

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 1000

[Docket No. FR-4968-N-01; HUD-2005-0002]

Indian Housing Block Grant Program; Advance Notice of Intent To Establish a Negotiated Rulemaking Committee and Request for Nominations for Committee Membership

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice of establishment of negotiated rulemaking committee.

SUMMARY: This notice announces HUD's intent to establish a negotiated rulemaking committee (Committee). The purpose of the Committee will be to provide advice and recommendations on developing a rule for effectuating changes to the Indian Housing Block Grant Program in response to statutory amendments to the Native American Housing Assistance and Self-Determination Act of 1996. This document provides the public with information regarding the Committee and explains how persons may be nominated for membership on the Committee.

DATES: Comments Due Date: March 24, 2005.

ADDRESSES: Interested persons are invited to nominations for membership on negotiated rulemaking committee to the Regulations Division, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-0500. Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address.

FOR FURTHER INFORMATION CONTACT:

Rodger J. Boyd, Deputy Assistant Secretary for Native American Programs, Public and Indian Housing, Room 4126, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone 202-401-7914 (this telephone number is not toll-free). Individuals with speech or hearing impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (NAHASDA) established the Indian Housing Block Grant (IHBG) Program. NAHASDA was subsequently amended several times. In 1998, NAHASDA was amended by the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1999 (Pub. L. 105-276, approved Oct. 21, 1998). In 2000, the Omnibus Indian Advancement Act (Pub. L. 106-568, approved Dec. 27, 2000) and the American Homeownership and Economic Opportunity Act of 2000 (Pub. L. 106-569, approved Dec. 27, 2000) both amended NAHASDA. In 2002, the Native American Housing Assistance and Self-Determination Reauthorization Act of 2002 (Pub. L. 107-292, approved Nov. 13, 2002), which also amended NAHASDA, was enacted. These statutory amendments affected the IHBG Program.

HUD is publishing this notice to announce it intends to establish a negotiated rulemaking committee (Committee) that will provide advice and recommendations on developing a rule for effectuating certain statutory changes to the IHBG Program, as noted above. The basic concept of negotiated rulemaking is to have the agency that is considering drafting a rule bring together representatives of affected interests for face-to-face negotiations that are open to the public. The Committee's role will be advisory and the Committee's goal will be to provide "consensus" recommendations to HUD. "Consensus" will be defined in the initial meeting of the Committee.

II. Identification of Issues for Negotiation

The NAHASDA Amendments that will be the subject of negotiated rulemaking are:

1. Environmental provisions under section 105(d) of NAHASDA (2000);
2. Review and audit provisions under section 405 of NAHASDA (2000);
3. Noncompliance actions under section 401(a) of NAHASDA (2000);
4. Performance Agreement under section 401(b) of NAHASDA (2000);
5. Program income under section 104(a) of NAHASDA (2002); and
6. Definition of "housing related community development" under section 4(22) of NAHASDA (2002).

HUD will obtain the services of a convener, whose task will be to consult with interested parties to gain an understanding of their interests and

concerns relative to the issues listed above, which will be addressed during the negotiated rulemaking, and to determine what other issues are feasible for negotiation. The convener will contact a representative sampling of stakeholders to discuss the issues to be negotiated and to identify additional potential issues and will provide a report to HUD on the findings and conclusions of the consultation. HUD will then determine what additional issues, if any, will be negotiated in this negotiated rulemaking. Due to limitations on resources, some issues may be scheduled for a subsequent negotiated rulemaking.

III. Committee Meetings

The negotiated rulemaking sessions will consist of full Committee meetings only. The Committee may decide to establish workgroups, but workgroups sessions will be conducted separately from meetings of the full Committee. HUD will encourage all Committee members to utilize telephone conference calls and the use of electronic media to accomplish work and narrow the issues prior to each Committee meeting.

There will be a maximum of five meetings held, subject to the availability of resources. Dates, times and locations of future meetings will be determined by HUD and be published in the **Federal Register**.

IV. Committee Membership

The Committee will consist of representatives of the various interests that are potentially affected by the rulemaking. Members may include tribally designated housing entities, elected officials of tribal governments, and HUD representatives. Members will serve at HUD's discretion.

Other than the Federal government representatives, HUD has not yet identified the list of possible interests and parties. HUD will decide on a proposed membership based upon comments on this notice, as well as its own efforts to identify other individuals and entities having an interest in the outcome of this rulemaking. The Negotiated Rulemaking Act of 1990 (5 U.S.C. 561-570) provides, at 5 U.S.C. 565(b), that the membership of a negotiated rulemaking committee should generally be limited to 25 members.

The two federal government representatives will be:

1. The Assistant Secretary for Public and Indian Housing, U.S. Department of Housing and Urban Development; and
2. The Deputy Assistant Secretary for Native American Programs, U.S.

Department of Housing and Urban Development.

It is not required that each potentially affected organization or entity necessarily have its own representative. However, HUD must be satisfied that the group as a whole reflects a proper balance and mix of interests. Negotiation sessions will be open to members of the public, so individuals and organizations that are not members of the Committee may attend sessions and communicate informally with members of the Committee.

V. Requests for Representation

Consistent with section 565 of the Negotiated Rulemaking Act, Committee members shall be selected by HUD. If you are interested in serving as a member of the Committee or in nominating another person to serve as a member of the Committee, you may submit a written nomination to HUD at the address listed in the **ADDRESSES**

section of this notice. Your nomination for membership on the Committee must include:

1. The name of your nominee and a description of the interests the nominee would represent;

2. Evidence that your nominee is authorized to represent a tribal government, which may include the tribally designed housing entity of a tribe with the interests the nominee would represent, so long as the tribe provides evidence that it authorizes such representation; and

3. A written commitment that the nominee will actively participate in good faith in the development of the rule.

HUD will determine whether a proposed member will be included in the makeup of the Committee. HUD will make that decision based on whether a proposed member would be significantly affected by the proposed rule, whether the interest of the

proposed member could be represented adequately by other members, and whether space permits.

VI. Additional Notices

After reviewing any comments on this notice and any requests for representation, HUD will publish a notice in the **Federal Register** that will announce the proposed membership of the Committee, request comments on the proposed membership, and solicit additional nominations for Committee membership. HUD will publish a notice in the **Federal Register** announcing the final composition of the Committee and the date, time, and place of the initial meeting.

Dated: January 28, 2005.

Michael M. Liu,

Assistant Secretary for Public and Indian Housing.

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