

HUD ONAP COVID-19 FAQs for Tribes and Tribally Designated Housing Entities (TDHEs)

Second FAQ, Submitted March 30, 2020

The following Frequently Asked Questions (FAQs) have been designed to assist Tribes and TDHEs while they navigate the impact of COVID-19 on their day-to-day functions. They are divided into the following subject sections.

- 1. F-Emergency Funding**
- 2. K- Key COVID-19 Information Resources**
- 3. R- Reporting Extensions and Waivers**
- 4. O- Emergency Operations and Tribal Policies – By Program**

These FAQs will be updated frequently and responses to questions may change based on waivers and alternative requirements that ONAP may issue. Please note that this publication supersedes any previous posted guidance.

Please note that all HUD staff are currently teleworking and can be reached via e-mail. Please visit www.hud.gov/codetalk and then look for the area office link on the right side of the front page to access staff contact info by region. Questions can also be sent to: codetalk@hud.gov.

1.0 Emergency ONAP Funding (F)

FQ1. Is HUD going to make extra funding available to Tribes and TDHEs to cover the cost of extraordinary costs that may have to be incurred during this crisis?

A. On March 27, 2020 the President signed into law the Coronavirus Aid, Relief, and Economic Security Act (CARES Act), which includes more than \$2 trillion to alleviate some of the worst effects of the coronavirus disease 2019 (COVID-19). Of this total, \$200 million is included for the Indian Housing Block Grant (IHBG) program and \$100 million is included for the Indian Community Development Block Grant program. In addition, the CARES Act grants the U.S. Department of Housing and Urban Development statutory and regulatory waiver authority to help facilitate the expedient use of funds.

The \$200 million included for the IHBG program will be distributed as quickly as possible to Tribes and Tribally Designated Housing Entities (TDHEs) according to the same funding formula used to award Fiscal Year 2020 funds. Funding is intended for activities and projects designed to prevent, prepare for, and respond to COVID-19, and maintain operations impacted by COVID-19.

The \$100 million included for the ICDBG program can be used for emergencies that constitute imminent threat to health and safety. Funding is intended for activities and projects designed to prevent, prepare for, and respond to COVID-19.

HUD intends to publish an Implementation Notice in the very near future that provides Tribes and TDHEs with guidance on how to apply for this funding, and will issue waivers and alternative requirements of statutory and regulatory provisions to facilitate the use of these funds to help address COVID-19.

2.0 Key COVID-19 Information Resources on (K)

Key Information Links:

- [Proclamation on Declaring a National Emergency Concerning the Novel Coronavirus Disease \(COVID-19\) Outbreak](#)
- [HUD COVID-19 \("Coronavirus"\) Information and Resources](#)
- [CDC Coronavirus \(COVID-19\)](#)
- [Disaster Distress Helpline](#) (SAMHSA)

KQ1. Who can I contact with questions about emergency preparedness efforts for Tribes and TDHEs?

A. Tribes and TDHEs should stay in touch with their area ONAP offices via email. Questions can also be sent to Codetalk@hud.gov as this mailbox is monitored daily.

KQ2. How will my Tribe or TDHE learn about a positive COVID-19 case?

A. Tribes or TDHEs will learn about COVID-19 cases and activities in the community from their local health departments. Tribes or TDHEs should communicate with their tribal or local health department if they are concerned that residents/workers in their facility might have COVID-19. Residents can be encouraged to self-report in a broader pandemic emergency policy.

KQ3. How does a Tribe or TDHE notify residents when there is a positive COVID-19 case in their building or property?

A. CDC COVID-19 communication resources in both print and digital form are available at: <https://www.cdc.gov/coronavirus/2019-ncov/communication/index.html>

KQ4. How should a Tribe or TDHE inform residents/staff within a tribal housing unit that there is a positive COVID-19 case? How should a Tribe or TDHE share this information within their unit without breaking HIPAA/other privacy laws?

A. Tribes or TDHEs should follow the recommendations of their local or tribal health clinic. Tribes or TDHEs can provide notification of positive COVID-19 cases without sharing the name/apartment number/other personally-identifiable information to their residents and staff.

KQ5. Is there a place I can refer residents that are experiencing distress?

A. The [Disaster Distress Helpline](#), 1-800-985-5990, is a 24/7, 365-day-a-year, national hotline dedicated to providing immediate crisis counseling for people who are experiencing emotional distress related to any natural or human-caused disaster.

3.0 Reporting Extensions and Waivers- Federal and Program (R)

RQ1. Our Tribe or TDHE determined that given the extent of the outbreak in our area and the impact on our staff, we may have significant disruptions in regular services, including Indian Housing Plans/Annual Performance Reports, and other required documents. Can HUD grant any relief on these regulatory requirements?

A. As part of planning efforts related to COVID-19, HUD encourages tribes and TDHEs to evaluate which functions can be done remotely if the office closes or staff are quarantined. However, HUD recognizes that local circumstances may impact a tribe or TDHEs' ability to comply with certain requirements, including deadlines. As such, and in an abundance of caution, HUD encourages Tribes and TDHEs to prioritize efforts to reduce or mitigate the risk of infection.

HUD may waive Indian Housing Plan (IHP) requirements for a period of up to 90 days beyond the IHP submission due date when an IHBG recipient cannot comply with IHP requirements due to exigent circumstances beyond the recipient's control. IHP waiver requests should be submitted to area ONAPs. HUD may also grant APR deadline extensions.

RQ2. What are HUD's procurement policies to meet response needs during this time (e.g., specialized cleaning)?

A. Federal regulations at 2 CFR § 200.320(f) permit a Tribe, or TDHE to procure from single source through noncompetitive proposals. A Tribe, or TDHE can solicit a proposal from one source only when one or more of the following circumstances apply: (1) An item is available only from a single source; (2) A public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation; (3) HUD expressly authorizes noncompetitive proposals in response to a written request from a Tribe, or TDHE; or (4) Competition is determined inadequate after solicitation of a number of sources.

Tribes and TDHEs must maintain in their files, however, a rationale of the single source proposal and cost analysis (i.e., proposed cost data, cost projections, evaluation of specific elements of cost and profits). Labor costs are based on the going market rate at the time. Conflict of interest requirements continue to apply in this situation.

RQ3. Will COVID-19 related work require environmental reviews?

A. Yes, if HUD funding is being used for that work. The HUD Office of Environment has published Guidance on COVID and environmental reviews, and will continue to update it, available here: <https://www.hudexchange.info/programs/environmental-review/>. Guidance covers submitting Form 7015.15, posting reviews for public comment, accepting public comments, consultation under Section 106 of the National Historic Preservation Act, and more.

4.0 Emergency Operations and Tribal Policies – By Program (O)

OQ1. How should my Tribe or TDHE prepare for COVID-19 virus infections among our assisted families?

A. HUD recommends that Tribes or TDHEs that administer housing programs consider the potential impacts that may occur if a resident contracts COVID-19 virus or there is a state or local quarantine directive. These could be addressed in a pandemic emergency, or continuing operations plan.

Some topics to consider in your plan include:

- **Staff Management and Communication**
 - Reviewing personnel policies and labor agreements
 - Determining essential and non-essential positions, as well as remote work options
 - Providing access to health care providers and/or police
 - Guidance from CDC and Occupational Safety and Health Administration (OSHA) on worker protection and personal protective equipment (PPE)
- **Resident Communication**
 - Managing short-and long-term quarantines in a unit or a property
 - Working with resident groups
 - Providing access to health care providers and/or police if requested
 - Guidance from CDC and state, or tribal health departments
 - Residents with special needs, and any reasonable accommodations that may be requested
 - Encouraging residents to self-report illness or quarantines
 - Continued operations of supportive services programs while closed and/or teleworking
- **Resident Safety and Security**
 - Policies, procedures and other measures to protect vulnerable populations
 - Identifying local service providers (e.g. private grocery delivery)
 - Residents with special needs, and any reasonable accommodations
 - Internet connectivity
- **Modifying Regular Processes (if Advised)**
 - Unit inspections
 - Rent Collection
 - Recertifications
 - Unit maintenance (if not performed by the owner)
 - Hardship policies
 - Public meetings
- **Additional Considerations for Tribes/TDHE Boards of Commissioners**
 - State, local or tribal laws about public meetings
 - Changes to standard communication methods
 - Procurement policies and approvals
 - Other Tribal policies (e.g., Admissions and Occupancy Policy).

OQ2. If we must do specialized cleaning of a unit or building, what guidance should I follow?

A. The following websites provide useful information for Tribes and TDHEs regarding specialized cleaning of units, but they should seek guidance from their tribal health department:

- CDC's main website: www.cdc.gov/coronavirus/2019-ncov;
- Cleaning for community areas: [Interim Recommendations for US Community Facilities with Suspected/Confirmed Coronavirus Disease 2019](#);
- Cleaning for a household: [Interim Recommendations for US Households with Suspected/Confirmed Coronavirus Disease 2019](#);
- CDC's guidance covers recommended disinfectants and PPE. Additional information on disinfectants is also available at www.epa.gov/coronavirus; and
- Guidance for workers and PPE is also at www.osha.gov/SLTC/covid-19/.

OQ3. How should staff that regularly interact with residents and their homes perform their regular duties if there is a quarantine? Activities may include in-person rent collection, and income certification?

A. Tribes and TDHEs should plan now for alternative procedures for these processes, as they may become restricted during a quarantine. Options may include electronic transmission of funds, online teleconference calls, or secure collection boxes for payments. As part of planning, follow CDC guidance to avoid virus transmission and to provide personal protective equipment (PPE) sufficient for the service performed. For more information, see CDC's guidance on PPE and cleaning at www.cdc.gov/coronavirus/2019-ncov. As a reminder, HUD does not mandate in-person meetings for income certification or recertifications.

OQ4. If IHBG maintenance staff are working in units, can we provide them with masks, safety suits, and other protection equipment?

A. IHBG funds may be used to purchase personal protection equipment to allow Tribal and TDHE staff to carry out their necessary duties under the program. During this emergency, the safety and security of staff and tenants is of utmost importance. Tribes and TDHEs are advised to delay all routine repairs that can be delayed during this time, and to only carry out repairs necessary to protect the health and safety of residents. Tribes and TDHEs should adhere to the recommendations of the CDC to limit exposure to COVID-19 and eliminate the spread of the virus.

4.1 Emergency Operations and Tribal Policies - Indian Housing Block Grant

OQ5. What activities can be supported with Indian Housing Block Grant (IHBG) funds?

A. IHBG formula funds can be used to pay for the cost of a wide range of eligible activities and administrative and planning costs to protect the health and safety of families assisted under the

program, Tribal or TDHE housing staff. This includes, but is not limited to, using IHBG funds to pay for:

- Staff salaries and expenses for planning and response
- Purchasing personal protective equipment necessary for TDHE staff to administer the IHBG program
- Purchase and use of cleaning supplies such as disinfectants, sanitizers, waste disposal supplies, and other supplies to disinfect homes of residents, common areas, and housing related public facilities and other public spaces like playgrounds
- Purchase and use of supplies and materials to promote the safety of residents and Tribal housing staff including gloves, surgical masks and goggles, hand hygiene products, soap, paper towels, hand sanitizer, hand wipes, and tissues, thermometers, and more
- Transportation costs of staff to perform IHBG program functions
- Costs to upgrade equipment or technology to facilitate electronic communication and reduce reliance on in-person meetings and transactions. These costs are administrative expenses subject to the administrative cap in 24 CFR 1000.238
- Temporary relocation assistance to families impacted by COVID-19, or to prevent exposure or spread of the virus
- Rehabilitation of housing to improve ventilation
- Housing services to educate residents on prevention and remediation measures to limit risks associated with COVID-19, and other related public health education initiatives
- Costs of establishing and operating facilities, such as isolation centers, to house persons with COVID-19 if they are unable to isolate on their own. Such facilities may include homeless persons or those that could possibly infect vulnerable populations, such as the elderly or those with existing medical conditions who are at high-risk.

OQ6. Can a Tribe or TDHE submit a Model Activity approval request to HUD to help address COVID-19?

A. Yes. Tribes and TDHEs that seek to carry out certain activities that are designed to help address the impact of COVID-19 in Tribal communities, and not otherwise expressly listed as eligible activities under Section 202 of Native American Housing Assistance and Self Determination Act (NAHASDA), may submit a model activities approval request to the Office of Native American Programs (ONAP). If ONAP determines that such requests are designed to carry out the purposes of NAHASDA, ONAP will approve such requests. HUD encourages Tribes and TDHEs to develop creative ways to use their formula IHBG funds to help protect residents and Tribal communities from COVID-19.

OQ7. With the new guidelines from the President, Tribes and TDHEs are taking a stand to protect their residents and staff. However, with many people being asymptomatic to the COVID-19, Housing Inspectors are at risk. Tribes and TDHEs have annual and follow-up inspections and wonder whether HUD will have a waiver for the Annual Performance Report (APR) for the annual inspections and need advice on how to handle this. They do not want to put staff at risk.

A. Under normal circumstances, IHBG recipients are required to conduct onsite housing inspections to assess compliance with NAHASDA requirements as a part of their Annual Performance Report (APR). The Tribe or TDHE's internal policies dictate inspection frequency and standards for completing maintenance concerns identified during inspections. Given the current national emergency, ONAP is strongly recommending that Tribes and TDHEs avoid contact with tenants and homebuyers for anything other than essential purposes. Until further notice, ONAP will not issue findings against Tribes and TDHEs for failing to follow their existing policies regarding inspections and maintenance.

However, we strongly encourage Tribes and TDHEs to be responsive to requests to inspect and correct defects that affect the health and safety of the dwelling occupants. In doing so, Tribal and TDHE staff should take extreme care to prevent the spread of the virus. Please note that personal protective equipment necessary for Tribes and TDHEs to carry out eligible activities is an eligible expense.

OQ8. Is a Tribe or TDHE required to evict families that cannot pay their rent due to the current crisis? Are there any plans for a possible rent reprieve?

A. Tribes and TDHEs are encouraged to use their discretion and best judgment under ONAP programs to provide relief to any residents who cannot meet their rent obligations under these circumstances. ONAP is strongly recommending that Tribes and TDHEs administering ONAP programs place a temporary moratorium on all evictions, foreclosures, and any actions that would result in residents becoming homeless or otherwise unstable. Tribes and TDHEs are encouraged to provide any rent relief and loss mitigation to any eligible families that cannot make rent or homebuyer payments at this time. Additionally, until further notice, ONAP will not issue findings against Tribes and TDHEs if the rent relief and loss mitigation being provided to any eligible families in response to COVID-19 are not in compliance with existing policies of the respective Tribe or TDHE.

This does not preclude Tribes and TDHEs from carrying out necessary evictions to otherwise protect the health and safety of residents, such as evictions for serious criminal activity. However, Tribes and TDHEs should consider whether such actions can be delayed given the current emergency.

OQ9. Under the IHBG program, if we provide rent relief to tenants who cannot pay rent right now, is the tenant required to pay this rent back at a later date?

A. This is up to the Tribe's/TDHE's discretion. Tribes and TDHEs have the ability to forgive rent payments in accordance with their adopted policies and should consider this option at this

time. Under the IHBG program, Tribes and TDHEs have discretion to establish their own policies governing rents charged, provided they comply with the 30% rent rule in Section 203(a)(2). HUD strongly recommends that Tribes and TDHEs provide rent relief during this crisis to avoid any family becoming homeless during this pandemic. The Tribe or TDHE should amend their current Indian Housing Plan to add any new activities before the end of the Tribal program year.

OQ10. We have decided to waive all rent payments for our tenants next month. Can we apply this same rent relief to tenants who are IHBG-eligible but whose incomes are between 80%-100% of area median income?

A. If the tenants were low-income when they initially entered the program, a Tribe or TDHE can provide the same amount level of rent relief to these now non low-income families, provided the Tribe's or TDHE's admissions and occupancy policies allow for this level of assistance to such families. If the recipient's policies do not allow for this option, the Tribe or TDHE could implement a temporary policy to address this particular circumstance and provide the same level of rent relief to such families.

OQ11. Can a Tribe or TDHE waive or delay monthly rent charges to tenants impacted by COVID-19? Can we pay the tenants portion of their rent if we are providing a rental subsidy? For instance, the 30% that the tenant would normally pay.

A. Yes. Under the IHBG program, Tribes and TDHEs have discretion to establish their own policies governing rents charged, provided they comply with the 30 % rent rule in Section 203(a)(2) of NAHASDA. Tribes and TDHEs can choose to not charge rents. A Tribe or TDHE has discretion to provide rent relief to tenants that cannot make timely rent payments. HUD strongly recommends that Tribes and TDHEs provide rent relief during this crisis to avoid any family becoming homeless during this pandemic. The Tribe or TDHE should amend their current Indian Housing Plan to add any new activities before the end of the Tribal program year.

OQ12. We have to reduce to essential personnel. Many of our staff are currently on administrative or emergency leave. Can we use IHBG funds to continue to pay their salaries and expenses while they are forced to stay home? If so, under what expense category or activity do we charge our IHBG grant? If these costs are considered administrative costs, we may exceed our 20% administrative expenses cap.

A. Tribes and TDHEs can continue to pay the salaries and expenses of their staff that have to stay at home during this crisis if the respective Tribe's or TDHE's policies provide for paid leave under unexpected, extraordinary, or emergency circumstances. Tribes and TDHEs must document such costs in their records. Tribes and TDHEs that do not have policies can update their policies to allow for this type of leave. In doing so, ONAP suggests using the safest method of updating policies available to avoid unnecessary contact and further spreading of COVID-19. Generally, these amounts should be charged to administrative expenses under the IHBG program.

HUD recognizes that some Tribes and TDHEs may risk exceeding their maximum administrative and planning costs caps under the program. In accordance with 24 CFR 1000.238, Tribes and TDHEs may request HUD approval for a higher maximum percentage cap for administrative and planning expenses. Requests should be sent by email only to Area ONAPs since Area ONAP staff are also working from home.

OQ13. Can I use IHBG funds to hire temporary workers to help us clean areas of our reservation to ensure the safety and security of our IHBG-assisted residents?

A. Yes, though Tribes and TDHEs should adhere to the recommendations of the CDC to limit exposure to COVID-19 and eliminate the spread of the virus.

OQ14. Can our Tribal or TDHE maintenance staff refuse to enter a unit and perform repairs if they are concerned for their health and safety?

A. During this emergency the safety and security of staff and tenants is of utmost importance. Tribes and TDHEs are advised to delay all routine repairs that can be delayed during this time, and to only carry out repairs necessary to protect the health and safety of residents. Tribes and TDHEs should adhere to the recommendations of the CDC to limit exposure to COVID-19 and eliminate the spread of the virus.

OQ15. Can Tribes/TDHEs use NAHASDA-assisted units for quarantining families or individuals diagnosed with COVID-19?

A. Yes. Tribes/TDHEs can use NAHASDA assisted units for quarantining families or individuals testing positive for COVID-19 when those individuals/families must be quarantined in order to safeguard the health of local community members. Housing eligible families in such emergency housing is an eligible affordable housing activity. When feasible, given the current emergency, the Tribe or TDHE should adopt written policies governing their emergency housing program to ensure that families are treated consistently and that the policies ensure the safety and security of all assisted families.

OQ16. Will units currently eligible as Formula Current Assisted Stock (FCAS) continue to be eligible for IHBG funding if used to quarantine families or individuals?

A. Yes. Units currently eligible as FCAS will continue to be eligible for IHBG funding during the ongoing emergency if those units are used as temporary housing to quarantine NAHASDA-eligible individuals or families testing positive for COVID-19 in situations when those individuals/families must be quarantined in order to safeguard the health of local community members.

OQ17. If someone needs to be quarantined away from the community, can IHBG funds be used for short term leasing at a motel/hotel?

A. Yes. Short term emergency housing is an eligible activity under the IHBG program and funds can be used to provide this type of assistance.

4.2 Emergency Operations and Tribal Policies - Indian Community Development Block Grant

OQ18. What activities can be supported with Indian Community Development Block Grant (ICDBG) funds?

A. Like the IHBG program, a wide range of eligible activities may be carried out under the ICDBG program including health-related public facilities and public services. Generally, Single Purpose ICDBG grants that were previously awarded were awarded for specific projects. However, HUD will consider any program amendments submitted by Tribes in accordance with 24 CFR 1003.305 to help address the impact of COVID-19. All program amendment requests must meet the criteria in 24 CFR 1003.305 to be approved by HUD. Additionally, ICDBG Imminent Threat grants may be available to Tribes depending on the urgency and immediacy of the threat posed to the public health or safety of tribal residents. Both program amendments and Imminent Threat grants must be ICDBG eligible activities.

The \$100 million included for the ICDBG program in the CARES Act can be used for emergencies that constitute imminent threat to health and safety. Funding is intended for activities and projects designed to prevent, prepare for, and respond to COVID-19. The Department is also drafting an Implementation Notice that will outline the steps and processes for accessing both the IHBG and ICDBG funding and we will issue this as soon as possible. In addition, HUD will issue waivers and alternative requirements of statutory and regulatory provisions to facilitate the use of these funds to help address COVID-19.

4.3 Emergency Operations and Tribal Policies – Section 184 and Section 184A

OQ19. What options are available to Indian Home Loan Guarantee Program (Section 184) borrowers negatively impacted by COVID-19?

A. Borrowers are reminded to connect with their Section 184 lenders and servicers to explore loss mitigation options to help prevent them from going into foreclosure.

OQ20. What kind of relief is available to Section 184 and Section 184A borrowers during this national emergency?

A. On March 20, 2020, HUD published a [Dear Lender Letter](#) to inform approved Section 184 and Section 184A lenders and servicers of a foreclosure and eviction moratorium for all loans guaranteed under the Section 184 Indian Home Loan Guarantee Program and the Section 184A Native Hawaiian Housing Loan Guarantee program for a period of 60 days.

Subsequently, Congress provided similar statutory relief to Section 184 and Section 184A borrowers in the CARES Act. Section 4022 of the CARES Act provides that, except with respect to a vacant or abandoned property, a servicer of a Section 184 or Section 184A loan may not initiate foreclosure proceedings, move for a foreclosure judgment or order of sale, or execute a foreclosure-related eviction or foreclosure sale for not less than the 60-day period beginning on March 18, 2020.

In addition to the foreclosure moratorium, the CARES Act allows borrowers experiencing financial hardship due, directly or indirectly, to the COVID-19 emergency to request forbearance on a Section 184 or Section 184A loan, regardless of delinquency status, by submitting a request to the borrower's servicer and affirming that the borrower is experiencing a financial hardship due to the COVID-19 emergency. Servicers are required to grant such forbearance for up to 180 days, and this period may be extended for up to another 180 days at the request of the borrower. Borrowers may also request a shortened forbearance period.

Servicers are required to approve forbearance requests with no additional documentation required other than the borrower's attestation to a financial hardship caused by the COVID-19 emergency, and may not charge fees, penalties, or interest (beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the mortgage contract). During a period of forbearance, no fees, penalties, or interest beyond the amounts scheduled or calculated as if the borrower made all contractual payments on time and in full under the terms of the mortgage contract, may accrue on the borrower's account.