reporting instructions in **PIH Notice 2008-32** to bring the information collection requirements current. In Notice PIH 2008-32, the inspection information was to be reported in Table III of Section II of the Annual Performance Report (Form HUD 52735 AS). As explained in PIH Notice 2012-12, with the implementation of the new combined Indian Housing Plan/Annual Performance Report (IHP/APR, Form HUD -52737); the inspection information is now to be reported in Section 11 of that form.

The purpose of this Notice is to clarify the frequency, reporting requirements, and expiration of inspection requirements for housing assisted under NAHASDA.

Background: NAHASDA (Section 403(b)) requires recipients to, not less frequently than annually, review housing assisted under NAHASDA to assess compliance with NAHASDA requirements. This review must include “an appropriate level of onsite inspection of housing” to determine compliance with applicable requirements, including the requirement to maintain assisted housing (Section 203(b) and (e)). The results of each review are to be included in the performance report submitted annually pursuant to Section 404 of NAHASDA.

Inspections: In developing its policy governing inspection of units, a recipient should consider the underlying reasons and benefits of performing regular inspections. 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 that the work performed and/or the condition of the housing meets the approved standards.

It is strongly recommended that the recipient document when and by whom the inspections were performed and that the results of the inspections be maintained by the recipient and made available during an on-site monitoring review.

Recurring Inspection Requirements:

NAHASDA requires recipients to review their housing for compliance not less frequently than annually, and, as part of that review, to carry out an “appropriate level of onsite inspection”. Evaluating the condition of housing assisted under NAHASDA is an integral part of a recipient’s self-assessment responsibilities. In determining the appropriate level of onsite inspection, it is incumbent upon a recipient to include the inspection of housing 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 owns, operates, or maintains the unit, it has an ongoing responsibility to ensure that an appropriate level of onsite inspections are carried out to ensure the proper maintenance and upkeep 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 NAHASDA.

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. Lease-purchase units occupied by a family are subject to recurring inspection requirements because they are owned, operated, or managed by the recipient. Recurring inspections requirements are also not applicable to housing units that are assisted with NAHASDA funds but not owned, operated, or managed by the recipient (e.g. this may include Section 8 type units, and student housing units).

Period of Recurring Inspection Responsibilities:

The recurring recipient inspection requirement will eventually terminate. For rental housing, the requirement expires when the unit is no longer required to remain as affordable housing upon the end of 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 recurring inspection requirement expires when unit ownership is conveyed to the homebuyer/purchaser.

Annual Performance Report (Form HUD 52737) 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 52737) in Section 11.

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. 09/30/2014). 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/_____
Sandra B. Henriquez
Assistant Secretary for Public and Indian Housing