

# National American Indian Housing Council

Special Briefing  
To the  
United Nations  
Special Rapporteur  
on the Right to Adequate Housing



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# **NATIVE AMERICAN HOUSING AND COMMUNITY DEVELOPMENT**

## **INTRODUCTION**

It seems that the release of the daily business and economic reports brings continued bad news for the American economy: rising unemployment, tight credit, weak consumer spending, and falling producer prices. In an effort to stop the downward spiral of the economy, in early 2009, the Congress passed the largest domestic spending bill in United States history. Signed by President Obama in February 2009, the American Reinvestment and Recovery Act included \$787 billion to be spent on a variety of infrastructure projects including airports, roads and highways, transportation and transit, water projects, schools, and housing.

With a 10% jobless rate across America, it should be kept in mind that American Indian, Alaska Native, and Native Hawaiian economies have been plagued by far higher rates of unemployment and poverty for decades. The need for job creation and physical infrastructure is acute in most Native communities.

While there have been improvements, housing conditions in Native American communities remain inferior when compared with the rest of the country. An estimated 200,000 housing units are needed immediately in Indian Country, with approximately 90,000 Native families homeless or under-housed. Overcrowding on tribal lands is almost 15 percent, and 11 percent of Indian homes lack complete plumbing and kitchen facilities.

## **INDIAN LAW AND POLICY: TREATIES**

Beginning in 1787, the United States negotiated and entered into as many as 800 treaties with Indian tribes, but far fewer were actually ratified by the U.S. Senate as required by the Constitution. The treaties included promises of provisions, education, clothing, healthcare, and shelter in exchange for the cessation of hostilities, vast amounts of land, and natural resources. The first treaty of the United States with Indian tribes in New York initiated “a practice that later developed into a comprehensive system of supplying promised goods and services to Indian tribes.” Although treaty making ended in 1871, the United States’ obligations continue in full force and include the responsibility to provide housing assistance to tribal members. These obligations remain in effect until Congress explicitly abrogates them by statute.

## **THE FEDERAL TRUST RESPONSIBILITY**

The United States has a unique political and legal relationship with Indian tribes grounded in the Constitution, treaties, Federal statutes, court decisions, executive orders, and course of dealing over the last two centuries. This relationship is fiduciary in nature with the Federal government serving as trustee, having a duty of protection towards the tribes as beneficiaries.

# OVERVIEW OF HOUSING PROGRAMS FOR AMERICA'S NATIVE PEOPLE

“When tribes make their own decisions about what approaches to take and what resources to develop, they consistently out-perform non-tribal decision-makers.”

-- Harvard Project on American Indian Economic Development

## FEDERAL PUBLIC HOUSING PROGRAMS AND TRIBES

In the early 1960s, the Public Housing Administration determined that American Indians on reservations and in other areas were eligible to participate in certain programs under the *U.S. Housing Act of 1937*. Subsequently, the regional offices of the U.S. Department of Housing and Urban Development (HUD) administered programs to tribes in their areas. By the mid-1970s, HUD created Offices of Indian Programs in Denver and San Francisco to exclusively administer Indian housing programs. Finally, in 1992, Section 902 of the *Housing and Community Development Act of 1974* created the Office of Native American Programs (ONAP) to administer Indian housing programs.

## FEDERAL HOUSING PROGRAMS FOR NATIVE PEOPLE

The bulk of Federal housing programs for American Indians, Alaska Natives, and Native Hawaiians are administered by the HUD, and within HUD the Secretary, operating through ONAP, carries out the United States' special trust responsibility to Indian tribes and Indian people with the objective of improving their housing conditions and socio-economic status.

Programs that are currently administered by ONAP include the:

- Indian Housing Block Grant
- Native Hawaiian Housing Block Grant
- Indian Community Development Block Grant (competitive)
- Section 184, Loan Guarantees for Indian Housing
- Section 184A, Loan Guarantees for Native Hawaiian Housing
- Title VI, Federal Guarantees for Financing Tribal Housing Activities

## NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT

The *Native American Housing Assistance and Self-Determination Act of 1996* (as amended, Pub. L. 104-330, NAHASDA) is the main source of legal authority under which the United States provides housing and housing-related programs for Native Americans. Enacted in 1996,

NAHASDA combined scattered Federal public housing programs into a consolidated block grant to better serve the unique needs of Native American communities.

NAHASDA established the Indian Housing Block Grant (IHBG) to provide Federal housing and related development assistance directly to Indian tribes to carry out affordable housing activities. NAHASDA was also meant to encourage greater tribal participation in regulations through the negotiated rule-making process and to spur housing development by leveraging IHBG funds in combination with private sources of capital. On October 14, 2008, NAHASDA was amended and reauthorized through Fiscal Year 2013.

The primary objectives of NAHASDA are to:

- Assist and promote activities to develop, maintain and operate affordable housing activities for low-income Indian families in safe and healthy environments on Indian reservations and in other Indian areas;
- Ensure better access to private mortgage markets for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members;
- Coordinate activities to provide housing for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members;
- Plan for and integrate infrastructure resources for Indian tribes; and
- Promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities.



Programs that are managed by NAHASDA include the:

### **THE INDIAN HOUSING BLOCK GRANT**

The Indian Housing Block Grant (IHBG) is the single largest source of capital made available by the United States for housing development, housing-related infrastructure, and home repair and maintenance in Indian Country. Other housing activities eligible for IHBG funding include acquisition and various resident support services. Housing assisted with these funds may be either for rental or for homeownership. Since Fiscal Year 1998, more than \$8 billion in Federal housing assistance has been invested in Native American communities for purposes of making down payments on homes, making monthly rents, helping with rehabilitation, and building new housing units. Prior to NAHASDA implementation, an estimated 2,000 units a year were being built whereas over 6,000 units were built in NAHASDA's first year alone.

### **INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT**

The Indian Community Development Block Grant (ICDBG) was established as a direct grant program for community development in American Indian and Alaska Native Communities.

Community development includes decent housing, a suitable living environment, and economic opportunities, primarily for low- and moderate-income persons. Eligible grantees include Indian tribes, bands, groups, or nations or Alaska Native villages. Specifically, ICDBG funding can be used for housing (new construction and rehabilitation), community facilities and economic development. Ninety-five percent (95%) of the grant funds is awarded on a competitive basis. The remaining five percent (5%) is awarded on a non-competitive, first-come, first served basis to eliminate problems which pose an imminent threat to public health or safety.

## **TITLE VI TRIBAL HOUSING ACTIVITIES LOAN GUARANTEE PROGRAM**

The Title VI Tribal Housing Activities Loan Guarantee Program (Title VI) was established to provide the backing of Federal guarantee on loans to Indian tribes from private lenders or investors. Title VI loans finance eligible affordable housing activities such as housing assistance, housing development, housing services, housing management services, crime prevention and safety activities and model activities.

## **SECTION 184 INDIAN HOUSING LOAN GUARANTEE PROGRAM**

The Section 184 Indian Housing Loan Guarantee Program (Section 184) was established to serve the traditionally-underserved Native American homeownership market. Homeownership rates among Native people are low due to a variety of factors including unease with assuming debt, the trust status of Indian lands, and others. Indian tribes and individual Native Americans are eligible for Section 184 loans which can be for new construction, rehabilitation of an existing home, and refinancing. The Section 184 default rate is less than one percent (1%).

## **TRAINING AND TECHNICAL ASSISTANCE**

NAHASDA authorizes Federal funding for assistance to a national organization representing Native American housing interests to provide training and technical assistance to Indian housing authorities and tribally designated housing entities. Tribal housing authorities rely on training and technical assistance to more effectively implement their housing programs. Training and technical assistance has proven to be an effective and invaluable tool for capacity-building for tribes and their housing authorities. Since the 1996 enactment of NAHASDA, the National American Indian Housing Council (NAIHC) has served as the lead training and technical assistance provider in Indian Country.

## **NATIVE HAWAIIAN HOUSING ASSISTANCE**

In 2000, NAHASDA was amended to add a separate title addressing the housing needs of Native Hawaiians. This title created the Native Hawaiian Housing Block Grant Program (NHHBG) and the Section 184A Native Hawaiian Housing Loan Guarantee Program (the Section 184A Program). The NHHBG is limited to eligible affordable housing activities for low-income Native Hawaiians eligible to reside on Hawaiian Home Lands including new construction, rehabilitation, acquisition, infrastructure, and various support services and certain types of community facilities if the facilities serve eligible residents of affordable housing. The State of Hawaii's Department of Hawaiian Home Lands (DHHL) is the sole recipient of NHHBG funds.

The Section 184A program is designed to offer homeownership, property rehabilitation, and new construction opportunities for eligible Native Hawaiian individuals and families interested in owning a home on Hawaiian Home Lands.

It is clear that the United States Congress took an important step toward fulfilling its obligation to tribes with the passage of NAHASDA. NAHASDA recognizes the Federal government's trust obligation by providing housing assistance through a block grant that allows tribal governments the opportunity to design successful programs in a way that comports with tribal self-determination.

### **NATIVE AMERICAN VETERANS HOME LOAN PROGRAM**

Within the U.S. Department of Veterans Affairs, the Native American Veterans Home Loan Program serves eligible Native American veterans who wish to purchase, improve or construct a home on tribal lands. Since Native Americans serve in the Armed Forces in disproportionately higher numbers than other populations, this is a valuable program to increase homeownership rates.

### **INDIAN HEALTH SERVICE SANITATION FACILITIES**

Within the Department of Health of Human Services, the Indian Health Service Division of Sanitation Facilities Construction is charged with providing Native American homes and communities with essential water supply, sewage disposal, and solid waste disposal facilities.

Housing development in Native American communities involves more than simply building dwelling units. Because most American Indian reservations and Alaska Native communities are in geographically remote and rural areas, community development often starts with the design and construction of basic physical infrastructure and amenities that most Americans take for granted. This includes water and wastewater infrastructure, electricity, heating and cooling systems, and a host of others. A well-built and well-maintained road system, housing, electricity, wastewater, and land improvements all contribute the necessary foundation for economic growth, increased safety and improved quality of life for Native people.

### **HUD RURAL HOUSING AND ECONOMIC DEVELOPMENT**

While not a specific Indian program, tribes are eligible to participate in HUD's Rural Housing and Economic Development programs (RHED). RHED is another tool Native American Communities use to help build homes on isolated Indian lands. These programs serve to assist in capacity-building, fund innovative activities, and provide support for new programs.

## **USDA RURAL HOUSING**

Within the U.S. Department of Agriculture (USDA), Rural Housing programs serve the housing needs of low-income and very low-income Americans including Native Americans. Indian tribes are eligible to participate in direct loan programs which are primarily used to help low-income individuals or households purchase homes in rural areas or can be used to build, repair, renovate or relocate a home, or to purchase and prepare sites, including providing water and sewage facilities.

## **HOUSING IMPROVEMENT PROGRAM**

Within the U.S. Department of the Interior, the Bureau of Indian Affairs (BIA) is authorized to assist Indian tribes with housing improvement. In 1965 the Housing Improvement Program (HIP) was established pursuant to the *Snyder Act of 1924* (25 U.S.C. §13) to provide grants of modest amounts (often not more than \$1,500) for home rehabilitation, renovation and repair. As the waiting lists for new homes continue to grow and housing stock becomes older and dilapidated, the HIP program strives to ensure that existing housing stock remain safe, healthy and habitable. The HIP serves a valuable role in keeping existing housing stock in habitable conditions for the neediest within the Indian communities: Indian elders and low-income people.

## **ON THE ROAD TO SELF-DETERMINATION**

Over the past 40 years, Indian tribes have assumed ever-greater responsibility for the design, development and delivery of programs and services that were once exclusively the domain of the Federal government. Starting with the *Indian Self-Determination and Education Assistance Act of 1975* (ISDEAA, as amended, 25 U.S.C. §450), the policy of Indian Self-Determination is the hallmark of all successful initiatives aimed at improving the lives of Native people including health care, education, law enforcement, and others.

In attempting to repeat these successes in the realm of housing, in 1996, Congress determined that in providing Federal housing services to Indian communities, the U.S. should “recognize the right of Indian self-determination and tribal self-governance by making such assistance available [...] directly to the Indian tribes or tribally designated entities.” NAHASDA is well-rooted in the time-tested principles of local decision-making and self-sufficiency.

NAHASDA attempted to remedy the acute housing problems that Native Americans face by recognizing that tribes are sovereign nations with separate and unique needs. Although NAHASDA changed how housing programs for Native Americans are administered, Native Americans must still find “creative ways” to meet their needs because funding remains inadequate.

# **NATIONAL AMERICAN INDIAN HOUSING COUNCIL**

The National American Indian Housing Council (NAIHC) is the only national organization representing housing interests of Native people who reside on reservations, in other Indian communities, in Alaska Native Villages, and on native Hawaiian Home Lands. Founded in 1974 as a 501(c)(3) corporation, the NAIHC is composed of 270 members representing 463 tribes and housing organizations. NAIHC is guided by a 10-member Board of Directors representing Native housing agencies in nine geographical regions throughout the United States. NAIHC promotes and supports Native housing agencies in their efforts to provide culturally relevant and quality affordable housing on behalf of Native people.

NAIHC services to its members and the general public include:

- Advocacy for housing opportunities and increased funding for Native American housing, community and economic development programs;
- Training in many areas of Indian housing management;
- On-site technical assistance to Indian housing professionals; and
- Research and information services on Indian housing issues and programs.

NAIHC is supported by member dues and fees, government, foundation, association and private grants. If you are interested in supporting the work of NAIHC, please contact us at (202) 789-1754.