



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

Special Attention of:
Administrators, Offices of Native American
Programs; and Tribes, Tribally Designated
Housing Entities

Notice PIH 2013-22

Issued: August 23, 2013

Expires: This Notice remains effective until
amended, superseded, or rescinded
Cross Reference(s): 24 CFR 1000; P.L.
110-411; 25 USC 4133

SUBJECT: Micro-Purchase Process for Purchases of Less Than \$5,000 by Indian Housing Block Grant (IHBG) Recipients.

PURPOSE: The purpose of this Notice is to provide guidance to tribes and Tribally Designated Housing Entities (TDHEs) on Section 203(g) of the Native American Housing Assistance and Self-Determination Act (NAHASDA), which provides a De Minimis Exemption from competitive rules when IHBG recipients procure goods and services under \$5,000. The exemption is implemented through the regulations at 24 CFR §1000.26(a)(11)(iii) and §1000.52(d), which took effect on January 3, 2013. This notice supersedes Notice PIH 2009-14 (TDHE), which expired on May 31, 2010, and was extended by Notice PIH 2010-17, and then Notice PIH 2011-26.

BACKGROUND: Prior to the enactment of Section 203(g), in 2008, IHBG recipients were required to adhere to all applicable competitive procurement rules and procedures, including the general procurement requirements set forth in 24 CFR §85.36, and the Indian preference procurement requirements of the Indian Self-Determination and Education Assistance Act. Pursuant to Section 203(g) NAHASDA:

DE MINIMIS EXEMPTION FOR PROCUREMENT OF GOODS AND SERVICES – Notwithstanding any other provision of law, a recipient shall not be required to act in accordance with any otherwise applicable competitive procurement rule or procedure with respect to the procurement, using a grant provided under this Act, of goods and services the value of which is less than \$5,000.

By allowing IHBG recipients to purchase goods and services with a value of less than \$5,000 without engaging in competition requirements, the De Minimis Exemption is intended to reduce the burden of complying with the Federal procurement process for low-cost goods and services purchased with IHBG funds.

On December 3, 2012, HUD published a Final Rule implementing statutory changes to NAHASDA, including the De Minimis Exemption. Pursuant to the new 24 CFR §1000.26(a)(11)(iii), a grantee shall not be required to comply with 24 CFR §85.36, which addresses standards and competition requirements, *“with respect to any procurement, using a grant provided under NAHASDA, of goods and services with a value of less than \$5,000.”* Pursuant to the new 24 CFR §1000.52(d), a grantee *“shall not be required to apply Indian preference requirements under Section 7(b) of the Indian Self-Determination and Education*

Assistance Act with respect to any procurement, using a grant provided under NAHASDA, of goods and services with a value less than \$5,000.”

GRANTEE IMPLEMENTATION OF THE DE MINIMIS EXEMPTION: 24 CFR §85.36(b) requires that all IHBG recipients develop procurement procedures which conform to applicable Federal law and the standards identified in 24 CFR §85.36. Therefore, to properly implement the De Minimis Exemption, an IHBG grantee should include in its Procurement Policy a micro-purchase provision that allows the grantee to purchase goods or services with a value of less than \$5,000 without seeking competitive quotations or applying Indian preference. If the recipient chooses to engage in micro-purchasing, the recipient should ensure that its Procurement Policy contain language that clearly describes the method to be used, and the documentation to be maintained to support each micro-purchase.

The Procurement or Contracting Officer should still determine the price to be reasonable. In making a micro-purchase, the Procurement or Contracting Officer may determine reasonableness based on prior purchases of a similar nature or through other sources of information. The Procurement or Contracting Officer’s signature on the purchase order signifies that the cost has been determined reasonable.

A recipient may not break down requirements of a purchase, such as through bid splitting, in order to create a micro-purchase to avoid competition and Indian preference requirements that would otherwise apply to the purchase.

Recipients should note that IHBG funds must still be expended on eligible activities and expenses in all cases, including when carrying out a micro-purchase.

SAMPLE MICRO-PURCHASE PROCUREMENT CLAUSE: The following sample language may be included in a tribe’s or TDHE’s procurement policy if it adopts a micro-purchase clause:

For purchases of less than \$5,000, also known as Micro-Purchases, only one price quote is required, provided the quote is considered reasonable. Obtaining the price quote need not include consideration of Indian preference. Quotes may be obtained orally (either in person or by telephone), by catalog, fax or email. If the purchase is made for reasons other than price, the file must clearly describe the reason for the purchase. Under no circumstances will a purchase be broken down into more than one action in order to avoid exceeding the Micro-Purchase ceiling. The micro-purchase must be documented by an authorized purchase order or contract.

The grantee’s current Procurement Policy should already cover how a determination of price reasonableness is made, as well as include Indian preference requirements. The Policy should be modified to include micro-purchasing.

FOR FURTHER INFORMATION: Contact your Area Office of Native American Programs. Persons with hearing or speech impairments may access their Area Office of Native American Programs via TTY by calling the Federal Information Relay Service at (800) 877-8339.

/s/

Sandra B. Henriquez, Assistant Secretary

for Public and Indian Housing