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REAUTHORIZATION OF THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT

HEARING

BEFORE THE

SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY

OF THE

COMMITTEE ON FINANCIAL SERVICES

U.S. HOUSE OF REPRESENTATIVES

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REAUTHORIZATION OF THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF–DETERMINATION ACT

Wednesday, June 6, 2007

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON HOUSING AND
COMMUNITY OPPORTUNITY,
COMMITTEE ON FINANCIAL SERVICES,
Washington, D.C.

The subcommittee met, pursuant to notice, at 2:39 p.m., in room 2128, Rayburn House Office Building, Hon. Maxine Waters [chairwoman of the subcommittee] presiding.

Present: Representatives Waters, Cleaver; Biggert and Pearce.

Also present: Representatives Boren and Kildee.

Chairwoman WATERS. This hearing of the Subcommittee on Housing and Community Opportunity will come to order.

Good afternoon, ladies and gentleman. I would like to first thank our ranking member, Judy Biggert, and each of the members of the Subcommittee on Housing and Community Opportunity for joining me for today's hearing on the reauthorization of the Native American Housing Assistance and Self-Determination Act, also known as NAHASDA.

I would like to start by noting that Mr. Kildee is on his way, and I think Mr. Boren, as well. Without objection, both will be considered members of the subcommittee for the duration of this hearing.

Also, without objection, all members' opening statements will be made a part of the record.

I'm looking forward to hearing from our two panels of witnesses today on the discussion draft put forward by Mr. Kildee, a proposal that Chairman Frank and I were pleased to sign.

While my own district does not contain tribal lands, I am keenly aware of the tremendous need for affordable housing and community development funding among the Nation's indigenous peoples in California and across the country.

I was privileged to participate in a subcommittee field hearing on Navajo land, which put a real face on the compelling national data outlining the scope of this crisis.

In 2003, the U.S. Commission on Civil Rights issued a report entitled, "A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country," which found, among other startling facts, that fully 90,000 Native American families are homeless or underhoused, and an estimated 200,000 housing units are needed immediately in Indian Country.

Moreover, too much of the housing that does exist on tribal lands is substandard. For example, according to the Census Bureau, nearly 12 percent of residents of Native American land lack complete plumbing facilities, compared to just 1 percent of the general U.S. population.

Signed into law in 1996, NAHASDA has been a critical resource for tribes nationwide, replacing a number of separate HUD programs with a single block grant to tribes that recognizes their right to self-governance.

In fiscal year 2006, HUD estimates that tribes used NAHASDA funds to build, acquire, or substantially rehabilitate more than 1,600 rental units and more than 6,000 home ownership units. Clearly, we must authorize this essential program before it expires on the last day of this fiscal year.

I think the discussion draft before the subcommittee today is an excellent starting point. First, it would accomplish the most basic goal of reauthorizing, mainly to enable continued appropriations for NAHASDA programs.

Like so many of our housing programs, NAHASDA has been underfunded in recent years. NAHASDA appropriations were $624 million in both funding year 2006 and funding year 2007, culminating years of flat or decreased funding. The President's budget for this fiscal year proposes an increase of only $3 million. I hope we can do better under a reauthorized NAHASDA.

I'm aware that some controversy exists within the Native American community regarding how HUD distributes the NAHASDA funding. Although the discussion draft proposes no changes in this regard, the subcommittee will certainly benefit from the witnesses' perspectives on this thorny issue.

I'm compelled to mention, too, that NAHASDA funding, indeed all Federal funding to Indian tribes, is bound up with a recent decision by a tribe not represented here today, a decision to expel certain people of mixed-race background that the Congressional Native American Caucus, among others, find very troubling. However, since that tribe is not here today, and the issue is the subject of ongoing litigation in both the Federal and tribal courts, I will leave that for further discussion.

In noting these problems, I do not mean to detract from the second key contribution of the discussion draft, namely, modifications that would greatly improve and streamline the program.

I've heard from the many tribes in California, including the Karuk, whom I am pleased to welcome here today, that they want flexibility to innovate and target more of their funds to housing and community development activities rather than to a bureaucracy created to respond to perceived Federal micro-management.

I think the bill strikes a good balance between this legitimate desire and the need for reasonable Federal oversight of Federal funding. For example, one provision would eliminate competitive procurement procedures for purchases of goods and services under $5,000. So, for example, tribes won't have to get three competitive bids for a box of pencils.

Additionally, the bill would create self-determined housing activities for the tribal communities program, which would allow tribes to buy, build, and rehabilitate housing without being subject to

HUD approval or HUD review. Instead, after 5 years, HUD would conduct a review of the program and report to Congress on its results. This provision gives tribes the opportunity to demonstrate that they would benefit from increased flexibility and lessened oversight as NAHASDA moves into the future.

Again, I look forward to hearing the perspectives of the witnesses on the discussion draft.

Before I recognize the ranking member, I'd just like to reiterate that, while I am certainly in support of and even an advocate for expanding funding and making sure that funding has enough flexibility to be used in ways that the tribes would like to use it, I do not want those who are present here today to leave thinking that somehow we are going to move in a way that does not take into consideration the problem that I alluded to with the Cherokee Indians. That is something that must be resolved prior to us moving forward to a markup.

With that, I would like to recognize our ranking member, Ms. Biggert, for her opening statement.

Mrs. BIGGERT. Thank you, Madam Chairwoman, and thank you for holding this hearing. I would actually like to yield my time to the vice ranking member of this subcommittee, Mr. Pearce from New Mexico.

Chairwoman WATERS. Mr. Pearce, for 5 minutes.

Mr. PEARCE. Thank you, Chairwoman Waters, and Ranking Member Biggert, for holding this hearing.

The Native American Housing Assistance and Self-Determination Act is an important act for New Mexico. The reauthorization, then, is even more critical to addressing Native American housing needs in New Mexico and across the United States.

New Mexico is home to many Native American tribes. In the Second District of New Mexico alone, we have eight tribes, including Laguna Pueblo, Acoma Pueblo, Zuni Pueblo, Isleta Pueblo, Mescalero, the Ramah Navajo Chapter, the Puertocito (Alamo) Navajo Chapter, and the To'hajiilee Navajo Chapter. I have visited these tribes, toured the reservations, and seen the living conditions many of them face.

I believe that the tribes should have adequate flexibility and autonomy to use Indian Housing Block Grant dollars efficiently and in a manner that makes the most sense for each tribe's specific needs, and since NAHASDA was implemented in 1996, tribes have obtained more flexibility to use their grant money for infrastructure and rehabilitation of homes.

Recently, I visited the Pueblo of Zuni. While I was there, it rained and snowed, which left standing muddy water, snow, and ice build-up in the community. In the main heart of the community, most of the streets in the historic plaza do not have gutters to control the water runoff, nor do the roofs of most of the houses have the guttering, so the water simply builds up and makes a muddy mess in the middle of town.

The water began to flow that day down through the streets. The residents began to surround their homes with bath towels to keep the water from flowing in underneath their doors. This is an example wherein the housing dollars should be eligible for infrastruc-

ture, to help these low-income families build gutters in their neighborhoods and protect their homes.

I'm pleased that my constituent, President Mark Chino, a good friend of mine from the Mescalero Apache Tribe, is here today to give his thoughts on the NAHASDA and on its reauthorization and its impact on Native Americans in New Mexico and across the country. The Mescalero Apache Tribe has huge housing needs, with over 500 families on the housing waiting list. They consistently look for creative ways to bring affordable housing to the reservation.

In last year's Homeland Security Appropriations Act, Congress authorized FEMA to give Indian tribes any unused manufactured housing units owned by FEMA and not used for Stafford Act relief. After some bureaucratic red tape was cut, the Mescalero Apaches obtained 67 of these manufactured housing units and paid to transport them to New Mexico for use by tribal members.

I'm interested to know whether NAHASDA is currently flexible enough to have allowed the Mescalero Apaches to have used those dollars to pay for the transportation cost. There's a great need for more housing that is quality, affordable, and equipped with basic utilities including water, plumbing, gas, and electricity. What good is a home if it doesn't have a toilet that flushes or if it is subject to flooding every time it rains or snows?

As a member of this committee from a very rural State, I believe it is important to raise these issues, to bring more understanding of the realities that New Mexicans and our Native American tribes face.

I understand Chairman Frank, Chairwoman Waters, and Congressman Kildee have circulated draft legislation to reauthorize NAHASDA, and I look forward to working with them on this critical issue.

Thanks to the witnesses, and again thanks to President Chino for his presence here. I'd like to also recognize his wife, Selene, in the audience today. I look forward to your comments. Thank you.

I yield back the balance of the time.

Chairwoman WATERS. Thank you very much.

I would now like to recognize Congressman Kildee, a real champion for Indian causes, and the Member of Congress who got me to sign up to be a member of the caucus.

Mr. Kildee, for 5 minutes.

Mr. KILDEE. Thank you very much, Madam Chairwoman, and Ranking Member Biggert. Thank you for holding this hearing today on the discussion draft of the bill to reauthorize the Native American Housing Assistance Self-Determination Act, NAHASDA.

I want to take this opportunity, Madam Chairwoman, to mention that you are indeed a founding member of the Congressional Native American Caucus, and as the Democratic chairman of that caucus, I praise your established record as an advocate for protecting the sovereign rights of Indian tribes.

I look forward to being the chief sponsor of this reauthorization legislation. I thank you and Chairman Frank for signing onto the discussion draft.

NAHASDA, enacted in 1996, was the first piece of comprehensive housing legislation directed solely to Native Americans and Alaska

Natives. It has become the basic program aiding Native Americans in tribal areas with affordable housing development, including home ownership, rehabilitation, infrastructure development, and other affordable housing assistance.

The success of NAHASDA is clear. Since its enactment, thousands of housing units have been constructed or are in development. Despite this record, however, there is still a substantial unmet need for housing units, a need that continues to grow for one of the fastest-growing population groups in the country.

The discussion draft is based largely upon the recommendations made by the Native American Indian Housing Council. In addition, my staff has, on several occasions, met with the House Financial Services Committee staff, the Senate Committee on Indian Affairs staff, HUD officials, tribal housing directors, inter-tribal organizations, and tribal leaders themselves.

The primary objective of this bill is to improve housing conditions in Indian Country. One of the most important benefits of NAHASDA is that it promotes self-determination among the tribes.

The discussion draft builds upon the basic framework of NAHASDA. These revisions will give tribes greater flexibility in meeting the housing needs of their tribal citizens.

To that end, I'm especially pleased that the discussion draft creates a self-determination program which authorizes tribes to set aside 15 percent of annual NAHASDA grant funding, up to $1 million, for the acquisition, construction, or rehabilitation of housing. The year before the next NAHASDA reauthorization in 2011, HUD would report to Congress the results of this program.

Among other revisions, this draft will: make certain that tribes can compete for Home Investment Partnership Act funds; removes competitive procurement rules and procedures for purchases and goods under $5,000; makes Federal supply sources through GSA more accessible to tribes; recognizes tribal preference laws in hiring and contracting for NAHASDA activities; allows tribes to carry over NAHASDA funds to a subsequent grant year; and permits tribes to establish a reserve account up to 20 percent of the tribe's annual NAHASDA grant.

Madam Chairwoman, reauthorization of NAHASDA will build upon this success over the past 11 years by providing more housing development on our Nation's Indian reservations.

I look forward to hearing from the witnesses today and moving forward on that legislation, and I thank you for this courtesy.

Chairwoman WATERS. Thank you very much.

I now recognize Congressman Boren for an opening statement, for 5 minutes, and also recognize the fact that he certainly is a champion of Indian causes and Indian housing. He is the author of H.R. 1675, that would provide 100 percent loan guarantees, which I believe is now on the President's desk.

Mr. BOREN. That's correct.

Chairwoman WATERS. Congressman Boren.

Mr. BOREN. Thank you, Madam Chairwoman.

I really appreciate all of your work on this issue, and the Subcommittee on Housing and Community Opportunity for holding today's hearing on Native American housing issues, specifically, the reauthorization of the Native American Housing Assistance and

Self-Determination Act. This is an issue that is very important to me, to Oklahoma tribes, and to many Native American constituents in my district.

I appreciate the work the chairwoman and the subcommittee have done to this point, and again, I want to thank the chairwoman for her help on H.R. 1676, which is the Section 184 Loan Guarantee Program that is hopefully going to be signed by the President very soon.

You know, extremely poor housing conditions are clear signs of poverty and economic stress in Native American areas. In fact, the lack of affordable, quality housing has reached crisis proportions in some communities, with nearly one-fifth of homeowners and over 30 percent of renters spending more than one-third of their income on housing each month.

The poverty rate for Native Americans is nearly 3 times that of other Americans, which contributes to Native American people living in the worst housing conditions in our Nation. These substandard housing conditions are worsened by overcrowding that is 3 times more prevalent throughout Native American lands.

Poor housing conditions frequently go hand-in-hand with poverty. Forty percent of Native Americans residing on Indian lands live in housing that does not have adequate plumbing, 10 times the national level. That is simply unacceptable.

While persistent poverty, inadequate housing, and household overcrowding are enormous challenges for Native American populations, the lack of infrastructure in Indian Country further contributes to the cost of developing new housing options.

These factors, combined with a high rate of loan denials, leave Native people in this country with real barriers to safe and affordable housing. In my home State of Oklahoma, affordability problems are consistently the highest in the Nation. I feel this legislation we are here to discuss today addresses many of the concerns that I have with housing in Native American areas.

I look forward to hearing from today's witnesses and moving this legislation forward.

And Madam Chairwoman, I would like to end by saying I know that you have concerns specifically with the Cherokee Nation and some of the issues that are going on. The Cherokee Nation is within the Second Congressional District in my district of Oklahoma.

I look forward to working with you on those issues. I know that we want to make sure that we have equity both in the Native American community as well as the African American community, and I thank you for your leadership.

Chairwoman WATERS. You are certainly welcome.

At this time, I'd like to introduce our first panel, which consists of the Assistant Secretary for Public and Indian Housing for the U.S. Department of Housing and Urban Development, Orlando Cabrera.

Assistant Secretary Cabrera, thank you for appearing before the subcommittee today, and without objection, your written statement will be made a part of the record, and you will now be recognized for a 5-minute summary of your testimony.

STATEMENT OF THE HONORABLE ORLANDO J. CABRERA, ASSISTANT SECRETARY FOR PUBLIC AND INDIAN HOUSING, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Mr. CABRERA. Thank you, Madam Chairwoman.

Madam Chairwoman, Ranking Member Biggert, and members of the committee, thank you for inviting HUD to provide comments with respect to the reauthorization of the Native American Housing Assistance and Self-Determination Act.

My name is Orlando Cabrera, and I am Assistant Secretary for Public and Indian Housing (PIH) at the Department of Housing and Urban Development.

PIH is responsible for the management, operation, and oversight of HUD's Native American and Native Hawaiian Housing and housing-related programs. These programs are available to 562 federally recognized Indian tribes, five State-recognized Indian tribes, and Hawaii's Department of Hawaiian Homelands.

We serve these entities directly and through their tribally designated housing entities, which I'll call TDHEs, by providing grants and loan guarantees designed to support affordable housing and community development.

It is a pleasure to appear before you again, and I would like to express my appreciation for your continuing efforts to improve the housing conditions of American Indian, Alaska Native, and Native Hawaiian people.

Momentum has been attained in Indian Country as it relates to housing, and one way to sustain this momentum is through the reauthorization of all HUD Native American and Native Hawaiian housing programs, including, of course, Title VI of NAHASDA.

The Department supports reauthorization and is examining a number of statutory amendments to NAHASDA that may be offered during the reauthorization process.

Here is a brief overview of the amendments HUD would propose that might add value to NAHASDA in the context of reauthorization.

In order to encourage more valued service providers to live on reservation land, allow for over-income and essential families by amending Section 201(b)(2) of NAHASDA.

Currently, certain over-income Indian families may be declared essential to a tribal community. These families may participate in home ownership, Title VI, and model activities, but not in the rental program. Rental is a more appropriate activity many times for people who may not stay in the community for an extended period of time.

Secondly, amend Section 201(b)(3) so that essential Indian families can also be housed, regardless of income. Through an oversight, current law allows only non-Indian families to be declared essential.

In order to help families in Indian Country retain the value of their property, amend Section 205 to delete the requirement for the so-called "useful life requirements" and binding commitments for home ownership units, and make the provision applicable only in the case of rental and lease purchase housing that is owned or operated by a grant recipient.

Current restrictions have sometimes prevented or discouraged children or the spouses of a deceased home buyer from inheriting a deceased's interest in property, and sometimes severely hamper home values.

Amend Section 302, the IHBG allocation formula, to stop counting units for FCAS purposes in the year after they are conveyed, demolished, or disposed of. This change would comport with the process established by the original negotiated rulemaking committee that crafted the IHBG regulations.

Amend Title IV of NAHASDA to clarify that issues related to the repayment of FCAS allocations do not constitute, in and of themselves, substantial noncompliance by a grantee. The declaration of substantial noncompliance triggers a formal administrative hearing, which is costly and time-consuming, and there's no reason to begin with such a process when a grantee mistakenly reports on an overcount or undercount in terms of the number of units under management.

With respect to the operation and maintenance of NAHASDA units, amend Section 202(4), the housing services provision, to clarify that grantees may use their IHBG funds for the maintenance and operation of units developed with IHBG funds. Currently, they may do so, but this is considered a model activity and requires specific HUD approval.

This amendment would streamline operations, save money, and reduce unnecessary paperwork for grantees and HUD staff.

Amend Section 102 of NAHASDA to simplify and streamline the IHP submission requirements, the Indian Housing Plan, by deleting the 5-year plan requirement, streamlining the 1-year plan to eliminate duplicative information, and establishing IHP due dates based on grantees' program years.

Finally, delete the requirement for a grantee to describe how it would change its programs as a result of its experiences. We believe that most grantees would agree that these amendments would relieve them of administrative burden and free them to concentrate on what they do best—house people.

Amend NAHASDA so that it makes clear that tenant-based or project-based assistance created through IHBG will be considered the same as tenant-based or project-based assistance under Section 8 of the Housing Act of 1937, for all practical and legal purposes, if those programs comply with provisions of that Act. This will help Native Americans better qualify to live in properties financed by the low-income housing tax credit.

Finally, amend the Native Hawaiian Loan Guarantee Program, Section 184(a), and conform it to the 184 program, so that the NHLG program allows refinancing and removes the current requirements on the Department of Hawaiian Homelands that the annual Native Hawaiian housing plan must include cross references to any loan guarantee activity.

On a personal note, I would like to thank the members of the subcommittee for swift passage of H.R. 1676, the reauthorization of Section 184, and the Housing Loan Guarantee Program.

The dramatic increase in the use of the Section 184 program is a success story for tribes, TDHEs, and especially for thousands of

Native American families who are now homeowners as a direct result of this program.

This is an exciting time. More and more opportunities are opening up to create new housing and economic development in Indian Country.

Thank you for the opportunity to provide comments today. I stand ready to answer any questions you may have.

[The prepared statement of Secretary Cabrera can be found on page 36 of the appendix.]

Chairwoman WATERS. Thank you very much.

I will recognize myself for 5 minutes.

I'm going to ask you to expand on the Administration's view of 20 percent for housing activities outlined in the tribes' housing plan. Could you tell me a little bit more about the position that you have taken about this reserve account, and whether or not you think that there is the possibility of abuse of some kind.

Mr. CABRERA. Well, reserve accounts in the context of housing generally come up on deal-specific issues, so that, for example, if you're borrowing money, you're going to have a reserve account to take care of things like ongoing maintenance concerns, replacing a roof, doing very specific things, or taking care of debt.

If the purpose of NAHASDA funds as a block grant is to produce housing, reserving funds really does not get money out and utilized as quickly as one would want, and allowing for up to 20 percent of the IHBG grant to be set aside when you want, I think one would want to have those funds used well and quickly, and leveraged wherever possible, would be a policy determination that I don't think we would feel comfortable with as an Administration.

Further, reserve accounts generally, when it comes to public housing, when it comes to Section 8, have been somewhat controversial, so it is a two-headed construct.

Number one, the issue is moving, moving appropriated money, taxpayer money in an efficient way, and number two, not creating kitties that really don't get the job done for housing.

Chairwoman WATERS. How much discussion have you had with the leadership of the Indian tribes, the Native American tribes? Have you engaged them in, or have they engaged anybody at HUD in this discussion, and why they think it's important to have—

Mr. CABRERA. We have discussed that issue with NAIHC, on at least two occasions with, respectfully, ma'am, your staff, and with Senate staff present.

So yes, we've had pretty extensive conversations with the panel that represents most TGHEs or many TDHEs in Indian Country.

Chairwoman WATERS. All right. Thank you very much. I have no further questions. I will recognize the ranking member, Ms. Biggert, for 5 minutes.

Mrs. BIGGERT. Thank you, Madam Chairwoman.

Mr. Secretary, I know you spoke about the reserve.

How do the amendments that you just suggested compare to the draft legislation being circulated by Chairman Frank and Congressman Kildee? What provisions in the draft do you support and which do you find troubling?

Mr. CABRERA. Madam Ranking Member, we can provide you a pretty detailed list of those things. There's a lot to go through—

Mrs. BIGGERT. Sure.

Mr. CABRERA.—and I couldn't cover it in 5 minutes.

Mrs. BIGGERT. And I wouldn't remember.

Mr. CABRERA. But our overwhelming concern would be that those funds that are allocated through NAHASDA, primarily the Indian Housing Block Grant, be as flexibly utilized with other funds as they can be.

So, for example, the Indian Housing Block Grant allows for any number of uses, not just to build units, but, for example, a TDHE, a tribally designated housing entity, can create a tenant-based rental assistance program, or even a project-based rental assistance program if it so chooses, but then it becomes tough to dovetail that with another Federal, I'm not going to call it a subsidy, but a program, the low-income housing tax credit, because inside of Section 42 of the Internal Revenue Code, which I know is not the jurisdiction of this subcommittee, there is an allusion to the Housing Act of 1937 that excludes income.

So if the predicate is laid inside of NAHASDA allowing for that tenant-based rental assistance program to be considered as if it were the Housing Act of 1937, which is one of the things that we've proposed in this oral statement, it would allow for families who want to live in those units that are developed with the low-income housing tax credit to access those units more readily.

Mrs. BIGGERT. Okay. And you were talking a little bit about—you mentioned infrastructure, and that the needs are significant.

What programs within NAHASDA can be used to meet the infrastructure needs? That was mentioned in your opening statement, it was mentioned by you, that there seems to be some real needs, you know, running water, etc.

Mr. CABRERA. Right.

Mrs. BIGGERT. What programs can be used to meet those needs?

Mr. CABRERA. You know, in my 16 months now in the chair that I'm currently inhabiting, and I'm quickly evaporating in, the two programs that we promote most often are Section 184, which is not under NAHASDA, it's under the Housing and Community Development Act of 1992, and Title VI, which is NAHASDA, it's Title VI of NAHASDA, Title VI is a program that allows the leveraging of funds with, as I recall, a 95 percent Federal guarantee for any number of uses beyond housing.

So that would include, for example, conceivably, water and sewer, roads, lighting, any number of things, and some tribes, some TDHEs, have used that well. Pasquamadi in Maine have used that well. White Mountain Apache have used that well.

And I think one of the issues for us is trying to get—there are basic camps within Indian Country that accept greater amounts of risk and lesser amounts of risk, and the issue for us is going to be getting to a point to use that program to develop that infrastructure where possible.

Now, in some parts of the country, even with that program, it's very tough. So, for example, if you go to Alaska, it's very difficult to create a water and sewer infrastructure in Alaska, because of just technical and engineering problems. You can't do that in permafrost.

And in many villages, if you go to Bethel, for example, what you will see is their water and sewer infrastructure is above ground, and that may or may not suit certain communities.

But in those places where that's not an issue, that's certainly a program that is enormously useful, and we are going to continue to try to promote.

Mrs. BIGGERT. Okay. Seems like there's a lot to do there.

What about manufactured housing? Is that an alternative to help meet the affordable housing needs of tribes?

Mr. CABRERA. It is an option for many tribes.

A year ago, I approached Director Paulison at FEMA about trying to use many of the units. There are different kinds of units that FEMA has, and one of those kinds is really a modular home more than a trailer. And so we began a long conversation with FEMA and BIA and HUD, obviously. I'm missing someone; it could be DHS.

Today, I signed a memorandum of understanding that allows for the platform to exist so folks can access those units on top of which I know that Congressman Pearce asked a few minutes ago whether IHBG funds could be used for the transportation of those units.

We have stated already, and we will state here publicly, that the answer is yes, provided those units are used as housing.

So, for example, if a tribe goes and tries to acquire one of these units and converts it to an office, that would not qualify for an appropriate use, whereas if it does for housing, that's fine.

Mrs. BIGGERT. Thank you. I yield back.

Chairwoman WATERS. Thank you very much.

Mr. Cleaver, you're recognized for 5 minutes.

Mr. CLEAVER. Thank you, Madam Chairwoman.

Before I go into my questions, I would like to associate myself with the opening comments of Chairwoman Waters.

And now let me move to the concerns or questions.

HUD is taking an active role, perhaps not as active as I would like, in terms of building new housing to take into consideration the whole issue of energy efficiency and the use of renewable resources. With many of the Native American tribes in and around the timber industry, is there any effort being made, are there any plans on the drawing board to move toward a greener development of housing in this program?

Mr. CABRERA. Congressman, might I have a second? I think my staff is trying to get my attention. Excuse me.

[Mr. Cabrera consulted with his staff.]

Mr. CABRERA. This is Roger Boyd. He is our Deputy Assistant Secretary for the Office of Native American Programs.

He just informed me that this year ONAP has reached out and—reached out to TDHEs in order to start developing ideas on basically green construction and green issues.

Mr. CLEAVER. Madam Chairwoman, I'll hold my additional comments.

I yield back the balance of my time.

Chairwoman WATERS. Thank you very much.

Mr. Kildee is recognized for 5 minutes.

Mr. KILDEE. Thank you very much, Madam Chairwoman.

First of all, Mr. Secretary, I deeply appreciate your broad knowledge and deep concern for Indian housing.

That is very helpful, I know, to this committee and to the Indian community out there. So I'm very grateful for that.

Recently, we sent a letter to the Secretary about the distribution of 45 trailers to one tribe. We were concerned about a process being developed for the distribution. I think you have about 2,000 that could be distributed, and these were distributed without that process being in place. How far along are we in developing a process so that tribes can apply under that process for these?

Mr. CABRERA. From HUD's perspective, we're pretty far along. The memorandum of understanding, as I noted earlier, Congressman, I signed it today. Director Paulison signed it, as well.

That would leave my counterpart, whose name escapes me right now, because I think he was just recently appointed at BIA, to sign it, and someone at DHS to sign it; I don't recall his name.

Your issue is extremely well received by us. Our issue was that we have tranches of available units, and so our big concern was making sure that those, that everybody who wanted them would have a fair shot at them as opposed to having a free-for-all.

That said, we are continuing conversations to expand the universe of available units, and so on the one hand, no, I don't have any assurances at this point that we're going to have more, but we're trying to create a larger group of units so that anybody who wants them and can pay for the transportation can do so.

Mr. KILDEE. And you will have a process that you've signed today?

Mr. CABRERA. The MOU is the process. The reason that the process—there are several issues, and I know that they are called bureaucratic, but they are beyond that; they are legal issues.

The Stafford Act does not allow for the uses of those trailers in quite a seamless way, and for very good reasons. It's because when we're struck by a national disaster, the issue becomes one of availability. So there is an evaluation process within FEMA that they have to undertake.

The second one is an issue of what happens to the trailer once it's delivered off-site, and that's a commercial issue. That means what happens to the trailer once it gets put on a tractor trailer? And the other issues are mechanical ones, making sure that people know where to go and where the trailers are. One group of trailers, as I recall, is in Texarkana and the other one is in Hope, Arkansas.

So that's really what the agreement addresses, and we're happy to share the agreement, if anybody would like to see it.

Mr. KILDEE. That would be very helpful.

Again, I thank you, and thank you for your service.

Mr. CABRERA. You're welcome. Thank you.

Chairwoman WATERS. Thank you very much.

Congressman Boren.

Mr. BOREN. Thank you, Madam Chairwoman.

Mr. Secretary, thank you for coming today. I have just a couple of questions.

One is in regards to reporting. Indian tribes or the tribally-designated housing entities have brought up the issue of reporting re-

quirements and the lack of long-term locally determined goal-setting involved in preparing and planning for housing.

What is being done at HUD through the regional offices to assist the tribes and the TDHEs in setting these long-term locally-determined goals? That's the first part of the question.

And a little bit more: With the current reporting requirements, how are tribes or TDHEs benefitting from the successes and failures of other tribal projects?

And then finally, I know this is long:

In other words, what method of communication is being used to facilitate communication between tribal entities to share best practices for housing needs?

Mr. CABRERA. That is long.

In what we propose today in the oral statement, one of the things I think we're trying to focus on is to relieve tribe stakeholders, TDHEs, from essentially having to comply with a lot of production of plans.

The shorter term plans make a lot of sense. To us, they're 1-year plans. It is helpful in order to make sure that everybody has a forum to communicate about what expectations are for the tribe. I mean, one of the central elements of NAHASDA is self-determination.

The issue that we really have is the 5-year plan which tends to be of less value, and since we have less value because it is such a long window—60 months in housing and 60 months in almost anything is a very long time—so the utility of the 1-year plans is important.

What are we currently doing?

You know, I have to say that this community has no hesitation whatsoever about communicating with me or anybody else, and I'm grateful for that.

And so I think one of the things that we've done is made a commitment to make ourselves as available as possible, whether that be regionally or nationally, and that commitment will continue.

And I don't recall your third question.

Mr. BOREN. The third was, in other words, what method of communication is being used to facilitate communication? You basically answered that.

But let me ask you something else.

How often do you personally go into Indian Country, and would you be willing to come to Eastern Oklahoma, for instance?

Mr. CABRERA. Well, you and I were in Eastern Oklahoma. I don't mean to—but just to refresh your recollection, I was with you in September, at the Cherokee Nation.

Mr. BOREN. That's why I was bringing that up.

Mr. CABRERA. I've been to the Kackapoo Tribe. I've been through a good amount of the Alaska Regional Councils and Tribes. I've been to the Miccosukee Tribe, because I'm from Florida, and I've been there often. I can't make a representation that I can be everywhere.

Mr. BOREN. I mean, do you feel that is a valuable experience, to go out like you did with the Cherokee Nation?

Mr. CABRERA. It is enormously valuable.

Come September, I think there's a plan for me to go to the Navajo event, and I just find that enormously useful.

And on top of that, you know, we go to the stakeholder meetings, so NCHSI, or I'm going to an NCAI event now in Alaska again.

Mr. BOREN. I personally want to thank you for coming to my district.

Also, one last question. The ultimate goal of self-determination is a solid, thriving economic structure. Many of the tribal communities in our country lack this structure. While it is evident that the implementation of the structure is beyond the sole scope of your agency, HUD can play an important role in this development.

What is HUD doing solely or in collaboration with other Federal agencies and local/tribal entities to develop an infrastructure to promote a thriving economic system?

Mr. CABRERA. We are a very narrow slice of Indian Country, important but narrow, and I have to defer to our sister agency at Interior on a lot of that.

That said, we have always kept a very open, wide open channel of communication with BIA, and wherever possible, facilitated issues.

The best example I can give you is a title issue.

Most of what we do is, we guarantee on the lending of money so that mortgages can be sold on the market and therefore be made available to Indian Country and make Indian Country capable of being underwritten so folks can own their homes.

And a critical aspect of that is to have title that is marketable that a lender can rely on when they get a title insurance policy, a mortgagee policy.

We began a conversation with BIA 3 years ago that culminated again in a memorandum of understanding, and that has worked reasonably well.

When there were bumps, we simply picked up the phone and said, "We need to meet, this is the bump, we need to resolve the bump."

Are things perfect? No. But I think that's because it's a very complicated issue. You're dealing with trust land. You're dealing with 562 TDHEs. You're dealing with allotted land.

The fee land is different. Fee is fee. But at the end of the day, that complication is when it's going to be—it's not so much insidious, but it's going to be—it's going to be a perennial issue, to a degree.

The good news is that a lot of it has been solved, a lot of these pieces are in place, and people are taking advantage.

We've gone from having something on the order of 40 home loans 6 years ago to up to 1,400 as I recall.

So the mission in housing is always slow, steady progress. It's never one fell swoop. It's a marathon, not a sprint, and so we're pretty committed to that.

Mr. BOREN. Thank you, Madam Chairwoman.

Chairwoman WATERS. Thank you very much.

The Chair notes that some members may have additional questions for this panel, which they may wish to submit in writing.

Without objection, the hearing record will remain open for 30 days for members to submit written questions to this witness and to place the responses in the record.

I'd like to thank the Secretary for coming today. We really do appreciate it. This panel is now dismissed, and I would like to welcome our second panel.

Mr. CABRERA. Thank you, Madam Chairwoman, and members of the committee.

Chairwoman WATERS. Thank you very much.

I'm pleased to welcome our distinguished second panel.

Our first witness will be Mr. Wendsler Nosie, Sr., chairman of the San Carlos Apache.

Our second witness will be Mr. Mark Chino, president of the Mescalero Apache Tribe.

And Mr. Kildee, I think you have someone here you would like to present. Would you please present your witness who is here today?

Mr. KILDEE. Madam Chairwoman, thank you very much again for your courtesy on this.

I would like to first of all welcome all the witnesses, but recently I was out in Arizona and had a hearing on No Child Left Behind, and at that hearing, I heard great testimony from San Carlos chairman, Wendsler Nosie, and it's good to see him here again today.

And if you will give as good testimony on housing as you did on education, we'll learn a lot here today.

Thank you very much.

Thank you, Madam Chairwoman.

Chairwoman WATERS. Thank you.

Our third witness will be Ms. Cheryl Parish, executive director of the Bay Mills Housing Authority in Michigan, who is here on behalf of the National American Indian Housing Council.

And from my own State of California, I'm pleased to welcome our fourth witness, Ms. Sami Jo Difuntorum—would you please tell me the correct pronunciation—Difuntorum, executive director of the Karuk Tribe Housing Authority.

Our fifth witness will be Ms. Aneva J. Yazzie, chief executive officer of the Navajo Housing Authority, representing several States.

And our final witness will be Ms. Jacqueline L. Johnson, executive director, National Congress of American Indians.

Without objection, your written statements will be part of the record.

I will now recognize our first witness, Mr. Nosie, for 5 minutes.

STATEMENT OF WENDSLER NOSIE, SR., CHAIRMAN, SAN CARLOS APACHE TRIBE, ACCOMPANIED BY: TERRY RAMBLER, CHAIRMAN, SAN CARLOS HOUSING BOARD OF DIRECTORS, AND MEMBER, TRIBAL COUNCIL; RONALD BONI, EXECUTIVE DIRECTOR, SAN CARLOS HOUSING AUTHORITY; AND DIANA LOPEZ JONES, ESQ., HOUSING AUTHORITY COUNSEL

Mr. NOSIE. Chairwoman Waters, and members of the committee, thank you for holding this hearing today.

My name is Wendsler Nosie, Senior, and I am the chairman of the San Carlos Apache Tribe. I am honored to be here to express some of our views.

With me today is Tribal Council member Terry Rambler, who sits behind me, chairman of the Housing Board of Directors, and also Mr. Ronald Boni, director of the Housing Authority, and Diana Lopez Jones, our Housing Authority counsel.

First, I'd like to take a little turn here on the testimony and reflect back to 1962, 1963, and 1964, when my mother traveled here to Washington, D.C., and spoke to the House of Congress, and also to a subcommittee, on the opportunity of having future homes on the reservation.

She stood before the committee and expressed the dire need of the people in San Carlos, and also stood with an African American who also had expressed their need of housing.

But first, let me just say that before the reservation, people lived as they did in our cultural ways. Second, under reservation life, there were many that were living within their wickiups and with canvas homes, only for the scouts to have what the United States Army had given them.

And then in the 1920's, the Coolidge Dam was requested to be built on the reservation, and forcibly done, which caused the people to move to what we call now the new San Carlos, but before then, when the old San Carlos was being taken apart, they allowed the people to take parts and pieces, boards, and to assemble what they would call a home, but many live again in wickiups and makeshift homes.

Then in 1962, 1963, and 1964, that's when the opportunity came for housing.

And as you can see, I submitted an article from the "Arizona Republic" that shows my mother, and that little boy there is me.

As you see there, some of the things that are stated in that paper was how they no longer had to go to the compound to receive water, and it talked about the use of the house of taking the hardship of the people.

Well, before I came to Washington, I had asked my mother, what can I say, or what should I say?

She said, "You know, the intent was good back then when they had discussed, but it seems like they idled off and have gone backwards, because now, many of our people need homes."

So she asked me the question to ask you: what happened? Because we are the first American people, and this was the promise that they had made to Native Americans, but yet something has gone wrong.

As you can see, to my right, I have pictures there that show how our living condition is, and how people still suffer from having inadequate houses.

Picture number one is a 70-year-old home that at one time housed 12 children, and today it houses 3 adults and 5 children, and they are on the waiting list for housing.

Picture number two is a veteran, a war veteran, in World War II, and in the summer of 2006 he passed away, leaving his widow and his grandkids living in this home in picture number two.

Picture number three is a middle-aged lady and five children and one grandchild living in this house, with no running water or electricity.

So as you see, as she had stated to me, there is still a lot of work to be done and a lot of the commitments that were made need to be fulfilled.

And this is the great worry that we have in San Carlos, and I'm sure in all tribal communities. So we ask that you consider the fact of what history had begun with and where we are today, and where is it going to take us tomorrow, because every livelihood of each child is very important, as well as in other tribes.

We also, as I heard a few minutes ago, on the FEMA trailers, the tribe just asks that there be a unique way, a fair way of distributing the FEMA trailers, and we ask that a strong partnership be made.

Last but not least, the war in Iraq. We know for a fact that it's taking a lot of our dollars, and we ask that this be considered, because we are the first Americans, and should always be considered the first people.

I thank you for that, and I thank you for the time you've given me.

[The prepared statement of Mr. Nosie can be found on page 82 of the appendix.]

Chairwoman WATERS. Thank you very much.

Our next witness will be Ms. Cheryl Parish.

STATEMENT OF CHERYL PARISH, VICE CHAIRWOMAN, NATIONAL AMERICAN INDIAN HOUSING COUNCIL

Ms. PARISH. Good afternoon, Chairwoman Waters, Ranking Member Biggert, and distinguished members of the subcommittee.

I am honored to appear before you today to provide our views about the reauthorization of the Native American and Housing Assistance and Self-Determination Act, NAHASDA.

I am pleased to be able to share our enthusiasm about, and our concerns with, the discussion draft of the proposed legislation you have provided.

My name is Cheryl Parish and I am the executive director of the Bay Mills Housing Authority in Brimley, Michigan. I am also a member of the Bay Mills Indian community.

Today, I am here as the vice chairwoman of the National American Indian Housing Council (NAIHC).

NAIHC is the only national Indian organization that represents Native American housing interests. The NAIHC is composed of 264 voting members representing nearly 460 American Indian tribes and Alaska Native villages.

Tribal communities across this great Nation suffer daily from inadequate and unsafe housing. This impacts our education, our health, our spirituality, and our pride in our community. We all want to lift our heads high but this can be difficult when you gaze beyond the reservation boundaries and see how others live.

NAHASDA has made significant strides to improve housing conditions within our communities. I urge this committee, other committees of jurisdiction, Members of Congress, and this Administration to join us to ensure the timely reauthorization of NAHASDA.

It is critical that we act decisively to protect the nearly $6 billion investment that the Federal Government has made toward Indian housing over the past decade.

Although great strides have been made since NAHASDA's inception, more, and much more, is necessary to make an even more powerful impact for native people.

Clearly, this committee recognizes the importance of the reauthorization of NAHASDA.

NAIHC's member tribes and Indian Housing Authorities appreciate the willingness and the support of this committee to focus on and to understand what the law means to Indian Country, providing desperately needed tools so we can continue to improve the housing conditions that our people face every day.

We have submitted for the record a complete discussion of all the amendments contained in the discussion draft.

Madam Chairwoman, I respectfully request that this be made an official part of the record, and allow me for a moment to focus on the three amendments that we find most encouraging.

Chairwoman WATERS. Without objection, so ordered.

Ms. PARISH. Thank you.

Eligibility for Federal Supply Sources.

This amendment is an example of the committee's continued support for the congressional findings in NAHASDA.

Namely, that Federal assistance should be made available to tribes and their housing authorities in a manner similar to those accorded Indian tribes in Public Law 93–638.

Tribal Preference in Employment and Contracting.

This provision is a clear recognition of the inherent sovereignty of the Indian tribes to follow their own tribal laws. This is not about good politics, this is about good policy.

Operation and Maintenance Costs.

This amendment will permit the use of funds provided under NAHASDA to be used to operate and maintain NAHASDA-financed housing. Currently, only through a paperwork-driven process can NAHASDA funds be used for such purposes.

This amendment is local, and it is tribal, in the best sense of these terms.

Again, we applaud, indeed, we are grateful to this committee and this able staff we work with, as we seek ways to improve and to further enhance NAHASDA, especially in the areas that provide more flexibility to administer our programs based on the time-honored tradition of self-determination.

We respectfully submit for your consideration, however, a couple of concerns with regard to Subtitle B, "Self-determined Housing Activities for Tribal Communities."

While we address this issue at length in our written testimony, please allow me to summarize.

We have four areas of concern: The permitted activities identified in Subtitle B, Section 233(a) currently already exist within NAHASDA; this section does not seem to permit any common area construction or communal usage that is so important in our tribal communities; this section does not permit the use of any funds for infrastructure; and the fixed-income family section may be more restrictive than current statute and regulation require. We would

like to recommend that this requirement to verify incomes every 3 years for fixed-income families be stricken from Section 2.

In conclusion, the proposed legislation is an important step forward and a marked improvement over current legislation. It will ensure that the reauthorization of NAHASDA will result in improved housing conditions for all Native Americans.

I'd like to thank the committee for its interest in pursuing the reauthorization of NAHASDA, its commitment to Indian self-determination and self-sufficiency, and its continued support for American Indian, Alaska Native, and Native Hawaiian people.

I'd be happy to answer any questions that you may have.

[The prepared statement of Ms. Parish can be found on page 91 of the appendix.]

Chairwoman WATERS. Thank you.

Ms. Sami Jo Difuntorum.

STATEMENT OF SAMI JO DIFUNTORUM, EXECUTIVE DIRECTOR, KARUK TRIBE HOUSING AUTHORITY

Ms. DIFUNTORUM. Good afternoon, Chairwoman Waters, and distinguished members of the subcommittee.

My name is Sami Jo Difuntorum, and I am the executive director of the Karuk Tribe Housing Authority, and an enrolled member of the Shasta Tribe, also from California.

On behalf of the Karuk Tribe and the Karuk Tribe Housing Authority (KTHA), I'd like to thank the chairwoman and members of the subcommittee for holding this hearing.

I'm honored to testify at today's hearing in support of reauthorization of NAHASDA and in support of proposed amendments to the draft bill that will make it even stronger.

The Karuk Tribe is made up of several communities located along the Klamath River in two extremely rural portions of Siskiyou and Humboldt Counties in northwestern California, with approximately 3,600 enrolled tribal members. Our trust and reservation land is approximately 600 acres.

We serve one of the most remote, poverty-stricken areas of California. This region was estimated to be 85 percent timber-dependent and its economy has not recovered from the closure of local mills. In 2006, 90 percent of the students enrolled in the local school qualified for the free lunch program.

The Bureau of Indian Affairs indicates that unemployment is at 89 percent for our tribe in our Indian area, and the unemployment rate for the tribe by census data is 83 percent. The waiting list for homes has over 350 applicants, most of whom have no other viable housing options.

Since the passage of NAHASDA, the KTHA has developed a broad range of housing services using the flexibility in this Act to meet the needs of our service population.

Through the employment of a loan officer, we provide four or five low-interest loans per year, equalling approximately 15 percent of our IHBG, Indian Housing Block Grant. We have a rental voucher program for college students and elders who live off reservation.

One of our communities, called the Forks of Salmon, has no electricity. We're currently incorporating innovative design features, in-

cluding solar components, in constructing projects for this community.

Reauthorization of the NAHASDA provides an excellent opportunity to strengthen the Act by increasing its flexibility and efficiency.

The 350 families on our waiting list must live for many, many years in overcrowded and often substandard housing before a unit becomes available.

The most recent discussion draft of the NAHASDA reauthorization bill includes many amendments that we support as a means to provide greater flexibility and to promote tribal self-governance and self-sufficiency.

The goal of much of the bill is to strengthen tribal self-determination. I'd like to comment on two specific provisions.

Procurement: Exempt purchases of less than $5,000 from the competitive procurement requirements of the Act. HUD currently requires that we demonstrate compliance with the competitive bid requirements for every purchase, no matter how small. The application of competitive purchasing requirements to these "de minimis" purchases often costs as much or more than the purchase itself.

During an onsite monitoring review by HUD, the regulations at 24 CFR 8536 were interpreted to mean that a TDHE must obtain three price quotes for all purchases, even a box of pencils. KTHA has three communities spanning 130 miles. The amount of supplies purchased for maintenance and operations alone is significant.

And we've been fortunate. We've been able to employ a full-time person just to do purchasing, but a lot of the small tribes, particularly in California, are not able to do that, because of the amount of money they receive, so we very strongly support this provision of the discussion draft.

Training and technical assistance. Tribes and Indian Housing Authorities also have a need for training and technical assistance. Earmark reform meant funding for the National American Indian Housing Council Training and Technical Assistance was eliminated. The NAIHC receives no additional funding to support training and technical assistance.

Section 703 of NAHASDA specifically authorizes appropriations for a national organization representing Native American housing interests for providing training and technical assistance to Indian housing authorities and Tribally designated housing entities. That's not an earmark, that is an authorization.

We strongly support the amendment authorizing training and technical assistance by a national organization through 2012.

We hope NAHASDA further evolves to accommodate the ever-changing needs of Indian Country.

I'd like to thank the committee for its interest in pursuing reauthorization of NAHASDA and its support for American Indian, Alaska, and Native Hawaiian people.

I would be happy to answer any questions you might have.

[The prepared statement of Ms. Difuntorum can be found on page 53 of the appendix.]

Chairwoman WATERS. Thank you very much.

Our next witness will be Aneva J. Yazzie.

STATEMENT OF ANEVA J. YAZZIE, CHIEF EXECUTIVE OFFICER, NAVAJO HOUSING AUTHORITY

Ms. YAZZIE. Thank you, Madam Chairwoman, for this tremendous opportunity to testify before the Subcommittee on Housing and Community Opportunity.

I applaud you, Chairman Frank, Ranking Members Bachus and Biggert, and all the members of this committee for your attention to housing issues, particularly the issues affecting Indian Country.

I would also like to say "ya 'at 'teeh" to Congressman Pearce, whose district includes a significant portion of the Navajo Nation.

I am from the Bitter Water, born from the Bitter Water Clan. I'm from the Black Street Wood People Clan. My paternal grandparents are the Meadow People Clan and my maternal grandparents are from the Near the Water Clan. So that's who I am as a Navajo woman.

At the committee's request, I will summarize my written testimony, but I'm happy to answer any questions.

The Navajo Housing Authority has made great strides in improving the lives of tribal members, and in the last decade has done even better thanks to the Native American Housing Assistance and Self-Determination Act, which we know as NAHASDA.

While appropriations is not in the jurisdiction of this committee, as I am testifying before Members of Congress, I would be remiss if I did not comment on appropriations.

NAHASDA is a good law, but the funding for NAHASDA is too low for the real promise of the law to be realized.

We hope you, Madam Chairwoman, will use your influence as a leader in Congress on housing issues to convince your colleagues to provide the necessary funding to support the thousands of families who have nowhere else to turn for housing assistance.

As I said, NAHASDA is a good law, but it is not a perfect law. Your discussion draft makes several important improvements.

The centerpiece of the discussion draft, the Self-determined Housing Activities Program, is a bold proposal that recognizes the original intent of NAHASDA as described in the findings and purposes of the law. Your proposal is a move toward true self-determination. We are excited by the prospect and look forward to implementing this provision for Navajo.

However, we hope the committee will consider broadening the language to allow the support of activities that require some expenditure of funds on infrastructure. In Indian Country in general, and Navajo in particular, housing cannot be built without infrastructure. Existing water and waste water facilities are hopelessly overburdened, and in many areas of our land do not exist at all. In Indian Country, the lack of infrastructure is an affordable housing problem.

Other provisions in the bill, including the eligibility of the essential Indian families in housing and the inclusion of police officers will go far to strengthen our communities. While these provisions may at first seem technical, they will have a real impact in Indian Country.

Likewise, the "de minimis" exemption from procurement rules when a NAHASDA recipient is spending less than $5,000, will al-

leviate administrative burdens and allow us to focus on addressing real problems rather than focus on paperwork exercises.

The savings one might find through a competitive bid process were such small amounts it was far outweighed by the amount of time and effort that must be put in to solicit and review the bids.

One part of NAHASDA that continues to frustrate tribes and policymakers is Title VI. While I worked with the program before coming to Navajo, few tribes have successfully accessed the program.

I believe this program remains underutilized for two basic reasons.

First, there has been a lack of effective education about the program. We are pleased to see that the draft bill addresses that by including a requirement that HUD provide training on the use of Title VI guarantees, and we fully support that provision.

Second, the activities allowed under the current Title VI program are so limited that the eligible activities cannot generate enough income to cover debt service on the guaranteed loan.

Title VI is based on a very successful Section 108 program which allows recipients of CDBG to borrow or issue bonded debt for up to 5 times our annual formula allocation to support the functions otherwise allowed under CDBG.

Tribal governments are prohibited from utilizing the Section 108 program because tribes compete for one national set-aside. Without a formula allocation, you cannot use Section 108 guarantees.

Amending Title VI to include the eligible activities allowed under Section 108 would allow tribes to access the benefits of the program non-Indian communities have used for years.

This would have the effect of increasing investment in economic development and infrastructure where it is desperately needed, without increasing Federal appropriations.

We would like to work with the committee to see if this proposal, even in the form of a demonstration, could be included in this bill.

Again, I would like to thank you, Madam Chairwoman, and the committee, for this opportunity, and applaud you for your efforts so far.

I recognize that there is much work to be done before this legislation becomes law, but I look forward to continuing this important work to see that these amendments become law and NAHASDA is reauthorized.

Thank you.

[The prepared statement of Ms. Yazzie can be found on page 102 of the appendix.]

Chairwoman WATERS. Thank you very much.

Our next witness will be Ms. Jacqueline Johnson.

STATEMENT OF JACQUELINE L. JOHNSON, EXECUTIVE DIRECTOR, NATIONAL CONGRESS OF AMERICAN INDIANS

Ms. JOHNSON. Thank you very much for allowing the National Congress of American Indians to testify here today. The National Congress of American Indians is the largest and oldest national Native American organization advocating for the rights of tribes and tribal governments to achieve self-determination, here in Washington, D.C.

I personally am an Alaska Native, Tlingit from Alaska, and former president of the National American Indian Housing Council and Deputy Assistant Secretary for HUD for the Native American Programs during the implementation of NAHASDA, so it gives me extreme pleasure to sit amongst my peer group here today and to thank them for the fine work that they have done, and to thank you at the committee for the fine work that you have done, in moving forward this reauthorization of NAHASDA, which I think revolutionized the way that Native American housing funds are provided to Indian communities and to be able to provide the flexibility that tribes need to design and to develop and manage housing programs to meet their own unique needs.

There were several things that were important when we developed NAHASDA initially.

One was to be able to have the flexibility which the program has, but also to be able to maximize the limited Federal dollars and to leverage them, and I appreciate and support some of the recommendations that are put into the draft legislation to be able to help continue to move that forward, particularly the enhancements to allow for the low-income tax credit program, being able to allow for those revenues received to be able to be reused by the tribes and the TDHEs, and to create further incentives for tribes to utilize those leveraging programs.

I also appreciate the recognition to be able to have access to the General Services Administration program to procure property and services, as many tribes do, and I applaud the effort.

I do have a recommendation, however, that I would like us to take a look at that language.

The way it currently is drafted, it could be interpreted to be a mandatory program rather than a program at the tribal discretion, and I think by using language that is used in the Indian Self-Determination and Education Assistance Act, that language would help give the flexibility that tribes need to decide when they choose to utilize that program.

And of course, I support all the preferences for employment and contracting.

Given the record of what you've heard already today about the high unemployment, and many of the income levels within our communities, anything that we can do to help deal with getting our own members to work, giving them jobs, is very important and consistent with the vision of tribes.

I also believe very strongly in the changes and the technical corrections that are very necessary to the definition of essential families, as well as the eligibility of law enforcement officers for residency in our communities.

Many of you know that we're faced with all kinds of issues. Currently, a great meth epidemic in Indian Country is one of those, and we really do need to have cooperative agreements and relationships with the law enforcement officers to be able to address this.

And I know many of the housing authorities and housing communities have been very proactive in education about anti-meth efforts and eradication.

I do want to talk about the reserve funds, and I know, Madam Chairwoman, you brought that up earlier, the 20 percent cap on

the reserve funds, and I have a different perspective than Assistant Secretary, Orlando Cabrera, whom I deeply respect and truly thank for his efforts and his work and his willingness to come out to Indian Country, and to be educated.

But I think that the 20 percent reserve cap is—the reserve funds were there for administrative purposes to be able to be like a business, to be able to have a reserve when you needed to be able to come against one, and to also be able to deal with the leveraging issues that Assistant Secretary Cabrera brought up.

But with the way that the funding for NAHASDA is allocated, it is based upon a formula, and some tribes get a very, very limited amount.

In fact, some tribes who get the base amount, the minimal amount is only $25,0000, and therefore, a 20 percent cap is very, very little, and those tribes need to save those monies up for multiple years, even if they were going to leverage the housing dollars.

And so if you look in my written testimony, I give an example of an Alaskan Native village, but whose housing cost is about $450,000, just to construct a home for one tribal member, and being capped at $5,000 a year takes many years before they will actually be able to leverage the dollars.

So I propose taking a look at or having some conversations with tribes and consultation with tribes, but perhaps coming up to a sliding scale on the cap so that the smaller tribes aren't penalized by a cap that may be an effective cap for the larger tribes.

I also wanted to commend the efforts in the legislation to deal with some of the administrative burdens that were unnecessary, such as the $5,000 exemption for procurement, as well as the release of the mandatory recertification process.

A number of those kinds of efforts in the legislation, I believe, will help to make the housing authorities have the flexibility and the tribes to have the flexibility to be able to address those things of their own accord and with their own policies.

But I do want to spend just a moment here of my time, before it is gone, to—

[The prepared statement of Ms. Johnson can be found on page 62 of the appendix.]

Chairwoman WATERS. Your time is up. I'm sorry. You passed your time.

We're going to move on to Mr. Chino.

STATEMENT OF MARK R. CHINO, PRESIDENT, MESCALERO APACHE TRIBE, AND CHAIRMAN, BOARD OF COMMISSIONERS, MESCALERO APACHE HOUSING AUTHORITY

Mr. CHINO. Good afternoon, Chairwoman Waters, Ranking Member Biggert.

My name is Mark R. Chino, and I am the president of the Mescalero Apache Tribe. I'm also the chairman of the Board of Commissioners of the Mescalero Apache Housing Authority.

Thank you for inviting me to testify about the reauthorization of NAHASDA and the housing needs of American Indian people. Few programs provide such a rich return on investment as does NAHASDA. Every dollar invested by Congress in Indian housing yields great benefits.

The system that Congress set up in 1996 has made a real difference in the lives of many Indian people, yet the program remains significantly underfunded. Adjusted for inflation, Congress is spending less on Indian housing needs than it did in 1996. The program needs more money.

Indian housing has come a long way in the last 50 years. When I was born on the Mescalero Apache Reservation, many of our tribal members were still living in wickiups and other traditional types of housing.

The long tenure of my late father, Wendell Chino, saw many modern houses built on the reservation, and a general improvement in the housing situation.

The housing needs of our people are still great, however. We have a waiting list of almost 400 families for homes. Many homes built for 3 or 4 people house 10 or more extended family members. Even with these great needs, Mescalero is still a "fortunate" tribe.

On the Navajo Nation, for example, tens of thousands of people do not have running water or electricity. In fact, statistics show that almost 14 percent of Indian housing nationwide does not have adequate plumbing. This is staggering. This is a situation that only can be remedied by the dedication of significant financial resources.

I'm not here today to speak about funding levels. I am here to urge you to reauthorize NAHASDA.

Apart from dedicating more financial resources to meet Indian housing needs, reauthorizing NAHASDA is the single most important thing that Congress can do for Indian housing this session. Time has shown that this legislation does work.

The discussion draft contains several amendments, many of which are positive.

I am very pleased to see the inclusion of not only a generalized Indian preference in contracting, but a more specific tribal preference as well. This will hopefully lead to economic development throughout Indian Country.

Several large, tribally owned contractors have benefitted from the Indian preference language of the 1996 statute. Hopefully, this tribal preference will more directly benefit small, locally owned businesses.

The broadening of the "essential families" exception is also a positive change.

Being able to offer housing services to more non-low-income families who are needed on the reservation should help attract more talented people to Indian Country.

Lack of housing options really does deter people like doctors and teachers from coming to Indian Country, and this amendment should make it easier to attract these types of people.

In the same vein, allowing all law enforcement officers to be considered "eligible families" will hopefully make it easier to recruit much-needed police officers.

Procurement should also be made easier through the "de minimis" exemption.

Under the proposed legislation, procurement of items worth less than $5,000 will not require the often time-consuming task of competitive bidding. This will free administrative talents to accomplish more worthwhile things.

There are several things that are not included in the draft, which I believe are important.

NAHASDA needs to be amended to allow tribes to better utilize NAHASDA dollars for community infrastructure. Houses can't exist in isolation from roads, sewers, utilities, and other types of community support structures.

As a retired BIA law enforcement officer, I can tell you that a community needs an adequate public safety program or public safety system to thrive.

NAHASDA should focus more broadly on the community and not confine itself to bricks and mortar for houses.

Thank you again for inviting me to testify today. Reauthorization of NAHASDA is the first step toward ensuring the Federal Government fulfills its responsibility to the housing needs of Indian people.

[The prepared statement of Mr. Chino can be found on page 50 of the appendix.]

Chairwoman WATERS. Thank you very much.

I'll recognize myself for 5 minutes, for questioning.

I understand there is some controversy over the formula that HUD uses to distribute NAHASDA funds. The bill does not address this distribution issue.

It appears that HUD is not going to propose an amendment that would change the current approach. I would like to ask any of you who would like to take this question on to explain the controversy and whether there is a consensus solution among the tribes about how to address it.

Is this an appropriate time to talk about that?

Ms. Johnson, you didn't finish talking, so help us with this.

Ms. JOHNSON. You're right. There is an issue of lack of consensus around the data that's used for the formula distribution.

When we first developed NAHASDA, and had the first formula meetings, we determined the principles behind what was the need components before we ran the numbers, and so we all—we were able to receive consensus in Indian Country of the need components that would be identified for the distribution of the monies amongst tribes.

It becomes more challenging now, because everybody knows exactly what certain data sets mean.

I think the challenge for Indian Country really is that we don't have a way of truly assessing need, and one of the things that I think would be good for the committee to encourage is HUD and the tribes to sit down in consultation to determine a way, on a regular basis, to be able to update information and data about need and develop some methodologies that we can consistently not only help us for advocating our program, but help us in the appropriations process.

I know that there are some proposals out there to talk about how we can come together on that, as far as ideas of tribes developing their own data sets around certain areas, but I do believe that this is an issue that needs further consultation with tribes and HUD, and I believe the tribes are willing to put forward options to consider.

Chairwoman WATERS. Thank you.

Would anyone else like to address that? Do you have any other ideas or proposals about how to deal with this little controversy around the formula?

If not, I'll just move right on.

A number of you have objected to a requirement that funds provided under the self-determined housing activities for the tribal community program are solely for housing activities rather than infrastructure. That was just mentioned in the last testimony, commercial or economic development.

Given the tremendous need for pure affordable housing on Indian lands, I wondered if somebody might explain to me why this limitation is unreasonable, especially in a program where the word housing is really the centerpiece of the statute.

Now, I'm asking that even though I just heard the testimony that was given that explained the need for community and infrastructure.

Would anyone like to expand some more on that?

Mr. CHINO. Certainly, Chairwoman Waters.

I think it's very, very important for any Indian community that wants to expand and improve its housing for its members to be able to use not only NAHASDA funds but any available source of funds to set up the infrastructure that's needed for any type of housing, be it manufactured housing or permanent homes.

Without that infrastructure, without sewers, without electricity, it does no good to set either a mobile home or a permanent home on a particular site.

If you can't provide sewer, electricity, and water to that home, then all you have is a structure sitting there and a family occupying it with no way to wash their clothes, and with no way to power their telephones, televisions, or radios.

There has to be infrastructure in order to make housing successful, and so the tribes would need some flexibility to use funds to establish infrastructure, because as I said, it does no good to set a house down without those utilities in place.

Chairwoman WATERS. That makes a lot of sense.

All right. I will recognize Mr. Pearce for 5 minutes for questioning.

Mr. PEARCE. Thank you, Madam Chairwoman.

Just on followup, would any of you like to comment about that infrastructure question, the flexibility to spend money on infrastructure? Is it a problem for anyone else?

Ms. PARISH. Sir, that's a problem that we face in Indian housing across the board.

Unfortunately, we have a limited amount of money. Indian health has a limited amount of money. We're not allowed to commingle our funds. The tribes should be able to decide basically where they get the limited funds and where they want to put them. That should be a tribal decision.

But it all boils down to lack of funding. We need water, we need sewer, all the way through the reservations, and I would—Congressman Kildee has seen, you know, the conditions in Michigan, and he can speak to those areas. Alaska is so much worse. And you know your areas, and the astronomic cost.

But it also goes into not being able to put it in community buildings or anything like that. That also is a local, tribal decision.

If my tribal council says that they need a place where they can serve our low-income people, to teach them traditional ways to do the beading, to go and have the elders teach the history, that is part of creating a community. Not only do we build a house, but we are to build a community.

Mr. PEARCE. The underlying bill declares 15 percent of the $1 million for local flexibility, but then it appears to limit this infrastructure.

And would you give a strong recommendation that we include that flexibility or just is that a yes—

Ms. PARISH. All the way across the board.

Mr. PEARCE. Yes across the board?

Ms. YAZZIE. That would be correct.

For Navajo, being the largest Indian housing organization in the country, the 15 percent of $1 million certainly will assist, more so with smaller tribes, I guess, but you weren't here in the room, I realize, Congressman Pearce, when we talked about the Title VI provision, which we would be accommodating for Navajo, just given our size, with respect to expanding the eligibility activities that are afforded under Section 108 of the CDBG program, to address costly offsite infrastructure costs, especially for Navajo, given its size and the remoteness.

Mr. PEARCE. Okay. Recently, our office wrote to the National American Indian Housing Council to send information about the success of NAHASDA in New Mexico.

The response I received was that—it included some relevant information, but basically said it should be noted that it is difficult to estimate any statistical degree of success, and continues on that the Department of Housing and Urban Development does not maintain aggregated data of the required Indian housing plans, the IHPs, or the annual performance reports, the APRs, to measure the relative success of NAHASDA funding.

Now, my interest is what kind of data is collected from the tribes and the designated entities? What kind of data do you turn in, that is not tracked?

Do you not turn in any data?

Ms. PARISH. We turn in an extreme amount of data. As far as I know, HUD has no way to calculate and compute that data.

Jackie can answer that.

Ms. JOHNSON. The difficulty is, the data that's submitted is based upon the tribe's plan, and the tribe's plan is based upon the tribe's goal.

So the tribe may have a low-income, traditional low-income housing, they may have a low-income home ownership program, but they may have a whole bunch of other programs that are in between that.

And so all this information comes in based upon how did they achieve their goals in the programs they determined, but it's hard to aggregate that, given the diversity of the types of programs that tribes are taking on.

That's why I suggested that data is sorely needed, and it's very, very difficult for us to continue to advocate without the data, and

that we do need to come up with some methods of measuring success in Indian Country but also being able to measure the unmet need.

Mr. PEARCE. Would a straightforward electronic submission and then the compilation be okay?

Ms. JOHNSON. Yes, but I think Indian Country needs to work with the Department to determine what are those measures, so that we don't get into jeopardy with any, you know, GIPRA or other kinds of goals or measures of success.

But that's exactly what we're looking for, something that's a regular, that we just electronically do, that's not an additional administrative burden, but that helps us all achieve our goals.

Mr. PEARCE. Is it possible—

Chairwoman WATERS. Sum up your questions at this time.

Mr. PEARCE. I'll yield back.

Chairwoman WATERS. All right.

Mr. Cleaver, you are recognized for 5 minutes.

Mr. CLEAVER. Thank you, Madam Chairwoman.

Ms. Parish?

Ms. PARISH. Yes, sir.

Mr. CLEAVER. Hi.

Ms. PARISH. Hi.

Mr. CLEAVER. In your statement, on Page 4, you say, "We are concerned that there is to be a prohibition on the use of any funds proposed for the self-determined housing activities to be used for infrastructure."

Ms. PARISH. Yes, sir.

Mr. CLEAVER. Are those funds presently used for—are self-determined housing activities presently used for infrastructure?

Ms. PARISH. We don't have the model program in place, so I guess the answer to that would be no, because it does not exist.

Ms. JOHNSON. The current program allows for infrastructure. The new proposed program has a limitation on that, 15 percent—

Mr. CLEAVER. Yes.

Ms. JOHNSON.—of infrastructure.

Ms. PARISH. Right.

Mr. CLEAVER. Okay. And you are interested in that program, those dollars being used for infrastructure?

Ms. PARISH. Yes.

Mr. CLEAVER. And that has been conveyed to HUD?

Ms. PARISH. Yes.

Mr. CLEAVER. Do you have any idea why the prohibition was added to at least the draft legislation?

I know this is a question probably for HUD, but I'm just curious as to whether or not there's a commonly known reason that there was some prohibition.

Ms. JOHNSON. I think that there was an effort by folks to strike a balance between putting forward a program that has total flexibility so that the tribes and the TDHEs no longer have to go for HUD approval every time.

In the existing legislation, there's an allowance for model activities, but you have to get HUD's approval all the time, and that's a long, arduous process.

Mr. CLEAVER. Yes.

Ms. JOHNSON. And some people have been successful.

This program says, without HUD's approval, you can move forward with these related activities, and there is an effort to strike a balance between what would be just totally okay to do without making sure that somebody doesn't kind of get into trouble.

And so we still think there needs to be more work on the language on eligible activities. You're talking about infrastructure. Comprehensive planning is also an important component that's not eligible under that particular language.

And I think that if we're trying to really build communities, we need to think about those things that are not totally bricks and mortar as proposed.

Mr. CLEAVER. I agree.

Ms. Yazzie.

Ms. YAZZIE. Yes.

Mr. CLEAVER. I asked the Secretary a question concerning the greening of public housing.

In looking at the houses that were put before us, and I'm sure there are probably some more contemporary housing there, but my concern, and I hope that a concern will grow with the housing authority, that great effort and time be taken to make sure that, to the highest degree possible, that carbon neutral housing be developed.

And the reason for that is that is where the country is going, and so the housing authority would fall further behind if we expend dollars in this fiscal year to build housing that the rest of the country, and indeed most of Europe, is trying to get away from.

So that's more of a comment than a question. I'm hoping that you agree.

Ms. YAZZIE. I totally agree.

In fact, that's one of the initiatives that the Navajo Housing Authority is pursuing and supporting.

We obviously, we currently have a green product, actually, a Flexcrete plant, in which we have, it's a cement base, ply-ash mix building block that we're offering, and it has lots of energy conservation values.

Obviously, our clientele is low income families, and so we're looking at all avenues to reduce utility consumption costs for our families.

And so that is an initiative that we are actively pursuing, and engaging with universities in the State of Arizona, and to the extent that we can lend that to the State of New Mexico, as well as the University of Utah, because we are in a tri-state service area, that we are partnering with those institutions to research and development in the areas of energy conservation.

So we have three homes actually, three prototype homes that have utilized our product, that have been analyzed over a year's time, and which have showed some significant cost savings in terms of energy usage.

So we welcome the Congress and the committee members to come out and see some of the prototypes that have been built thus far in each of the three States that we serve.

Mr. CLEAVER. Thank you.

Chairwoman WATERS. The time has expired.

Thank you very much.

Mr. Kildee.

Mr. KILDEE. Thank you, Madam Chairwoman.

Ms. Parish, first of all, give my greetings to Chief Jeff Parker.

Ms. PARISH. I will.

Mr. KILDEE. And I think the last time I visited Bay Mills, I remember I met one of your elders, Mr. LeBlanc, who has passed on since then, and he gave me great wisdom; and I met a very young person, who went on later to go to Michigan State University and interned for me, Brian Newland. And if you would tell him I said hello, I'd appreciate that very much.

Ms. PARISH. I will. I will be seeing him this weekend, hopefully.

Mr. KILDEE. Let me ask you this, Cheryl.

Would you explain how we can build upon the self-determination component of NAHASDA, which is a very important part?

Ms. PARISH. I believe basically that the tribes and the TDHEs need to work within the established laws. The tribes have to be able to design and determine what is best for their membership, so long as we follow the structures set forth in the legislation and the guidelines.

Along those lines, though, I do believe that HUD has to have a little bit more consistency among its regions.

I might ask to develop a project, being in upper Michigan, and they might allow it. Jackie might ask to do the same thing within Region 9 in Alaska, and that particular administration or that ONAP office might deny it.

I think they need to set forth a standard answer that is good across the country.

We also need—they play a very important role in the better management of tribal housing programs, and they need to provide leadership in raising capacity building within our Indian housing authorities, rather than focussing on being disciplinarians.

Capacity building and teaching mechanisms such as those outlined in your education seminar section of the proposed legislation related to the loan guarantee programs will only serve to complement self-determination.

Mr. KILDEE. Thank you very much.

And Ms. Johnson, you mentioned that you had some concern about the GSA provision where you could purchase through GSA.

Our intention, of course, is to make GSA more accessible to you, not mandate that, but I think the language is good there, but we'll take a look at that.

Ms. JOHNSON. Great.

Mr. KILDEE. I appreciate your testimony.

Ms. JOHNSON. Thank you.

Mr. KILDEE. Thank you.

I yield back the balance of my time, Madam Chairwoman.

Chairwoman WATERS. Thank you very much.

Mr. Boren.

Mr. BOREN. Thank you, Madam Chairwoman.

I have one question. I have a comment, too, for Mr. Chino.

I want to say, Mr. Pearce is gone now, we're in the middle of a markup in resources, and he and I are both vice chairs of the Congressional Sportsmen's Caucus, and I know particularly you all are

very active in promoting elk populations as well as black bear, and I want to thank you for those efforts, as a sportsman.

A question I have for Cheryl and Jackie, here's the question.

Although each tribe is unique in their housing needs, a constant theme throughout the testimony today is the need for increased funding in various programs through NAHASDA.

Unmet housing needs and long waiting lists for housing are two tangible ways to recognize this need.

The National American Indian Housing Council supports the use of grant amounts over extended periods allowing tribes or TDHEs to carry unexpended funds from one fiscal year to a subsequent fiscal year.

Given the testimony documenting the unmet housing needs, what would necessitate the need to carry over funds?

Ms. PARISH. In my area, we have a very short building season.

In a lot of cases of our smaller housing authorities, our grant amounts aren't enough to build anything in a given year. We have to save our money. And that would be one of the prime reasons.

A lack of money, and able to—you mentioned your Title VI. Well, your smaller housing authorities, they don't have the money—I don't dare leverage the small amount of money that I get with Title VI. I'd have nothing really left to operate on.

So, you know, the smaller ones are the ones that also need the reserve accounts for that very purpose, because we don't have enough to build in one season or the building season is too short.

Mr. BOREN. Okay.

Ms. JOHNSON. I agree with what Cheryl has to say.

I think that one of the reasons is that, first of all, it's a good tracking device, anyway, for us to be able to see what is there from prior years and to be able to use that and carry it forward.

But lots of times, there are unexpected issues, whether it has taken a while to be able to deal with the title issue through the Bureau of Indian Affairs, or other kinds of things that don't allow for that to move forward.

I, on the other hand, am also concerned, probably just like you are, that we make sure that we get the money out and we use it, because unexpended funds makes it more difficult for us to get forward.

And I think all of us feel that same tension, so we recognize the importance of that, once again, striking a balance of having the flexibility to be able to develop and to be able to, by having economies of scale around a housing development, deal with the efficiencies that are necessary to put forward more units and still being able to deal with getting those funds out and expended so we can show Congress that we are a good Federal investment.

Mr. BOREN. That makes sense.

Thank you all so much.

Chairwoman WATERS. Thank you very much.

And I'd like to thank our panel of witnesses for coming today and providing us with such valuable testimony that will help us to move this legislation forward, and hopefully to make some of the corrections that are recommended.

The Chair notes that some members may have additional questions for this panel, which they may wish to submit in writing.

Without objection, the hearing record will remain open for 30 days for members to submit written questions to these witnesses and to place their responses in the record.

This panel is now dismissed.

Before we adjourn, the written statements of the following organizations will be made part of the record of this hearing: The Association of Alaska Housing Authorities; the Housing Assistance Council; and Enterprise Community Partners.

This hearing is now adjourned. Thank you very much.

[Whereupon, at 4:22 p.m., the hearing was adjourned.]

A P P E N D I X

June 6, 2007

STATEMENT OF ORLANDO J. CABRERA

Assistant Secretary for Public & Indian Housing
U.S. Department of Housing and Urban Development

Hearing before the Committee on Financial Services
Subcommittee on Housing & Community Opportunity

United States House of Representatives

"Reauthorization of the Native American Housing Assistance and Self-Determination Act"

June 6, 2007

INTRODUCTION

Madam Chairwoman, Ranking Member Biggert, and Members of the Subcommittee: thank you for inviting me to provide comments on HUD's Indian housing, loan guarantee and community development programs.

My name is Orlando Cabrera and I am Assistant Secretary for the Office of Public and Indian Housing. PIH is responsible for the management, operation and oversight of HUD's Native American and Native Hawaiian programs. These programs are available to 562 federally-recognized Indian tribes, 5 state-recognized Indian tribes formerly eligible under the United States Housing Act of 1937, and the State of Hawaii's Department of Hawaiian Home Lands. We serve these entities directly, or through their tribally designated housing entities (TDHE), by providing grants and loan guarantees designed to support affordable housing and community development activities. Our partners are diverse; they are located on Indian reservations, in Alaska Native Villages, and on the Hawaiian Home Lands.

In addition to those duties, PIH's jurisdiction encompasses the public housing program, which aids over 3,000 public housing agencies that provide housing and housing-related assistance to low-income families.

It is a pleasure to appear before you again, and I would like to express my appreciation for your continuing efforts to improve the housing conditions of American Indian, Alaska Native and Native Hawaiian peoples. From HUD's perspective, much progress is being made. Tribes are taking advantage of new opportunities to improve the housing conditions of the Native American families residing on reservations, on trust or restricted lands and in Alaska Native Villages.

This momentum needs to be sustained as we continue to work together toward creating a better living environment in Native American communities.

OVERVIEW OF NATIVE AMERICAN PROGRAM

At the outset, let me reaffirm the Department of Housing and Urban Development's support for the principle of government-to-government relations with federally-recognized Native American tribes. HUD is committed to honoring this core belief in our work with American Indians and Alaska Natives.

Increasing minority homeownership is one of the President's primary goals. HUD's Native American housing and loan guarantee programs are the lynchpins for accomplishing this within Indian Country.

For example, our latest figures show that during FY 2006, tribes and their TDHEs used Indian Housing Block Grant (IHBG) funds to build, acquire, or substantially rehabilitate more than 1,600 rental units and more than 6,000 homeownership units. Each of these units became a home to a Native American family. There have been recent successes with our loan guarantee programs too; and this will be discussed in more detail in a few moments.

The block grant and loan guarantee programs are important vehicles for achieving the Department's goal of reducing overcrowding in Native American communities by 10 percent over 10 years.

For several years now, we have updated you on the progress that tribes and TDHEs are making toward the obligation and expenditure of the funding appropriated for Native American programs. That progress continues. In an effort to ensure that grant funds are disbursed in a timely manner, HUD identifies those recipients with undisbursed grant funds more than 3 years old and works with them to reduce those balances. In 2005, program managers identified more than $285 million in such funds and were successful in reducing that amount by more than 50 percent. In 2006, $260 million in undisbursed, older-than-3-years grants were reduced almost 30 percent.

This represents substantial progress and indicates that tribes are increasing their capacity to comprehensively manage and grow their affordable housing programs. HUD's Office of Native American Programs (ONAP) has continued to develop more robust performance indicators to measure our progress and the progress of our grant recipients. At the same time, we are seeking to strengthen data collection capability to improve reporting and ensure that we can understand and communicate the rate of program fund obligations, expenditures, and production.

The Department is continuing to consult with tribal leaders and Native American housing officials on how we can improve and streamline data collection for the IHBG program and for the Indian Community Development Block Grant program.

REAUTHORIZATION OF THE NATIVE AMERICAN AND NATIVE HAWAIIAN HOUSING AND LOAN GUARANTEE PROGRAMS

The Department supports the reauthorization of all Native American and Native Hawaiian housing and loan guarantee programs. My office has developed a number of statutory amendments to NAHASDA that may be offered during the reauthorization process. We describe them briefly below.

Here is a brief overview of the statutes that authorized these programs.

The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (NAHASDA) created the IHBG and Title VI Tribal Housing Activities Loan Guarantee programs (Title VI). On December 27, 2000, the Omnibus Indian Advancement Act (Pub. L. 106-568) amended NAHASDA by adding a new title VIII, "Housing Assistance for Native Hawaiians." Title VIII authorized the Native Hawaiian Housing Block Grant program, which is similar to the IHBG program, but serves Native Hawaiian families eligible to reside on the Hawaiian Home Lands.

The Omnibus Indian Advancement Act also established the Section 184A Native Hawaiian Loan Guarantee program (12 U.S.C. 1715z-13b). This single-family home loan guarantee program for Native Hawaiians is similar to the Section 184 Indian Housing Loan Guarantee program authorized by the Housing and Community Development Act of 1992 (Pub. L 102-550, 12

U.S.C. 1715z-13a). Congress recently reauthorized the Section 184 program for an additional 5 years.

The "Authorization of Appropriations" for each of these programs has, or is about to, expire. At my request, the Deputy Assistant Secretary for Native American Programs consulted with headquarters and field office staff about statutory revisions to make these programs more user-friendly. During our regional and national housing summits, we also consulted with tribal and Indian housing leaders about ways to streamline the Indian Housing Plans (IHP) and Annual Performance Reports (APR) they submit. As an offshoot of that process, we established a work group to revise and streamline the IHP and APR formats and requirements. Some of the amendments under consideration are the results of decisions made by that work group and my staff.

We also met a number of times with House and Senate Committee staff to discuss reauthorization, and attended joint meetings with Committee staff members and representatives from the National American Indian Housing Council (NAIHC) on this subject.

This is a brief overview of the amendments HUD is considering.

1. **Allowing for Over-income and Essential Indian Families**: Right now, a tribe or TDHE can declare that certain over-income families are essential to the tribal community. Those families can then participate in NAHASDA's homeownership activities, loan guarantee activities under Title VI, and model activities. They cannot occupy rental housing, receive tenant-based rental assistance or receive other forms of affordable housing services. An amendment to section 201(b)(2) of NAHASDA would permit the tribe or TDHE to allow these over-income families to do so. Another amendment to section 201(b)(3) of NAHASDA would permit essential Indian families to be housed regardless of income. Current law only permits essential non-Indian families to be housed regardless of income.

2. **Affordability Period:** An amendment to section 205 would delete the requirement for an affordability period, or "useful life" under binding commitments for all dwelling units assisted with Indian Housing Block Grant (IHBG) funds, including homeownership units, and make the provision applicable only in the case of rental and lease-purchase housing owned and operated by the tribe or TDHE. In a number of instances, the current restrictions have prevented the children or spouse of a deceased homebuyer from inheriting the deceased's interest in the property.

3. **Formula Current Assisted Stock (FCAS):** An amendment to section 302, the IHBG Allocation Formula, would change the way that housing units in management are counted for formula purposes. It would stop counting units for FCAS purposes in the year after they are conveyed, demolished or disposed of. This change would comport with the process established by the original negotiated rulemaking committee that crafted the IHBG regulations.

In addition, an amendment to Title IV of NAHASDA would clarify that issues related to repayment of IHBG FCAS allocations do not constitute, in and of themselves, substantial

noncompliance by a grantee. Substantial noncompliance by a grantee triggers a formal administrative hearing on the issue.

4. **Operation and Maintenance of NAHASDA Units:** An amendment to section 202(4) "Housing Services," would clarify that grantees may use IHBG funds for the maintenance and operation of units developed with IHBG funds. Currently, this is considered a model activity, and the amendment would reduce paperwork for grantees and HUD staff.

5. **Indian Housing Plan (IHP) Streamlining:** An amendment to section 102 would simplify and streamline the IHP submission requirements by deleting the 5-year plan requirement, streamlining the one-year plan to eliminate duplicative information, and establishing IHP due dates based on a grantee's program year.

6. **Annual Performance Report (APR) Streamlining:** An amendment to section 404 of NAHASDA would delete the requirement for a grantee to describe how it would change its programs as a result of its experiences. Most grantees do not think this information is necessary. Another amendment would conform the APR to reflect any IHP changes that are made.

7. **An amendment to the Section 184A program would allow refinancing and de-link it** to the annual Native Hawaiian Housing Plan (NHHP). The Section 184 Indian Housing Loan Guarantee program permits refinancing, and this amendment would conform the Native Hawaiian Section 184A program accordingly. The amendment to the NHHP removes the requirement to discuss loan guarantee activity, but the grantee remains free to mention this activity in the NHHP. These amendments would conform the Section 184A program to the Section 184 program.

These proposed amendments will streamline paperwork submission and approval requirements, and provide better program clarity and direction. They are aimed at reducing administrative burdens on grantees and HUD staff. The majority of these amendments are similar or identical to amendments being proposed by the National American Indian Housing Council and others. We also worked closely with the IHP/APR working group on the streamlining amendments. To put some context to these proposals, a brief description of our programs follows.

SYNOPSIS OF HUD NATIVE AMERICAN AND NATIVE HAWAIIAN PROGRAMS
INDIAN HOUSING BLOCK GRANT (IHBG) PROGRAM

The Native American Housing Assistance and Self-Determination Act of 1996, as amended, or NAHASDA, provides formula-based housing block grant assistance to Indian tribes or their tribally designated housing entities. To qualify for a grant, the tribe must submit both a one-year and a five-year Indian Housing Plan (IHP) to HUD for a compliance review. The IHP contains a mission statement, goals and objectives, and an activities plan by which the recipient will provide affordable housing during the grant period. At the end of each grant year, an Annual Performance Report must be submitted describing how the grantee met its stated objectives. The program began in FY 1998. Prior to NAHASDA, Indian housing authorities received funds under the authority of the United States Housing Act of 1937, as amended (1937 Act).

Funding Distribution: Need-based formula funding allocations under the Indian Housing Block Grant (IHBG) program are predicated on two factors; need, which is the extent of poverty and economic distress and the number of Indian families within the Indian areas of the tribe; and Formula Current Assisted Stock (FCAS), which is the number of dwelling units that are currently owned or operated by the grant recipient that were developed under an Annual Contributions Contract authorized by the 1937 Act. FCAS also includes Section 8 units that continue to be operated after contract expiration in a manner similar to the Section 8 program.

Applicant Eligibility: Eligible tribes include federally recognized Indian tribes and the five state-recognized Indian tribes formerly eligible under the 1937 Act.

Legal Authority: Titles I through V of the Native American Housing Assistance and Self-Determination Act of 1996, as amended (Public Law 104-330; 110 Stat. 40; 25 U.S.C. 4101 et seq.)

Regulations: 24 CFR part 1000

TITLE VI TRIBAL HOUSING ACTIVITIES LOAN GUARANTEE FUND
(Federal Guarantees for Financing for Tribal Housing Activities)

This program authorizes HUD, through the Office of Native American Programs, to guarantee obligations issued by tribes or their tribally designated housing entities (TDHE), to finance the eligible affordable housing activities enumerated in Section 202 of NAHASDA, and other housing-related community development activities consistent with the purposes of NAHASDA. No guarantee will be approved if the total outstanding obligations exceed five times the amount of the grant for the issuer, taking into consideration the amount needed to maintain and protect the viability of housing developed or operated pursuant to the 1937 Act.

The program requires issuers to pledge current and future IHBG appropriations toward the repayment of the guaranteed obligations. The full faith and credit of the United States is pledged to the payment of all guarantees.

HUD may not guarantee obligations exceeding $400 million for each of Fiscal Years 1997-2007, with a cumulative cap of $2 billion for the eleven-year period. Once 50 percent of the authority has been committed in any year, HUD may limit the amount of guarantees any one tribe may receive in any fiscal year to $50 million, or request an increase in the statutory dollar limitations. HUD may enter into commitments to guarantee loans for any fiscal year only to the extent that funds have been appropriated.

Funding Distribution: Eligible applicants apply for loans directly to lenders, and the Federal guarantee is issued after the loan is approved.

Applicant Eligibility: Grant recipients under the IHBG program authorized by NAHASDA.

Legal Authority: Title VI of Native American Housing Assistance and Self Determination Act of 1996 (Public Law 104-330; 25 U.S.C. 4101 et seq.).

Regulations: 24 CFR part 1000, subpart E.

SECTION 184 INDIAN HOUSING LOAN GUARANTEE FUND (Section 184)

Section 184 of the Housing and Community Development Act of 1992 established a loan guarantee program for Indian families, Indian tribes, Indian housing authorities (IHA), and tribally designated housing entities (TDHE). The purpose of the program is to provide access to private mortgage financing for Indian families, TDHEs/IHAs, and Indian tribes that could not otherwise acquire housing financing because of the unique legal status of Indian lands. The loans guaranteed under the program are used to construct, acquire, refinance, or rehabilitate single-family housing located on trust land or land located in an Indian or Alaska Native area. This guarantee authority is freestanding and has its own guarantee fund. HUD may enter into commitments to guarantee loans for any fiscal year only to the extent amounts have been provided in appropriations acts.

Funding Distribution: Eligible applicants apply for loans directly to lenders, and the federal guarantee is issued after the loan is approved.

Applicant Eligibility: Indian families, TDHEs/IHAs, and Indian tribes.

Legal Authority: Section 184 of the Housing and Community Development Act of 1992, as amended (Public Law 102-550; 106 Stat. 3739; 12 U.S.C. 1715z-13a)

Regulations: 24 CFR part 1005

INDIAN COMMUNITY DEVELOPMENT BLOCK GRANT (ICDBG) PROGRAM

The ICDBG program provides federal aid for Indian tribes and Alaska Native Villages to develop viable Native American communities. Competitive grants are awarded to eligible Indian tribes and Alaska Native Villages to improve the housing stock, provide community facilities, make infrastructure improvements, fund micro-enterprises, and expand job opportunities. Eligible activities include housing rehabilitation, acquisition of land for housing, and assistance for homeownership opportunities for low- and moderate-income persons, construction of single- or multi-use facilities, streets and public facilities, and economic development projects--especially those sponsored by nonprofit tribal organizations or local development corporations. Funds may not be used for constructing or improving government facilities, for new housing construction (unless carried out by an eligible nonprofit organization), for general government or income expenses, for operating or maintenance expenses, for political activities, or to purchase equipment.

Funding Distribution: Under Section 106 of the Housing and Community Development Act of 1974, one percent of the Title I Community Development Block Grant appropriation, excluding amounts appropriated for use under Section 107, is allocated for grants to Indian tribes. Area Offices of Native American Programs distribute the funds to eligible Indian tribes and Alaska

Native Villages on a competitive basis, according to selection criteria set forth in a regulation and an annual Notice of Funding Availability.

Applicant Eligibility: Federally recognized Indian tribes or tribal organizations applying on behalf of such a tribe.

Legal Authority: Title I of the Housing and Community Development Act of 1974, as amended (Public Law 93-383; 88 Stat. 633; 42 U.S.C. 5301 et seq.)

Regulations: 24 CFR part 1003

NATIVE HAWAIIAN HOUSING BLOCK GRANT PROGRAM (NHHBG)

This program is patterned after the Indian Housing Block Grant program, but contains changes to address the housing needs and circumstances of Native Hawaiians. The NHHBG program authorizes HUD to make grants to the State of Hawaii's Department of Hawaiian Home Lands (DHHL) to carry out affordable housing activities for Native Hawaiian families who are eligible to reside on the Hawaiian Home Lands. The DHHL must submit for HUD review a one-year and a five-year housing plan containing the goals, mission, and methodology by which DHHL will accomplish its objectives during the grant period. At the end of each grant year, an Annual Performance Report must be submitted describing how the grantee met its stated objectives.

The five categories of eligible activities for providing affordable housing (or related housing services) are:

- Development of additional affordable housing;
- Housing-related services for affordable housing;
- Management services for affordable housing;
- Safety, security, and law enforcement measures and activities appropriate to protect residents of affordable housing from crime; and
- Housing activities under model programs designed to carry out the purposes of the Act, if specifically approved by HUD as appropriate.

Funding Distribution: Although the NHHBG program makes reference to a formula distribution, at present there is only one eligible grantee, the DHHL.

Applicant Eligibility: Department of Hawaiian Home Lands.

Legal Authority: Title VIII of NAHASDA, as added by Section 513 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106-569); and Section 203 of the Omnibus Indian Advancement Act (Public Law 106-568; 42 U.S.C. 4221).

Regulations: 24 CFR part 1006

SECTION 184A NATIVE HAWAIIAN HOUSING LOAN GUARANTEE FUND (Section 184A)

This program is generally patterned after the Section 184 Indian Housing Loan Guarantee program but contains changes to address the housing needs and circumstances of Native Hawaiians. The purpose of the loan guarantee program is to provide access to sources of private mortgage financing to Native Hawaiian families who could not otherwise acquire housing financing because of the unique legal status of the Hawaiian Home Lands, or as a result of a lack of access to private financial markets. Eligible borrowers include Native Hawaiian families who are eligible to reside on Hawaiian Home Lands, the DHHL, the Office of Hawaiian Affairs, or private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians. Loans are to be used to construct, acquire, or rehabilitate eligible housing located on the Hawaiian Home Lands.

This guarantee authority is freestanding and has its own guarantee fund. HUD may enter into commitments to guarantee loans for any fiscal year only to the extent amounts have been provided in appropriations acts.

Funding Distribution: Eligible applicants apply for loans directly to lenders, and the federal guarantee is issued after the loan is approved.

Applicant Eligibility: Native Hawaiian families, the DHHL, the Office of Hawaiian Affairs, and private nonprofit organizations experienced in the planning and development of affordable housing for Native Hawaiians.

Legal Authority: Section 184A of the Housing and Community Development Act of 1992, as added by Section 514 of the American Homeownership and Economic Opportunity Act of 2000 (Public Law 106-569); and Section 204 of the Omnibus Indian Advancement Act (Public Law 106-568; 12 U.S.C. 1715z-13b).

Regulations: 24 CFR part 1007

HELPING TRIBAL COMMUNITIES SUCCEED IN AFFORDABLE HOUSING AND ECONOMIC DEVELOPMENT

We would like to share with you some perspectives on how to help tribal communities succeed. Tribes should look to federal resources such as NAHASDA's Indian Housing Block Grant and Title VI programs, but they also need to consider other opportunities such as State-administered federal low-income housing tax credits, and other federal and state programs that they may qualify for, but are not using now. They need to explore partnerships with the private sector, the most overlooked resource.

We have engaged in marketing and outreach activities designed to make tribes and TDHEs more familiar with our programs, particularly those with federal guarantees to lower the risks that have traditionally made the private sector shy away from partnering with tribes. We are also implementing a bond financing initiative that has worked well for public housing authorities to

see if it can do the same for tribes. We can also assist with advice on how to leverage private-sector capital to create more housing on reservations. As we move forward, we are cognizant of, and will work within the government-to-government relationship that exists between this Department and the federally recognized Indian tribes we serve.

For various reasons, housing development on reservations has been viewed by many as a "social program," and not as an engine for economic development. But as we know, one of the leading economic indicators for measuring the Nation's economy is housing. We need to advance our collaboration with tribes, other federal agencies, and the private sector to clearly establish housing development as a key component, a building block, in the creation of sustainable economies on Indian reservations. Over many years, we have concentrated on the development and management of HUD-assisted housing; now we need to develop the capacity to expand beyond that. Through the leveraging of federal financial resources with private capital, we can create greater opportunities for housing, new businesses and jobs ... all contributing to the creation of sustainable economies.

We have identified some key building blocks to establish the foundation for developing more sustainable economies. These are:

- creating institutions
- investing in human capital
- strengthening legal frameworks
- leveraging sources of capital
- fostering economic diversity

HUD's goal is to utilize PIH's Native American programs as catalysts for economic development, and to contribute to building sustainable economies within tribal communities. How do these programs contribute to sustainable economies? Homeownership programs create equity and promote asset building for Native American families. As a result, there is a greater level of commerce and expenditures within the community, and at Native American-owned businesses. Developing housing also greatly assists in creating permanent local jobs.

Not only do these programs provide an influx of funds into Indian communities, they can be used to attract other sources of capital. Today, there are more ways to leverage federal funds than ever before. We encourage tribes to look beyond ONAP programs and pursue opportunities such as low-income housing tax credits, other federal and state programs, and to seek partnerships with the private sector.

ONAP's success with the 184 Loan Guarantee program, expanding the use of Title VI, and the creation of a tax-exempt bond financing program will greatly assist in building sustainable economies and make this goal a reality.

The Key is Leveraging

ONAP has formed a leveraging workgroup consisting of staff from HUD's headquarters and regional offices. This group is exploring different ways in which ONAP's programs can be used

with outside financial resources. Members are also available for direct technical assistance to tribes to assist in the creation of financial strategies for housing development.

NAHASDA'S Indian Housing Block Grant program continues to be the largest single source of housing capital in Indian Country. The IHBG program, which came on-line at the beginning of FY 1998, has now distributed over $5.7 billion in funds to tribes for affordable housing development.

Imagine the impact on tribal communities if these funds were leveraged on a 5-to-1 or 3-to-1 basis. Relying on IHBG alone, without leveraging those dollars, misses a significant opportunity. One of the fundamental tools for achieving sustainable economies is the ability to access and leverage capital. HUD encourages tribes to look beyond their grant funding and to leverage IHBG funds with other sources of capital. Increased leveraging brings outside capital, the possibility of mixed-use development, and the overall expansion of economic development to Indian Country.

The use of low-income housing tax credits, in conjunction with IHBG funds, is another valuable leveraging tool. HUD is in the process of promulgating a regulation to clarify that project-based or tenant-based rental assistance provided with IHBG funds in a manner consistent with assistance provided under the Section 8 program so that the Secretary of the Treasury can make a determination that the building or project does not reduce the eligible basis for tax credit purposes.

Bond Financing

ONAP's newest initiative to provide yet another opportunity to access private capital is IHBG bond financing. This program will build on the successes of HUD's public housing bond financing program, the Capital Fund Financing Program. Bond financing will provide the tribes a means to leverage their Indian Housing Block Grant dollars to address their housing needs immediately. Under this program, tribes may leverage up to one-third of their annual IHBG for debt service on bond financing.

This program will assist tribes in meeting their housing needs in a shorter time frame by accessing more funds up front, rather than waiting to accumulate funds over time through IHBG alone. The benefits of bond financing include: the possibility of providing lower interest rates through tax-exempt financing, and the opportunity to finance larger transactions as compared to the Title VI program.

The ability of tribes to issue bonds to implement affordable housing activities promotes self-sufficiency and supports the development of sustainable tribal economies while addressing the basic needs of the community.

HUD and the Bureau of Indian Affairs

Title Status Reports

HUD continues to work with the Bureau of Indian Affairs (BIA), the Department of Agriculture, tribes and TDHEs, and mortgage industry representatives to improve the Title Status Report (TSR) process. On April 5, 2007, HUD participated in a national training session in Albuquerque, New Mexico for BIA Realty and Land Title Records Office personnel only. This BIA staff training focused on developing a clear understanding of mortgage transactions and opportunity costs associated with time delays. The interactive training session created a blueprint for the 17 regional training sessions that will begin in June at the Navajo Nation, and culminate with a November session held in Alaska. These training sessions, for tribes, federal agencies, lenders, and other finance partners, will focus on the implementation of a standardized TSR process that will make it possible for them to follow the same procedure regardless of where the trust land transaction occurs. The goal is to streamline the TSR process and increase access to private-sector capital on trust land.

Section 184 Accomplishments

Homeownership and the ability to build equity in one's home is an important component in the development of strong tribal communities. Creating homeownership opportunities continues to rank at the top of this Administration's priorities for the American people.

The program may be used by the individual, to acquire a mortgage, or by the tribe or its tribally designated housing entity, to build new homeownership units within a community.

In FY 2006, the Section 184 program guaranteed 1,139 single-family loans to Native American homebuyers, consisting of $172.3 million in loan guarantees completed, and another $18 million in loans approved. This represents a $190 million investment in Indian Country. To date, in this fiscal year, 780 loans for $130 million have been guaranteed. This is a 27 percent increase over the same period in FY 2006.

The Section 184 program will continue to play a vital role in the Department's homeownership efforts in the coming years. We encourage all tribes to work with us as we strive to increase the number of Native American families who will realize the dream of owning their own home.

Land Assignment Procedure

In a collaborative effort with tribes to enhance the housing market on reservations, the Office of Native American Programs and the BIA worked with the Mashantucket Pequot tribe to establish a tribal assignment procedure. Through the use of tribal land assignments, the tribe will be able to issue a land assignment to a tribal member that is not subject to the 50-year statutory limitation on encumbrances. This process will make it possible for tribal members to transfer and/or assign their property interest to their heirs under tribal law and allow the tribe to supervise its land use in a manner similar to that undertaken by other sovereign entities. The tribe must create a title plant and recordation process that meets title insurance industry standards, as well as develop assignment laws or ordinances before proceeding. A tribe must submit a copy of their land assignment law, including eviction or foreclosure ordinances, to HUD for approval before a Section 184 loan guarantee can be issued.

Title VI Accomplishments

Tribes and tribally designated housing entities with no significant audit findings can borrow up to five times their annual Indian Housing Block Grant Need allocation, and use their future IHBG funds as collateral to back up the loan. HUD will provide a 95 percent guarantee to a lender in the event of a default. Currently, the program is underutilized by the tribes. In response, ONAP is stepping-up its outreach efforts for the program, and has developed a new capacity-building strategy, based on the successes of marketing the Section 184 program.

ONAP has begun a new marketing and outreach program geared for tribal leaders. It will increase awareness of the benefits associated with leveraged financing and the Title VI program. The emphasis is on economic self-sufficiency through entrepreneurship.

Realizing that financing and development concepts are new to some tribes, ONAP will increase the technical assistance provided to tribes. ONAP staff is available to provide direct assistance to tribes, including financial planning and development strategies.

Since the Title VI program requires that a tribe or a tribal housing entity act, either wholly or in part, as a developer, ONAP is tailoring some of its training and workshops to build the necessary development capacity.

Native Hawaiian Programs Accomplishments

Native Hawaiian Housing Block Grant (NHHBG) Program

The Department of Hawaiian Home Lands (DHHL) has focused a significant amount of NHHBG resources on site and infrastructure improvements to support the development of new homeownership units. DHHL has also partnered with public entities, private nonprofit, and for-profit organizations to assist families in achieving and maintaining homeownership.

There are numerous affordable housing activities in process at more than 14 sites throughout the state of Hawaii. Here are a few examples. $4.4 million in FY 2003 NHHBG funds were used towards the $21 million infrastructure cost for 326 homes that will be built in the Kaupea project on the island of Oahu, resulting in 78 NAHASDA-assisted units. Kekaha Residential lots, a project of 49 single-family homes, will be constructed on the island of Kauai. $1.8 million of FY 2004 NHHBG funds were used towards the $3.75 million cost for infrastructure improvements, resulting in 22 NAHASDA-assisted units. Partnerships with Habitat for Humanity and other self-help providers are making it possible for low-income Native Hawaiian families to achieve homeownership through the self-help method of construction in various projects on the islands of Kauai, Oahu, Maui, Molokai, and Hawaii. Partnerships have also been secured to implement a home rehabilitation loan program, a self-help home repair training program, and to provide homeownership counseling and training.

Section 184A Native Hawaiian Housing Loan Guarantee Program

The DHHL, a State agency, is our primary program partner. Among its other activities, DHHL is responsible for the allocation of leasehold interests on the Hawaiian Home Lands. In August of 2005, the DHHL closed its first Section 184A transaction, a $1.7 million institutional loan that resulted in 11 single-family homes on the Hawaiian Home Lands made available for Native Hawaiian families. In May 2006, a Section 184A loan agreement was executed between HUD and DHHL to make the 184A guaranteed loan available to individual Native Hawaiian borrowers. HUD is working diligently to finalize processing guidelines that will facilitate full implementation of the 184A loan guarantee program. It is anticipated that as more housing units are developed on Hawaiian Home Lands, the Section 184A program will provide homebuyers an attractive alternative to the limited financing options available on Hawaiian Home Lands.

HUD Training and Technical Assistance

Training and technical assistance remains a critical component of all our Native American programs. The IHBG's training and technical assistance set-aside provided the initial training and technical assistance to most grantees, enabling them to function effectively under NAHASDA, and we continue to provide that assistance. Functional and programmatic training topics, such as "NAHASDA Essentials," "Financial Management," "Environmental Review," "Procurement," and many other training sessions are provided around the country on an on-going basis. Specialized training on such diverse topics as "Gang Violence," "Establishing Boys & Girls Clubs," and "Preventing Mold and Moisture," is also available. Training and outreach is conducted for the Section 184 and Title VI Loan Guarantee programs as well. The ICDBG program has a training course that has made an impact on the quality of applications received for this competitive program, and we are in the process of establishing training and technical assistance for the Native Hawaiian programs.

On-site technical assistance is made available to IHBG grantees at their request. Technical assistance through other means, such as a DVD providing instructions to housing staff and residents on mold prevention and remediation, is produced and distributed to tribes and housing entities, as well as to other interested parties. Workshops have also been developed to examine such specific topics as the possibilities of developing "green" housing that is both affordable and energy efficient. Finally, we are again preparing to hold regional and national Native American housing summits over the next two years.

Thank you again for the opportunity to provide this information.

U.S. House of Representatives

COMMITTEE ON FINANCIAL SERVICES

SUBCOMMITTEE ON HOUSING AND COMMUNITY DEVELOPMENT

Testimony of:

Mark R. Chino, President
Mescalero Apache Tribe

"Reauthorization of the Native American Housing Assistance and Self-Determination Act"

June 6, 2007

Good afternoon Chairwoman Waters and Ranking Member Biggert. My name is Mark R. Chino and I am the President of the Mescalero Apache Tribe. I am also the Chairman of the Board of Commissioners of the Mescalero Apache Housing Authority. Thank you for inviting me to testify about the reauthorization of NAHASDA and the housing needs of American Indian people.

Few programs provide such a rich return on investment as does NAHASDA. Every dollar invested by Congress in Indian housing yields great benefits. The system that Congress set up in 1996 has made a real difference in the lives of many Indian families. Yet, the program remains significantly underfunded. Adjusted for inflation, Congress is spending less on Indian housing needs than it did in 1996. The program needs more money.

Indian housing has come a long way in the last 50 years. When I was born on the Mescalero Apache Reservation, many tribal members were still living in wickiups and other traditional types of housing. The long tenure of my late father Wendell Chino saw many modern houses built on the Reservation and a general improvement in the housing situation.

The housing needs of our people are still great, however. We have a waiting list of almost 400 families for homes. Many homes built for three or four people house ten or more extended family members. Even with these great needs, Mescalero is still a "fortunate" Tribe.

On the Navajo Nation, for example, tens of thousands of people do not have running water or electricity. In fact, statistics show that almost 14% of Indian homes nationwide do not have adequate plumbing. This is staggering. This is a situation that only can be remedied by the dedication of significant financial resources.

I am not here today to speak about funding levels. I am here to urge you to reauthorize NAHASDA. Apart from dedicating more financial resources to meet Indian housing needs, reauthorizing NAHDSDA is the single most important thing that Congress can do for Indian housing this session. Time has shown that the legislation works.

The discussion draft contains several amendments, many of which are positive. I am very pleased to see the inclusion of not only a generalized Indian preference in contracting, but a more specific Tribal preference as well. This will hopefully lead to economic development throughout Indian country. Several large, tribally owned contractors have benefited from the Indian preference language of the 1996 statute. Hopefully, this Tribal preference will more directly benefit small, locally owned businesses.

The broadening of the "essential families exception" is also a positive change. Being able to offer housing services to more non-low income families who are needed on the Reservation should help attract more talented people to Indian country. Lack of housing options really does deter people like doctors and teachers from coming to Indian country, and this amendment should make it easier to attract these types of people. In the same vein, allowing all law enforcement officers to be considered "eligible families" will hopefully make it easier to recruit much needed police officers.

Procurement should also be made easier through the "de minimus" exemption. Under the proposed legislation, procurement of items worth less than $5,000.00 will not require the often time-consuming task of competitive bidding. This will free administrative talents to accomplish more worthwhile things.

There are several things which are not included in the draft which I believe are important. Among these is a fix for the dispute that is raging regarding which set of Census numbers should be used when calculating a tribe's funding. Others will testify in depth about the "Compromise Solution" that permits tribes to select the appropriate data set to use and allows HUD to challenge the tribe's selection if it feels that it is inappropriate. I would strongly urge Congress to adopt this Compromise Solution.

Additionally, NAHASDA needs to be amended to allow tribes to better utilize NAHASDA dollars for community infrastructure. Houses can't exist in isolation from roads, sewers, utilities and other types of community support structures. As a retired BIA law enforcement officer, I can tell you that a community needs an adequate public safety system to thrive. NAHASDA should focus more broadly on the community and not confine itself to bricks and mortar for houses.

Thank you again for inviting me to testify today. Reauthorization of NAHASDA is the first step toward insuring the federal government fulfills its responsibility to the housing needs of Indian people.

Testimony of Sami Jo Difuntorum

Executive Director

Karuk Tribe Housing Authority

House Financial Resources Committee

Subcommittee on Housing and Community Opportunity

Hearing on Reauthorization of NAHASDA

June 6, 2007

Testimony of Sami Jo Difuntorum
NAHASDA Reauthorization
June 6, 2007

Good afternoon, Chairwoman Waters and distinguished members of the Financial Services Subcommittee on Housing and Community Opportunity. My name is Sami Jo Difuntorum, and I am the Executive Director of the Karuk Tribe Housing Authority (KTHA) and have been at KTHA since 1994. I am honored to testify at today's hearing in support of the reauthorization of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) and in support of the proposed amendments to the bill to make it even stronger.

On behalf of the Karuk Tribe of California and the Karuk Tribe Housing Authority, I would like to thank the Chairwoman and the members of the Subcommittee for holding this hearing and establishing the reauthorization of the NAHASDA as a priority legislative item for the 110th Congress. In particular, we would like to thank the Chairwoman for her efforts to provide resources to meet the severe needs for housing assistance in Indian country and other rural areas. The housing needs for the Karuk Tribe, and across Indian country, are extreme. The NAHASDA has provided KTHA with tools to make notable progress in meeting the housing needs of our Tribe, but there is still a significant unmet need that is far too large. Reauthorization of the NAHASDA provides a necessary opportunity to strengthen the Act by increasing its flexibility and efficiency, but reauthorization is not enough: NAHASDA must also be funded in accordance with the dire housing needs in Indian country.

The Karuk Tribe is made up of several communities, which are located along the Klamath River in two extremely rural portions of Siskiyou and Humboldt Counties located in northwestern California. The Tribe has approximately 3600 enrolled tribal members and the Tribe's current reservation is approximately 600 acres, located on noncontiguous parcels within the three communities. The Karuk Tribe Housing Authority serves one of the most remote and poverty stricken areas of California. Many of our members live in remote, rural regions where economic opportunity and jobs are very limited and unemployment is as extraordinarily high as the per capita income is low. This region was estimated to be 85% timber-dependent, and its economy has not recovered from the closures of local mills, a condition borne out of the fact that, in 2006, 90% of the students enrolled in the local elementary school qualified for the free lunch program. The census data for the Tribe's Happy Camp community, which is where the Tribe's administrative offices and the KTHA office are located, indicate that the median income of $23,095 is less than half the median income for the state and the per capita income only $13,614. The census data indicate that the unemployment rate for the Tribe is 83%, and the BIA labor force data indicate that unemployment is at 89%. Not surprisingly, the KTHA waiting list for homes has over 350 families and individuals, many of whom have no other viable housing options.

The Karuk Tribe Housing Authority – Innovations and Unmet Needs

Since the passage of NAHASDA, the KTHA has developed a broad range of housing services, using the flexibility in the Act to meet the needs of our service population in the most efficient manner possible. We have developed several programs

to utilize the tools in NAHASDA intended to facilitate homeownership. For example, we have established a tribal direct loan program using about 15% of our Indian Housing Block Grant (IHBG), managed by our loan officer with over 25 years experience in the private market. With this program we are able to fund four to five low interest loans each year for eligible Indian participants seeking to purchase a home off reservation. We have also established a down payment assistance program to eligible Indian recipients with loans or mortgages to improve existing homes or purchase or construct their own new off reservation homes. Both of these programs are designed to assist low income members, but even with these benefits, only a small fraction of the families on our waiting list are financially capable of participating in these programs.

Additionally, the KTHA has implemented rental voucher programs to service the unique needs of college students and elders living off reservation. With these programs, we are able to provide rental assistance to between 28 and 36 students and 26 elders each year. While these programs help address real housing needs, they are also targeted and do not assist the majority of those families on the waiting list.

The vast majority of those on our waiting list (approximately 85 %) do not have the means to participate in homeownership programs, and they are not students or elders. They are families and individuals seeking on-reservation low income rental units. However, we have only 187 low income housing units located on tribal land, of which 40 are set aside to serve the needs of low income elders and rents for elders are capped at $125/month. Unfortunately, at the current level of NAHASDA funds available to the KTHA, we do not have the resources to build new low income rental units. The lack of resources is compounded by a lack of infrastructure, such as water, sewer, and, in some communities, electricity, and our remote location, which increases the cost for labor and materials. These environmental circumstances increase the cost of new construction significantly. Therefore, our new construction is limited to the replacement of one or two homes for families and individuals living in substandard housing, who are living in extreme poverty (i.e., an annual income below 30% of the poverty level).

The Assistant Secretary for Public and Indian Housing spoke recently at a conference of Indian housing professionals. He urged tribes and Indian housing authorities to leverage the IHBG funds available with other tools and innovations, and confirmed the Administration's position that the NAHASDA appropriations provide sufficient funds. With all due respect to Assistant Secretary Cabrera, the Karuk Tribe has used those tools and has leveraged funds. Even with those efforts, the funding is simply not sufficient to meet the dire needs our people face.

Unless our Indian Housing Block Grant is increased, a low income family at the end of our housing waiting list will have to wait decades for a home unless their circumstances worsen to the point where their application will be prioritized over others. In an economically depressed region where jobs and housing opportunities are limited, the family will be forced to live these many years in overcrowded conditions on the reservation or relocate to urban centers far away from their homeland, their families, their

culture, and their Tribe. Neither option is acceptable to the housing authority or the Tribe, and we believe that they are not acceptable to Congress.

Unmet Housing Needs in Indian Country

The circumstances facing the KTHA are not unusual in Indian Country. In 2003, the U.S. Commission on Civil Rights issued the report entitled "A Quiet Crisis in Indian Country," which included a stark assessment of the unmet housing needs in Indian Country. The statistics cited in the report illustrate the dire needs of Native Americans nationwide. We cite the following examples that reflect the issues we face at KTHA:

- Approximately 90,000 Indian families are homeless or under housed.
- 30 % of reservation households are overcrowded, which is six times the national rate.
- 18 % of reservation households are severely over crowded, which lead to a variety of other social ills such as domestic abuse, substance abuse, an increase in school dropout rates.
- Approximately 40 % of on-reservation housing is considered inadequate as compared to 6 % nationwide.
- A lack of community infrastructure (water and sewer systems, electricity, and telephone service).

The Civil Rights Commission also noted that unmet housing needs in Indian Country are compounded by a number of factors such as depressed reservation economies; extreme poverty; lack of infrastructure to support housing communities; geographic isolation; environmental conditions on reservations; poor access to credit; and a lack of funding. Additionally, tribes and Indian housing authorities also face a myriad of overlapping and often duplicative administrative requirements, that require tribes to coordinate federal, local, and sometimes state requirements with tribal requirements, which is both time and resource intensive.

In NAHASDA, Congress expressly recognized the acute housing needs in Indian Country and in Indian communities, and Congress recognized that the provision of affordable houses in safe and health environments is an essential element in the special role of the United States in helping tribes and their members to improve their housing conditions and socio-economic status. However, as the report of the Civil Rights Commission details, the purchasing power of the IHBG decreased during the years assessed (1998 to 2003). The report also contrasts the loss of IHBG purchasing power to the overall HUD budget, which increased during this period. The report notes that, when adjusted for inflation, the overall HUD discretionary budget increased by 39.6 %, while the funding for HUD's Native American programs decreased by 1.3 %. Since the report was issued the funding for IHBG has remained flat or decreased at the same time construction costs have spiked, further eroding the purchasing power of tribes and Indian housing authorities.

In 2000, HUD estimated that the NAHASDA funding at that time would only meet 5% of the need for Indian housing and that more than 230,000 housing units would still be needed. The Civil Rights Commission also cites an estimate by the Coalition for Indian Housing and Development that $1.1 billion would be needed to adequately fund NAHASDA. In testimony provided this year to the Senate Committee on Indian Affairs, the Native American Indian Housing Council (NAIHC) stated that the funding request for 2007 was only $627 million but that $748 million would be needed just to keep up with inflation. At these funding levels, even with additional flexibility and efficiencies, tribes and Indian housing authorities will not be able to even maintain the status quo, never mind addressing the unmet need. The 350 families on the KTHA waiting list are a symptom of this systematic underfunding.

Draft NAHASDA Reauthorization Bill

First, let me emphasize that reauthorization of NAHASDA is a priority. As Congress has recognized repeatedly, Indian programs work best when Indian tribes have the authority to plan, implement, and administer federal programs and are freed from federal micromanagement. NAHASDA was enacted in 1996 to begin to implement the longstanding federal policy of tribal self-determination in the housing arena, and it is critical to continue that process.

Despite the great progress that NAHASDA represents toward the goal of self-determination, amendments to NAHASDA are needed to increase flexibility and efficiency in ways that will enable tribes and Indian housing authorities to stretch our underfunded block grants. We need the flexibility to identify and target our local needs, and we need to be free of micromanagement and overlapping and duplicative oversight requirements. For example, HUD requires that we demonstrate compliance with the competitive bid requirements for every purchase, no matter how small (e.g cleaning supplies, pens, and office paper). The KTHA must fund one entire full time position (procurement clerk) to comply with this excessive application of competitive bid requirements for each of our three offices. This has a very real impact on our budget and diverts our limited funds from housing to unnecessary paperwork.

The most recent discussion draft of the NAHASDA reauthorization bill includes many amendments which we support as a means to provide greater flexibility and to promote tribal self-governance and self-sufficiency. We do not oppose any of the proposed amendments, and we highlight several of the amendments we believe will have the greatest positive effect. We also offer suggested amendments to a few of the current proposals, which we believe will increase their effectiveness. Finally, we note that the discussion draft does not address certain issues which are very important to tribes and Indian housing authorities. While the proposed amendments may appear, at first sight, to merely be a laundry list of particulars, when you step back and look at the big picture, these amendments are integrated pieces of the larger goal inherent in NAHASDA – furtherance of tribal self-determination in meeting the housing needs of its members. I will address several of the proposed amendments to illustrate this point.

Important Proposals Included in the Discussion Draft

1. Self-Determined Model Activities For the Low Income Housing Community Program (Subtitle B of Title II).

This is a new program set out in the discussion draft developed by House staff, and is a proposal that we support. The new Subtitle B is intended to give effect to the Act's recognition of self-governance, providing the degree of self-governance in line with that which many tribes (including the Karuk Tribe) have exercised under the Indian Self Determination and Education Assistance Act (ISDEAA) (which applies to health, social services, and other governmental programs). We believe that, if provided the appropriate flexibility, tribes will be able to do with the Subtitle B demonstration program what we have been able to do with the Self-Governance programs under ISDEAA. However, we are concerned that the program will be unnecessarily held back by two limitations. First, the types of activities that can be included in the demonstration program are overly restricted and the most recent discussion draft includes additional restrictions. In particular, the express authorization for community development activities, such as child care centers and community development buildings, has been stripped from the new draft. Additionally, the list of prohibited activities has been expanded to include infrastructure development, commercial and economic development, and operating costs. These new restrictions undermine the flexibility that is the trademark of this Subtitle. As noted above, the Civil Rights Commission has identified the lack of infrastructure as a primary obstacle for Indian Country housing. Tribes must be able to address the infrastructure needs associated with tribal housing if we are to have efficient and stable housing communities. Homes without a safe and adequate source of water or disposal are unusable. Whereas, with additionally flexibility, tribes may be able to partner with local governments, states, or private developers to provide much needed infrastructure to our low income housing units and the community facilities supporting those units. We respectfully urge the Committee to restore the flexibility initially included in the program. Second, we appreciate that the new draft increases the cap on the amount of funds that may be used from 10 % to 15 %. However, while we understand that the Subcommittee may not be prepared to allow tribes to shift all our funds into this program, we strongly urge that you increase the maximum amount to enable tribes to conduct meaningful projects and programs through this program.

2. Tribal Preference in Employment and Contracting (Section 101(k))

This provision will allow tribes to provide a tribal employment or contract preference adopted by a tribe which shall govern with respect to the administration of the IHBG grant. This amendment tracks the authority provided in the ISDEAA and is consistent with the status of Indian tribes as political entities. It provides tribes with a critical means of employing, training, and developing the skills of the people to be served by these programs, to hopefully lift them out of the poverty that renders them so reliant

on such programs. A program that is especially important to the Karuk Tribe, where unemployment rates exceed 80%. These preferences are based upon the political classification of employees and contractors and tribes should have an authority similar to that which tribes have under the Self-Determination and Self-Governance programs administered by the DOI and HHS.

3. Use of Grant Funds Over Extended Periods (Section 203(f)).

Currently under the NAHASDA tribes and Indian housing authorities must track their grant funds on a year-by-year basis, resulting in a substantial and unnecessary administrative burden. The proposed amendment permits tribes to meet their obligations under the NAHASDA in a more flexible manner, removing a significant burden from tribes as well as reducing the opportunity for HUD to micromanage.

4. De Minimis Procurement Exception (Section 203(g)).

This provision will exempt purchases of less than $5,000 from the competitive procurement requirements of the Act. Tribes and Indian housing authorities make many de minimis purchases and the application of competitive purchasing requirements to these purchases often costs as much or more that the purchase itself. This is a sensible and much needed amendment that will avoid unnecessary waste and better serve the goals of the competitive purchasing requirements.

5. Training and Technical Assistance Funding (Section 703).

The proposed bill reauthorizes the funding of a national organization representing Native American housing interests for providing training and technical assistance to Indian housing authorities through 2012. We strongly support retaining this longstanding provision of the Act. This provision provides Congressional appropriators with the authority to fund the efforts of the Native American Indian Housing Council to provide much needed training and technical assistance to tribes and Indian Housing Authorities across the country. It is in the interest of all that tribes and Indian housing authorities have the technical capacity to administer their housing programs in accordance with all applicable federal requirements effectively and efficiently. The NAIHC is the only affordable and targeted provider of such services and without its continued funding we may lose the ability to secure program appropriate training on issues such as maintenance, occupancy, and financial management. That funding has been cut-off for the current fiscal year, since it was inappropriately seen as an "earmark" rather than as a statutorily authorized appropriation. We urge that NAIHC's funding under the Act be restored.

5. HOME Investment Partnership Act

The proposed amendments to Section 509 remedy a problem that has faced a number of tribes since the enactment of the NAHASDA – the ability to provide homeownership assistance to tribal members under the HOME Investment Partnership

Act. Funds appropriated under that Act are administered by the states, and a number of states have denied tribal access to such funds since NAHASDA, even though states receive funding under the Act based on their entire population, including Indian people. The proposed amendment clarifies that tribes shall still have access to this critical tool for leveraging NAHASDA funding.

Important Self-Determination Proposals Not Included in the Discussion Draft

There is a number of important self-determination proposals that have been proposed by Indian country which are not included in the discussion draft. We hope that you will consider these as you finalize the draft into a bill. These proposals include:

-Allowing tribes to rely on tribal law and policy for the protection of disabled persons in tribal housing. Currently, every tribe is required by HUD to comply with HUD's one-size-fits-all regulations for disabled persons access pursuant to Section 504 of the Rehabilitation Act, even where there are tribal laws in place that address the same concerns in a more specific, local, and culturally appropriate manner. The proposal to amend Section 203 of NAHASDA would permit those tribes who have their own laws to apply such laws in lieu of the HUD regulations, in the same manner that tribes already have the authority to pre-empt application of HUD and Department of Labor prevailing wage rates when they have developed their own rates.

-Authorizing Tribal Designated Housing Entities, where delegated by their tribes, to exercise environmental review authority. NAHASDA already permits tribes to exercise environmental review authority over housing projects, but does not permit tribes to delegate such authority to the tribal agency or agencies that deal with these issues on a day-to-day basis, requiring an unnecessary layering of internal tribal bureaucracy. The proposed amendment to Section 105 would allow tribes to delegate such authority where they choose to do so. The proposal would also eliminate certain redundancies in paperwork currently required under HUD's interpretation of the environmental review requirements.

-Reducing HUD Micromanagement. Indian country has proposed a number of amendments to Title IV of the Act which would streamline the often burdensome, intrusive, and redundant oversight exercised by HUD over tribal programs. The proposed amendments are consistent with the framework set out in the Indian Self-Determination Act, particularly its "self-governance" provisions, which recognize and protect each tribe's ability to carry out such programs in a manner that the tribe determines best benefits its service population.

- Self-governance tribes should have the ability to rely on their tribe's procurement procedures. The NAIHC, as well as the tribes from California and Nevada, support a technical amendment to Section 202(a) of NAHASDA that would require HUD to treat the TDHEs of self-governance tribes as a self-governance tribal organization, thus permitting the TDHE to rely on the tribally adopted and certified procurement (and other administrative) procedures. Self-governance tribes have chartered agencies, such as

tribal public utilities and non-profit corporations, that carry out the programs administered by the DOI and HHS, and these chartered tribal entities have been treated as tribes for the purposes of the Indian Self-Determination Act. Notwithstanding this precedent to the contrary, HUD has interpreted "tribal organization" to exclude TDHEs. This inappropriately constricted interpretation has put the TDHEs of self-governance tribes in the untenable position of not being able to operate under their own tribe's procurement policies. It has lead, for example, to the bizarre situation faced by one of our neighbor tribes in California, where the TDHE is unable to do business with its own tribe's corporation that manufactures modular homes for use in Indian country.

Resolving Disputes over Use of Data Sources in the Allocation Formula

There is one final, but critically important issue. The NAHASDA required HUD to develop a funding formula in order to determine the appropriate distribution of the IHBG. The formula developed by HUD has two components, existing housing units and need. HUD regulations provide that the data sources for the need variables "shall be data available that is collected in a uniform manner that can be confirmed and verified for all American Indian and Alaskan Native households and persons living in an identified area. Initially, the data used are US Decennial Census data." *See* 24 CFR § 1000.330. The HUD regulation appears to respect the authority of each tribe to identify a data set that is most appropriate for the demographic circumstances of the tribe. However, HUD has more recently interpreted this regulation to require that tribes use one certain type of census data set, and unilaterally imposed the use of that data set on all tribes. Congress in the past has included a mandate in the appropriations bill requiring that HUD run the numbers using both data sets, and then allocated to each tribe the high number for that tribe. This mandate is referred to as the "hold harmless" provision.

Springboarding from that Congressional language, a number of tribes and tribal entities have proposed a Compromise Solution intended to put an end to the fight over what figures HUD should use. The Compromise Solution basically removes the decision from HUD and leaves it with the tribal governments. The Compromise Solution does not in any way propose to change the formula, nor does it mandate the use of a particular data set. The Compromise Solution respects each tribe's right to choose which data set to use when calculating its own allocation. The difference between the Compromise Solution and the current Congressional mandate is that NAHASDA would be officially amended to include language that clarifies, in the Act, that 1) the decision regarding the appropriate data set will be made by the tribe, and 2) that data sets other than those of the Census Bureau may be used, both of which are consistent with a plain reading of the regulations.

The result of the failure to consult with tribes on this critical issue has created a circumstance in which some tribes are winners and some are losers, a situation that has resulted in tremendous amount of controversy and tribes and Indian housing authorities have expended precious time and resources in trying to resolve this issue. Tribal leaders of the Karuk Tribe and many other tribes are now requesting that Congress help put this issue to rest. Rather than dictating which type of data set a tribe must use, we respectfully urge the Subcommittee to seriously consider the Compromise Solution.

NATIONAL CONGRESS OF AMERICAN INDIANS

HOUSE SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY OF HOUSE COMMITTEE ON FINANCIAL SERVICES
"REAUTHORIZATION OF NATIVE AMERICAN HOUSING ASSISTANCE SELF-DETERMINATION ACT OF 2007"
2129 RAYBURN HOUSE OFFICE BUILDING

June 6, 2007

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Good Afternoon. On behalf of the National Congress of American Indians (NCAI), I would like to thank Chairwoman Maxine Waters, and other distinguished members of the Subcommittee for this opportunity to provide testimony on an issue that is critical to the future of our tribal communities. NCAI is the oldest and largest national organization representing American Indian and Alaska Native tribal governments in the United States. We are steadfastly dedicated to protecting the rights of tribal governments and the achievement of self-determination and self-sufficiency. We look forward to working with this Subcommittee to ensure that the recommendations coming out of the Subcommittee's hearing process take into account the unique needs of Indian Country.

This critical reauthorization legislation addresses the majority of the Indian housing programs in Indian Country. NAHASDA revolutionized how Native American housing funds are provided by recognizing tribes' authority to make their own business decisions. Tribes have increased capacity to address the disturbing housing and infrastructure conditions in Indian Country through developing and managing their own programs and in many cases leveraging NAHASDA dollars with tribal dollars. NCAI has diligently worked with the National American Indian Housing Council, and tribal governments to find solutions for improving the housing infrastructure of Indian Country.

COMMENTS AND RECOMMENDATIONS ON DISCUSSION DRAFT:

NCAI would like to provide comments and recommendations on the third version of the discussion draft of the Native American Housing Assistance and Self-Determination Reauthorization Act of 2007:

SECTION 2: BLOCK GRANTS

Federal supply sources:
NCAI supports the tribes' eligibility to utilize the General Services Administration to procure property and services for Indian housing, as it could greatly assist tribes with lowering their costs for housing activities. However, NCAI is very concerned with the way this section is drafted. The way the current language is written, it could be interpreted as a mandatory requirement that all tribes use GSA. This proposed language would be counterproductive and contrary to the fundamental purpose of NAHASDA. Tribes should have flexibility in procurement so that they can get the lowest costs, and also address other variables such as geography, timing, and reliability. Depending on the location of the tribe, there may not be certified vendors within close proximity. As a result, the tribe would have to look elsewhere for a

certified vendor and would take away business from local companies who may be within the tribe's area. Again, we urge the Subcommittee to review this provision so it more closely tracks a similar provision in the Indian Self-Determination and Education Assistance Act, 25 U.S.C. 450j(k), "at the request of an Indian tribe the Secretary shall enter into an agreement."

Tribal Preference in Employment and Contracting:
NCAI supports the inclusion of this provision because it will comply with the tribes' own tribal preference laws regarding employment and will provide consistency in hiring practices. Such a policy is consistent with supporting tribal sovereignty and will help to address the staggering unemployment numbers in Indian country.

Indian Housing Plans:
This provision requires tribes to include a description of the amount of grant funding under Section 101 from prior fiscal years in their Indian housing plans. NCAI supports this provision because it will allow tribes to plan for use of unexpended funds from prior years and provide consistency for tribes to show how past funding is being obligated and expended. This is particularly important for small tribes who build up reserve funds over a period of several years in order to take advantage of the economies of scale in building larger housing projects.

Program Income-Exclusion from Program Income of Regular Developer's Fees for Low-Income Housing Tax Credit Projects:
NCAI supports the inclusion of this provision because it does not penalize tribes for income derived from low-income tax credit projects and gives the tribes flexibility to use the funds for other housing purposes. This helps provide incentives to tribes and tribally designated entities to leverage their NAHASDA funding.

Essential Families:
NCAI would like to reinforce support for broadening the "essential families" definition regarding affordable housing activities. The lack of housing availability for essential personnel such as public safety, educational instructors, and health care providers creates a problem for tribes to recruit and retain these necessary personnel to support tribal efforts to provide various services and protect their tribal community.

Eligibility of Local Law Enforcement Officers for Residency:
NCAI very much supports the expansion of the definition of local law enforcement officers in order to make all appropriate public safety officials eligible to receive housing assistance. This encourages public safety officers to live in tribal communities and tribal housing development. Having public safety officers living within a tribal community brings a sense of safety.

Reserve Funds:
NCAI has serious concerns about this provision. In particular, we are concerned that the 20 percent cap remains unchanged, that it includes a limitation under the Housing Act of 1937, and that it any income from the reserved accounts are to be considered program income. As previously stated in our earlier comments, the capped amount of

20 percent for grant amounts under Section 101 would make it even more difficult for smaller tribes to accumulate a significant reserve account.

For example, under the current language, the Chignik Lagoon Alaskan Native Village would be capped at $5,000 for reserve accounts. This would make it extremely difficult for tribe to accumulate the $446,002 needed to construct one home for a tribal member. This cap does not meet the needs of smaller tribes and increases disparities with larger tribes. NCAI recommends the Subcommittee look into using a scale method instead of placing a cap on the amount.

The limitation under the Housing Act of 1937 and counting income from reserves as program income both limit the ability of tribes to be flexible in designing programs for their communities. NCAI questions the intent of including this language within subsection (9) because it places more restrictions on the amount tribes can place in reserve accounts and is even more restrictive than current requirements. NCAI recommends striking Line 13 through 22 from the word "Amount" until the end of the sentence.

Fixed-Income Families:
NCAI supports the goal of eliminating the burdensome administrative requirement of conducting annual recertification for fixed income families such as the elderly and disabled persons.

Use of Grant Amounts Over Extended Periods:
NCAI supports this provision allowing flexibility for tribes to obligate and expend funds from prior fiscal years, as long as it is resourcefully obligates such funds for current housing activities.

De Minimis Exception for Procurement:
NCAI supports this new proposed language because it is burdensome and costly for tribes to have to send out bids and receive bids on every procurement purchase totaling under $5,000.

Availability of Records:
The ability of tribes and tribally-designated entities to have access to criminal records for potential employees with the tribe or tribally designated housing entity would ensure safety for tenants' and their families.

SECTION 3: SELF-DETERMINED MODEL ACTIVITIES FOR THE LOW-INCOME HOUSING COMMUNITY PROGRAM

NCAI is seriously concerned with the latest proposed language of the Self-Determined Model Activities for the Low-income Housing Community Program, within the NAHASDA reauthorization. The purposes section of this subtitle states that it is to establish self-determined housing activities for the tribal communities program and to provide Indian tribes with the flexibility to use their NAHASDA funds in manner that is self-determined for housing activities relating to construction, acquisition, or rehabilitation of housing that benefits the tribal community. NCAI questions whether

the prohibited activities under this section are so broad as to undermine its purpose and effectiveness for tribal communities. The uniqueness of various tribes and their geographic location mean many tribes do not have access to common and essential services such as laundry and shower facilities that the rest of general public have in their own homes. Under this current language tribes would not have the ability to develop and build such facilities, which would be considered a commercial and economic development activity.

NCAI recently participated with HUD and other federal agencies in a National Native American Economic Policy Summit. At this forum participants consistently identified a need for comprehensive planning as a critical component for improving the quality of life in tribal communities (please see attached White Paper for an additional discussion of the role of comprehensive community planning). Currently, planning as an activity comes under the twenty percent administrative cap making it difficult for tribes to engage in a long term comprehensive planning process.

As tribes expand, they are figuring out what works favorably for their community, and it is important that federal programs have the flexibility to allow tribes to provide for the infrastructure and planning needs of their tribal communities. Tribes and tribally designated housing entities need to have the discretion to determine what model activities can best be used for their communities, and including a prohibition of commercial and economic development activities goes against the purposes of this subsection.

Section 235 Review and Report:
Lastly, NCAI is concerned with the procedures for HUD's report to Congress regarding the outcome and achievements of this program. According to Section 235 (b) (2) (B), it states HUD shall provide recommendations of standards and procedures by which tribes can be barred from participating in the program. This raises the question of who will develop these standards and procedures. NCAI encourages meaningful tribal consultation pursuant to the U.S. Department of Housing and Urban Development Tribal Government-to-Government Consultation Policy to ensure standards and procedures are fair and in the best interests of tribes.

SECTION 4: EFFECT OF NAHASDA ON HOME INVESTMENT PARTNERSHIP ACT
NCAI supports this provision because it reinforces tribes and tribally designated entities eligibility for participation in the HOME Investment Partnership Act

SECTION 5: FEDERAL GUARANTEES FOR FINANCING FOR TRIBAL HOUSING ACTIVITIES
NCAI firmly supports the extension of authorization of appropriation for the aggregate fiscal year limitation and credit subsidies over the next four years.

SECTION 6: TRAINING AND TECHNICAL ASSISTANCE
NCAI strongly supports the extension of appropriation of fiscal years 2008 through 20012, regarding the Training and Technical Assistance of national organizations that provide critical training and technical support to tribes.

SECTION 7: HOUSING ASSISTANCE FOR NATIVE HAWAIIANS
NCAI strongly supports the extension of the Housing Assistance for the Native Hawaiians for fiscal years 2008 through 2012.

ADDITIONAL COMMENTS:
As the Subcommittee considers the reauthorization of NAHASDA, NCAI encourages the Subcommittee to consider adding to the NAHASDA reauthorization a data collection method that would allow HUD and the tribes to gather accurate needs assessment data on a tribe by tribe basis. This type of data would enable tribes and HUD to justify budget requests for federal appropriations.

CONCLUSION:

In order for tribal governments to meet the needs of their people, developing and improving housing and infrastructure is vital. The reauthorization of NAHASDA needs to give tribes the ability to improve the housing condition for their tribal communities.

Again, I would like to thank the Subcommittee for holding this hearing today. We all appreciate the value of self-determination and self-governance and we remain committed to the vision set-forth in NAHASDA.

TRACK 3: INFRASTRUCTURE FOR ECONOMIC DEVELOPMENT

PHYSICAL INFRASTRUCTURE AND ECONOMIC DEVELOPMENT

Authored by

Ted Jojola

Prepared for the

National Congress of American Indians Policy Research Center

May 2007

This paper was commissioned for the National Congress of American Indians Policy Research Center (Center) for the purpose of stimulating discussion at the National Native American Economic Summit (Summit) to be held in Phoenix, Arizona on May 15-17, 2007. The paper is not intended to be comprehensive, but to provide an introduction to relevant issues and policies and some preliminary thoughts about the appropriate role of federal and tribal policy-makers. The positions and opinions found within this paper are the views of the authors only and are not representative of the views of the Center or the Summit participants.

Physical Infrastructure and Economic Development

By Ted Jojola[1]

Introduction

Physical infrastructure and economic development are interwoven. Indeed, it is often a matter of contention as to whether it is the construction of new infrastructure that is a prelude to development or whether the pressures of underserved development are the prelude to infrastructure. The old adage, "build a road and they will come" often typifies the trailblazing nuance of economic development. Yet, for most Native communities, something as basic as road building or maintenance is more of a reactive decision that is leveraged against other basic domestic needs.

Physical infrastructure can serve two major development roles. The first is to reinforce and shape the socio-cultural and political milieu of the community. The second is the role it plays in competitively positioning the economy of its enterprises for capital gain.[2] Although mainstream America is driven by an economic market built on physical infrastructure, Native America has yet to regard such infrastructure as capital investment.[3]

Due to the scale, length of time and complexity of the work necessary to construct infrastructure projects, they require the infusion of enormous amounts of capital. In addition to the cost of construction, they also require continued investment and maintenance. Infrastructure projects are never "finished" per se. Rather, ongoing infrastructure projects are considered to be add-on segments of a "trunk" system. These expansive systems require interconnected branches to function in a comprehensive fashion.

Typically, public-works are grouped into three basic categories: (1) transportation (highways, roads, streets, bridges, and mass transit); (2) utilities (water, sewer and electricity); and, (3) housing and telecommunications (TV, radio, phone, computer networks and wireless technologies).

In the realm of transportation infrastructure alone, there are 55,724 miles in the Bureau of Indian Affairs (BIA) Indian Reservation Road system that currently exist within lands of the 562 Federally-recognized tribal governments. They are under the authority of numerous entities

[1] Ted Jojola is a Professor in the Community & Regional Planning Program at the University of New Mexico.
[2] *Overcoming Challenges and Seizing Opportunities in Indian Country*, Remarks by Governor Mark W. Olson, At the System's Sovereign Lending Conference: Banking Opportunities in Indian Country, Scottsdale, Arizona, Federal Reserve Board, November 18, 2002, http://www.federalreserve.gov/boarddocs/Speeches/2002/default.htm.
[3] *Commercial Lending in Indian Country: Potential Opportunities in an Emerging Market*, Insights: Community Developments, March 2006 Community Affairs Department, US Department of the Treasury, pg. 7.

including federal, tribal, state and local jurisdictions.[4] In 2003, it was estimated that there existed a $11.8 billion backlog of improvement needs for BIA and selected state and local tribal roads.[5] Whereas states spent an average of $4,000 to $5,000 per mile for road maintenance annually, the federal government spent only $500 per mile for roads in Indian Country.[6]

Similarly, the provision and placement of basic utilities for the adequate provision of drinking water, sanitation, and electricity are considered fundamental for the physical and mental health of communities as well as being a measure of the overall quality of life.[7] The disparities, however, in Indian Country are enormous. Tribal lands continue to be underserved by electricity services. 14.2 percent—nearly a sixth—of Indian households have no access to electricity.[8] For specific Native nations, that disparity is even more pronounced. The Navajo Tribal Utility Authority estimates that 18,000 homes throughout the Navajo Nation are without utility services.[9] The cost of expanding the gridline to these houses is about $27,000 per mile.[10] In the region of Alaska, of the 4,757 occupied housing units among the Yu'pik, 48% were reported to lack complete plumbing facilities.[11]

Telecommunications infrastructure is considered integral to work productivity, personal safety and personal advancement.[12] In particular, wireless technologies have been seen as integral to surmounting barriers such as geographic isolation and low population densities as well as bridging the need for training, technical assistance and education.[13] Compared with the rest of America, however, native communities lag behind. Whereas 95% of all White households had phones, regardless of where they lived, rural-dwelling American Indians/Eskimos/Aleuts

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[4] Senate Report 108-150 - *Amending The Transportation Equity Act For The 21st Century To Make Certain Amendments With Respect To Indian Tribes, To Provide For Training And Technical Assistance To Native Americans Who Are Interested In Commercial Vehicle Driving And For Other Purposes*, Calendar No. 284, 108TH CONGRESS, September 22, 2003.

[5] Ibid.

[6] *The State of Indian Nations Today: Mapping a Course for the Next Seven Generations*,

Presented by the National Congress of American Indians, Tex Hall, President, January 31, 2003.

[7] *The Human Right to Adequate Housing*, Office of the High Commissioner for Human Rights, Fact Sheet No. 21, http://www.unhchr.ch/html/menu6/2/fs21.htm

[8] Tex Hall, *The State of Indian Nations Today*, op. cit.

[9] Navajo Tribal Utility Authority website, http://www.ntua.com/.
Light-bringer Debby Tewa Provides Advice About Solar Power To People On Indian Reservations, News Release, December 13, 2005, Sandia Labs, http://www.sandia.gov/news-center/news-releases/2005/renew-energy-batt/tewa.html.

[11] *Physical Housing Characteristics of Housing Units With an American Indian and Alaska Native Householder for Selected American Indian and Alaska Native Tribes (One Tribe Reported)*, Characteristics of AIAN by Tribe & Language, US Dept. of the Census, Table 53, pg 763.

[12] *Lines In the Sand: A Four Corners Regional Perspective*, Greg Anesi, David Eppich, and Thomas Taylor. Economic Review (Kansas City), 2004, pg 101.

[13] *Challenges to Assessing and Improving Telecommunications for Native Americans on Tribal Lands*, GAO-06-189, (Washington, D.C., Jan. 11, 2006). Available through GAO's Web site (www.gao.gov).

only had a telephone penetration rate of 76.4%.[14] In Arizona, some residents on reservations had been quoted prices as high as $70,000 for the installation of simple local telephone service.[15] The Federal Communications Commission estimated that broadband penetration on Indian lands was less than 10%.[16]

Background: Role of Planning and Physical Infrastructure

The role of infrastructure in Indian Country has been critically understated. Perhaps no single aspect of community development requires that leadership balance the immediacy of action (short-term) with a precise plan of development (long term).

The basic premise behind planning is the orderly progression of development as well as the anticipation of future needs for a place. Usually, the two conditions that provoke governments to enable planning are: (1) the need to manage growth; and, (2) the need to regulate land-use in a manner that protects public health.

Few tribes grasp the significance of planning in Indian Country. Even fewer understand the role it plays in choosing appropriate infrastructure. Together, the coordination of land-use and infrastructure planning should forward the public goals of sustainability in a manner that balances the ecology, economic development and the value system of its community.

Indeed, the planning for sustainable development is even more critical for Native America. As articulated by the Karuk Nation of California, "Purely rational and technical approaches, unaugmented by a sense of the sacred or by the sensibilities specific to place, will necessarily become destructive and irrational over time …"[17]

Planning in Indian Country has largely taken place in response to sporadic governmental funding.[18] As such, tribal communities, at best, represent a quilted patchwork of projects that may or may not be culturally relevant for them.[19] The following brief historical overview represents planning approaches that have shaped tribal communities over the generations.

Context: Pre WWII

When planning was first introduced in the United States at the turn of the 20th Century, it was a consequence of rapid urban growth and industrialization. Substandard housing conditions,

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[14] *Falling through the Net: Defining the Digital Divide.* National Telecommunications & Information Administration,1999. http://www.ntia.doc.gov/ntiahome/fttn99/index.html

[15] *Arizona's Telecommunications Infrastructure*, A Report Prepared for the Arizona Department of Commerce, Jerry Conover, Ph.D., Bureau of Business and Economic Research Northern Arizona University, July 2002, pg. 6.

[16] *Testimony of the National Congress of American Indians before the Senate Committee on Indian Affairs*, Oversight Hearing on Economic Development, presented by President Joe Garcia May 10, 2006.

[17] *Environmental Management: American Indian Knowledge & The Problem of Sustainability*, Leaf Hillman & John F. Salter, Ph.D., in Forest, Trees & People: *Newsletter # 34, 1997, http://www.magickriver.net/karuk.htm.*

[18] Joe Garcia, *Testimony*, May 10, 2006, op.cit.

[19] *Housing in Four Case Studies*, National American Indian Housing Council, 2004, http://naihc.net/NAIHC/files/ccLibraryFiles/Filename/000000000537/2004_Economic_Dev_Report.pdf, pg.10.

unsanitary waterworks and overcrowding in cities created health emergencies. In addition, the unregulated placement of polluting industries within residential areas created hazardous situations for the public.[20]

The premise for organizing the cityscape into defined zones was simple—separate parcels with similar uses into the same contiguous area. This practice accomplished two things. First, it created a decidedly homogeneous radial ordering of land-usage (sometime called the concentric-zone model) and, secondly, it matched the infrastructure to the type of land-use activities being developed.[21]

The indigenous experience was both part of and not part of this urban history. When the U.S. population began its rapid rise from rural to urban habitations around the 1880s, tribes were being subjected to the confines of reservation life.[22] The most prevalent practice for the development of rural lands was the land apportionment concept called the "Section." Promulgated by the U.S. Congress with the passage of the Land Ordinance of 1785, it specified that open lands had to be surveyed before they could be distributed. Roads were generally placed along section lines.[23]

This survey system was applied in the General Allotment (Dawes) Act of 1887. Treaty lands were divided into 160 acre fee-simple properties, allocated to each adult male in the tribe and the surplus opened up for homesteading.[24] With the advent of federal initiatives in education (Indian boarding school era) and health (Public Health Service), basic facilities and infrastructure were introduced into tribal lands. In essence, the first Indian Agencies were designated as "section townships."

The local school and/or the local clinic became the nexus whereupon tribal villages or proto-towns emerged. In some cases, township-style master plans were created to facilitate the influx of housing needs for administrators, teachers and health practitioners. In other instances, the federal government made arrangements with religious groups like the Friends of the Indians

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[20] It is no surprise that two of the densest industrial cities, New York and Chicago, were the first to craft ordinances to regulate land-use. The milestone for the urban planning tradition of the US is considered to be the 1909 Plan of Chicago (Burnham Plan). See the Enclopedia of Chicago, www.encyclopedia.chicagohistory.org, 4/7/07.

[21] *The Nature of Cities*, Harris & Ullman, The Annuals of the American Academy of Political and Social Science, Nov. 1945.

[22] For the districts that had the most populous settlements that occurred in 1920 (51.4% were urban). *Growth of Urban Population in the United States*, Rosalind Tough, Journal of Land and Public Utility Economics, 1925, pg. 227.

[23] A good discussion of this system is found in a map entitled *Surveyors and Homesteaders*, 1880-1940, Jerry L. Williams, *New Mexico in Maps*, 2nd Edition, UNM Press, 1986, pg. 126.

[24] In one fell-swoop, the land base of Indian tribes declined from 139 million acres to 34.2 million acres.

to employ charity and churches as the center place of tribal communities. As parcels were subdivided even further, Euclidean zoning (the grid), became commonplace.[25]

Post WWII

The advent of World War II shifted the whole nature of planning in the US from voluntary to required compliance. It was first instituted under U.S. statutes in 1958 as 701 Comprehensive Planning and was seen as necessary for regulating the growth and development of urban communities. American cities experienced unprecedented growth. Demand for new housing and commerce outstripped the capacity of local towns. Infrastructure that radiated outward from urban cores necessitated the establishment of systems that were coordinated in a manner that linked metropolitan regions. Regional planning, coordinating growth across multiple jurisdictions and involving local governments came into vogue. Demographics became the powerbase for funding capital improvement projects.

Native communities were similarly caught up in the tide of mainstream planning reforms. In 1968, the statutes were amended to encompass tribal governments and were implemented under a newly formulated 601 Comprehensive Planning mandate.[26] Under this authority, the Secretary of Interior was designated to implement this for its wards and comprehensive planning became mandatory under services provided by the BIA.

The earliest examples of 601 tribal comprehensive planning were largely reminiscent of inventory approaches. These were designed to comply with objectives issued by the Office of Economic Opportunity (OEO).[27] Because the economic base of many tribes was basically limited to their natural resources, the application of the planning approach was mixed and uneven.[28] Most plans were not grounded in the immediacy of meeting community needs, but were driven by unrealistic assumptions of social behavior modeled after non-native approaches to economic development. During this period, new ventures were seeded in recreational tourism, adventure destination amenity businesses and other enterprises intended to capitalize on the cultural aspects of a given tribe. Another strategy was to partition desirable parcels for lease-hold residential arrangements among non-Native amenity seekers.[29]

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[25] Named after the township of Euclid, Ohio, a milestone Supreme Court decision upheld the authority of its government to impose a pattern of development that was based on the imposition of a grid. *Village of Euclid, Ohio v. Ambler Realty Co.*, 272 U.S. 365 (1926)

[26] Title IV, *Urban Planning and Facilities Comprehensive Planning*, sec. 601 amended in 1968 from Section 701, Housing Act of 1954 (40 USC 461).

[27] *One Generation of Self Determination: Native American Economic Self-Reliance in New Mexico*, chapter in *Proceedings of the Annual Conference*, National Rural Center. Theodore Jojola and Herman Agoyo, coauthors, 1993.

[28] *Indigenous Planning and Resource Management*, in *Trusteeship in Change: Toward Tribal Autonomy in Resource Management*, edited by Richmond L. Clow and Imre Sutton, University of Colorado Press, 2001, pg. 308.

[29] For example, in 1969, the Pueblo of Cochiti signed a lease with Great Western Cities, Inc. to create a 6,500 acre housing development called Cochiti Lake. It had such amenities as a golf course and a marina fronting the water reservoir. This "master-planned community" was designed for 50,000 residents and afforded non-native residents a 99-year lease-hold on their properties. In 2000, the US Census Bureau tabulated the population of the Cochiti

A second wave of planning was implemented by the Department of Housing and Urban Development (HUD). In 1961, the 1937 Housing Act was amended to allow HUD to establish Tribal Housing Authorities under the provisions of "self-help" and "turnkey" programs.[30] These HUD houses, as they are popularly called, ushered in suburban-style, cluster subdivisions and fundamentally changed the rural and social character of Indian Country. HUD requirements for individually apportioned land-deeds, zoning for residential areas and the provision of public infrastructure for electricity, roadways, water and sewer created a master plan approach to housing. Intended to alleviate substandard housing, the shoddy construction practices and culturally mismatched projects tended to introduce as many social problems as they alleviated.[31] Nevertheless, the tribal subdivisions that evolved from the massing of these houses continue to dominate the landscape of many reservations.

Indian Self Determination

The present-day practice of comprehensive planning was ushered in with the issuance of the 1975 Indian Self Determination and Educational Assistance Act.[32] Under the same contractual provisions afforded to the Secretary of Interior and the tribes, major trust responsibility provisions in education, public health, housing, etc., were amended through public laws to empower tribes to take over their own planning efforts.[33] Most importantly, the Act allowed tribal governments to assume or delegate planning authority on par with surrounding local governments.

Within a decade of the passage of this Act, infrastructure needs for many tribes mushroomed. As tribes opted to contract their own services in health, government and education, capital intensive programs spurred building construction. New local jobs became available and many Native white-collar employees who had worked at centralized urban programs were enticed to return back to their communities. Due to the multiplicity of tribal

Lake subdivision at 507 residents. In 1985, the corporation went bankrupt and management was assumed by a Pueblo-owned corporation, the Cochiti Community Development Corporation. *Stopping the Flood of Damages from Cochiti Dam*, Sandra Lee Pinel, Cultural Survival Quarterly, Issue 12.2, June, 1988.

[30] By 1988, over 65,000 housing units had been built under the aegis of 183 Indian housing authorities. *Housing*, Vernon Harragarra, *Native America in the 20th Century: An Encyclopedia*, Mary B. Davis, Edtr., Garland, pg. 245.

[31] Ironically, it was the contentious provision of a HUD house to a female Pueblo Indian member who was married to a Navajo that set the challenge in the *Pueblo of Santa Clara v. Martinez* [436 US 49, 69 (1978)]. The ruling is considered a touchstone US Supreme Court decision for the affirmation of tribal sovereign authority in matters pertaining to membership and its privileges. *Memoirs of an American Indian House: US Federal Indian Housing*, Theodore S. Jojola, Unpublished Master Thesis in City Planning, MIT, 1973.

[32] Public law 93-638

[33] Examples include, Indian Sanitation Facilities Act (PL 86-121; the Contracting Transportation Programs Under the Indian Self-Determination Act and SAFETEA-LU (Public Law 109-59); and the Native American Housing and Self-Determination Act (NAHASDA--- 25 U.S.C. 4101), among others.

operations that were created as result of building local capacity, tribal government became a full-time business.[34]

A second wave of local development occurred with the advent of casino gaming. The boom economies and consequent net revenues generated by successful Indian gaming enterprises significantly boosted those tribes' ability to leverage federal trust projects.[35] Many tribal operations used gaming funds to supplement the remodeling or construction of new buildings and utilities. School, health, recreational and elder centers became showcase projects. In contrast, tribes that either chose not to pursue gaming as a tribal enterprise or whose locations were not suitable for successful gaming operations, continued to depend on federal trust allocations and struggled with meeting basic social needs.

The advent of gaming as an enterprise also served to create a new type of planning approach. Strategic planning, an enterprise business model, gained widespread application in Indian Country.[36] A basic paradigm shift occurred as tribal business operations shifted community discussions away from problem-solving to strategic "wants" or "needs." "Visioning" became synonymous with 601 Comprehensive Planning.

Types of Tribal Planning

Tribal planning is unique from mainstream America. Today, many tribal communities bear the imprint of successive waves of reform and development. Unlike the radial patterns that characterized early American cities, tribal development is a mosaic of land uses that are often noncontiguous and mixed use. Although, theoretically, tribal governments have been vested with the authority to manage themselves like townships, they have not opted to do so. Tribes continue to exercise their sovereignty and shape their governments under the aegis of the 1934 Indian Reorganization Act (IRA). They have not organized as township governments as defined by state statute. The generation of local taxes for capital infrastructure and the enforcement of land use through a permit system is still a remote concept.

This is not to say, however, that the role of state government has become increasing important. It is probably because state/Indian gaming compacts have allowed state governments a share of casino revenues that tribal governments have become poised to leverage funding

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[34] A very interesting chronology of such growth for the Zuni Tribe can be found in an article on *Twentieth Century Zuni Development: 1965-1985*, T.J. Ferguson, E. Richard Hart & Calbert Seciwa, in *Public Policy Impacts on American Indian Development*, C. Matthew Snipp, et.al, Institute for Native American Development, Development Series #4, University of New Mexico, 1988.

[35] *Indian Gaming as Community Economic Development*, Theodore S. Jojola & Paul Ong, chapter in *Jobs and Economic Development in Minority Communities*, Paul Ong and Anastasia Loukaitou-Sideris, editors, Temple University Press, 2006

[36] *Public Participation and the Choice of Casinos as Development Strategy in Iroquois Nations*, unpublished Ph.D. dissertation, Eve L. Baron, Rutgers University, 1998.

through state legislation for capital improvement projects.[37] Similarly, many casino-revenue tribes have purchased private property for the specific goal of keeping it fee-simple. In cases where a tribe shares boundaries with a city, they have used these parcels as a strategy for creating buffers, thereby distancing competing urban development.[38] This has prompted regional entitles like the Council of Governments (COGs) to invite tribes to become equal and active members in regional planning efforts.

The newest face of tribal/state-based authority has tremendous and untested powers for self-governance. Among the most immediate is the implementation of land-use regulation and codes used to oversee the public health conditions of its residents. Land-use regulation contains provisions for the exercise of eminent domain. Tribal planning also has the potential of unleashing extra-territorial jurisdiction along buffer zones contiguous and adjacent to reservation boundaries. Indeed, planning requires tribes to build their legal capabilities in the realm of local planning enforcement. The following are the main types of planning being practiced by tribes today.

Comprehensive Planning

Comprehensive planning is an all-inclusive approach intended to provide guidance for the future growth of a community. A comprehensive plan (comp plan) is complex document that is legislated and carries the power of enforcement. The approved plan is intended to be a policy instrument first and a technical instrument second.[39] It is not static and may be periodically updated. The substance of a comp plan relates physical design to the social and economic goals of a community.

The main tool of comprehensive planning is zoning. Zoning assumes that the interests of private property owners must yield to the interests of the public.[40] For tribes, this is an unreasonable assumption. At the root level, most reservation land is held in trust and there may be no clear process for tribal governments to determine and/or control its usage. Authoritarian governmental regimes as typified by IRA-style tribes do not generally square well with public-participation processes. Tribal comp plans tend to be driven more by technicians who respond to or comply with federal or state initiatives.

As is the case with most comprehensive land-use models, property is designated into six basic zoning designations: agricultural, commercial, industrial, public, residential and other

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[37] In New Mexico alone, in 2006 the 22 tribes were able to leverage 33.5 million dollars for capital infrastructure projects on reservation lands. This was a 3-fold increase from 2004. *Comprehensive Planning* in New Mexico, Powerpoint prepared for the NM Office of Indian Affairs, 2006.

[38] *Economic Development*, Sandia Pueblo website, http://www.sandiapueblo.nsn.us.

[39] *Principles and Practices of Urban Planning*, William I. Goodman, Ed., and Eric C. Fruend, Assoc. Ed., Chicago, Ill. International City Managers Association. 1968.

[40] *Foreword: Zoning at Sixty—A Time for Anniversary Reckonings*, Charles M. Haar and Jerold S. Kayden, *Zoning and the American Dream*, from Haar and Kayden, Chicago: Planners Press, 1989, pp. ix-xi.

special-uses. Most reservation lands fall into only four types of usage—agricultural, public, residential and special-use. Commercial and industrial, which is considered to be the mainstay of business development, is minimal or often not present in Indian Country.

In general, zoning has delivered less on keeping incompatible land uses separate and more on designating cultural buffer zones to distance incompatible enterprises from their main population centers. This has created a type of "leap-frogging" where infrastructure may not bridge domestic and commercial zones. This practice often results in producing high-quality business environments, sometimes at the cost of high-quality living environments.

In particular, zoning as applied to tribal housing has created suburban-style, cluster communities that segregate and isolate extended families into nucleated households. As evidenced by reports critical of mainstream planning practices, the Center for Disease Control has implicated exclusionary zoning for contributing to unhealthy community lifestyles and neighborhood designs that are totally dependant on the automobile.[41] The continued rising incidence of early onset diabetes and child obesity among Native populations is linked to such patterns.[42]

Comprehensive planning has been applied in Indian Country with mixed results. Most tribes have been hindered in fully implementing such plans because of their complexity and inordinate timeframe for implementation. The lack of qualified tribal planners who are authorized to manage planning offices in tribes has also added to their lack of implementation.[43]

Strategic Planning

Strategic planning is not comprehensive planning. It can be one integrated aspect of comprehensive planning, but it does not necessarily fulfill the intent of the law. Whereas comprehensive planning is based on an inventory approach—that is, what can you do with the resources you currently have—strategic planning is based on formulating a plan for attaining stated economic development objectives.[44]

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[41] *How Land Use and Transportation Systems Impact Public Health: A Literature Review of the Relationship Between Physical Activity and Built Form*, Lawrence D. Frank & Peter Endelke, ACES: Active Community Environments Initiative Working Paper, Centers for Disease Control and Prevention, n.d.

[42] *New Mexico American Indian Health Status*, Dawn McCusker, New Mexico Epidemiology, vol. 2005, no. 12, Nov. 12, 2005.

[43] It is not know how many comprehensive plans have been officially adopted by each respective tribe. A few tribes like the Pueblo of Jemez and Ohkay Owingeh have recently adopted theirs after lengthy consultancies with their tribal members.

[44] The difference in comprehensive planning and strategic planning can be easily demonstrated by drawing on a simple analogy. Suppose a group of individuals decided to go to lunch together. One choice would be to select from the restaurants that were in the immediate vicinity, thereby tempering one's pallet on what was available. This is the comprehensive planning approach. Another strategy would be to agree on what type of cuisine everyone wanted and then figure out the resources necessary to get everyone to a restaurant that served such food, even if it meant going across town and getting a ride to get there. This is the strategic planning approach.

It was only after a few tribes operating gaming businesses received windfall profits that they began to pursue economic development in this manner. When the resource base did not exist within their lands, tribes expanded their economic base through outside capital ventures. Capital infrastructure plays a central role in this strategy. These are types of infrastructure projects that are treated as long-term investments and leveraged for the revenues that new development may generate. Revenues are the primary source for capital infrastructure.

Strategic planning has hastened the transformation of community development from BIA dependency toward tribal-local and state government capital investment strategies. Strategic planning, above the rest, has been the most responsible for linking infrastructure to economic development and capital gain.

Performance Zoning

Performance zoning, like that of land-use zoning, is also considered to be a tool of comprehensive planning. Unlike land-use approaches, the primary objective of performance-based land-use is to tailor land to its site characteristics.[45] Performance standards are based on criteria such as carrying capacity, threshold of safety and environmental impacts. The most important aspect of this approach is that each site is evaluated separately from another site. It is assessed for land-use compatibility and has been applied to protect agricultural lands, unique habitats and historic places.

McHargian analysis is the basic paradigm used in this approach. It creates models for deconstructing the complexity of physical characteristics by generating "layers" of geographic-based information.[46] Evaluation of criterion was considered complex and administratively unmanageable. With the advent of microcomputers and GIS software a means for generating complex land-use maps, an in-house capacity was established.

The extent of performance zoning practiced by tribes is unknown.[47] The use of GIS was introduced by agencies like the Bureau of Land Management for developing extensive inventories of natural resources on tribal lands. As the local GIS capacity became more established, mapping products began to drive how tribes made decisions for locating basic infrastructure like roads, water systems and electrical lines.

Indigenous Planning

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[45] *Performance Based Planning: Perspectives from the United States, Australia, and New Zealand,* Douglas C. Baker, Neil G. Sipe & Brendan J. Gleeson, Journal of Planning Education and Research 2006, vol 25, pg. 396.

[46] The pioneer work in this area is still considered to be *Design with Nature*, Ian L. McHarg, Natural History Press, Garden City, N.Y., 1969

[47] One of the best examples of performance zoning is practiced by the Oneida Nation of Wisconsin. Designated as the LUTU (Land Use Technical Utilization) process, it is driven by GIS data products produced by their Geographic Land Information System.

Indigenous Planning is a new emerging paradigm among tribal planners.[48] What distinguishes Indigenous Planning from the mainstream application of comprehensive planning is its reformulation of planning approaches in a manner that incorporates 'traditional' knowledge and cultural identity. Unlike the Western approach, which has its focus primarily upon the regulation of land-use and the protection of private-property rights, the indigenous planning approach was formulated on values associated with land tenure and the collective rights associated with inheritance.

The problem as seen by indigenous planners is that simply "putting more eggs into the economic development basket" does not necessarily resolve the enormous cultural, social, political problems that contemporary tribes continue to face. Foremost to this effort, is to adopt a community development process that is informed and driven by the respective indigenous world-views. World-views are endowed with cultural ideals that integrate the past, the present and the future. Central to a world-view are values associated with cultural identity, land-tenure and stewardship. These values have and continue to be the hallmark of tribal survival. Simply put, without that philosophical construction, humankind's community planning role and its balanced relationship to the natural world cannot evolve.

Indigenous planning is heavily invested in consensus building and the community participatory approach. Concepts to describe the value and meaning of place are taken from the local language and qualitative approaches like place-naming and cognitive mapping are used to explore the deeper philosophical roots of identity and culture. Vernacular architecture and physical symbolism become central to organizing key planning concepts.[49]

Challenges Still Facing Indian Country

In many ways, indigenous principles used to sustain tribal communities for millennia are now being embraced by mainstream society. Wrongly or rightly, the advent of global warming has pushed the concept of sustainability to the forefront. Sustainability has been described as an approach to thinking that focuses on the long term and the interrelationships between human and natural systems.[50] For tribes that have long been recognized as "stewards of the earth," such practices validate their community philosophies.

According to the 2000 U.S. census, only about one-third (34%) of American Indians and

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[48] In 2005, a new Division of Indigenous Planning was created in the American Planning Association. This division superceded the United Indian Planners Association (UIPA) which became inactive. UIPA was established in the early 70s as a component of the Economic Development Administration (EDA). This organization provided technical assistance and shared the experiences of tribes as they attempted to comply with the federal mandate for the submission of comprehensive plans.

[49] An example of this process is the evolution and successful construction of the Turtle School on the Oneida Nation of Wisconsin. The case study can be downloaded from the APA Indigenous Planning Division website [http://www.planning.org/indigenous/]. *Indigenous Planning and Community Development*, Theodore Jojola, 7th IASTE Conf. The End of Tradition?, Trani, Italy, 2000.

[50] *Thinking Like a Sustainable Community*, Minnesota Office of Environmental Assistance, October 2000. www.moea.state.mn.us.

Alaska Natives (AIAN) lived on reservations or in tribally designated statistical areas.[51] The percentage of those that lived in rural areas for all reservations and designated statistical areas was between 71% and 79%. This was roughly the inverse of the percent of all Americans (21%) that lived in rural places.[52] For the majority of AIANs, this means that the rural way of life is dominant in their community development patterns. For the poorest tribes, they will not be able to sustain basic infrastructure needs without federal or state assistance. The scales of economy often attributed to dense populations cannot be assumed in rural areas.

The ten largest American Indian tribes as a group comprise roughly 46% of the entire population that reported AIAN alone.[53] For the rest, their reservations can be largely characterized as rural with a small population base. As such, tribal communities are not subject to the same boom and bust cycles that result from high labor force migration.[54] Rather, they sustain their population grown from their high fertility.

Similarly, the population composition of Native America shows an imbalance among age groups. Although AIAN populations generally tend to exhibit high fertility at birth, by ages 15, both male and female out-migrate in significant proportions to seek education and employment opportunities. This tends to even out by the mid-30 age groups with their gradual return. By age 60, though, there is a rapid decline in population due to poor health and mortality. Such shifts pose even more challenges to the provision of infrastructure as need-based by age.

Ultimately the provision of utilities may be shared by tribal ventures or by the private-sector. As major utility lines crisscross over reservation lands, many tribes have negotiated special privileges for its citizens. Overall, land-use is becoming increasingly regulated. Tribal utility authorities now assume additional responsibilities including regular trash pick-up and environmental waste-hazard monitoring and enforcement. Emergency services now require tribes to provide unique street addresses.

For those communities that are more isolated, basic utility infrastructure tends to favor systems that are self-reliant. Technologies like fuel cells, solar and wind have begun to make important strides in electrical generation. These have spurred the development of a few tribally-

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[51] *We the People: American Indians and Alaskan Natives in the United States*, Stella U. Ogunwole, Census 2000 Special Reports, US Bureau of the Census, Washington, DC, Feb. 2006, pg. 14.

[52] *American Indians on Reservations: A Databook of Socioeconomic change between the 1990 and 2000 Censuses*, Jonathan B. Taylor & Joseph P. Kalt, Harvard Project on AI Development, Harvard University, 2005, pgs. 4-5.

[53] *The American Indian and Alaska Native Population: 2000: Census 2000 Brief*, US Census Bureau, Feb. 2002, pgs. 10-11.

[54] It should be noted that the standard Components of the Population Equation (P2 = P1 + births +/- deaths migrants) does not factor in the same way as communities that exhibit high mobility. Because tribal populations are basically fixed at birth (tribal membership) very few, if any, adopted members are added to tribal enrollment. *Census 80: Continuing the Factfinder Tradition*, Charles P. Kaplan & Thomas L. Van Valey, Bureau of the Census, Jan. 1980, pg 194.

headed enterprises and tribal utility companies.[55] They have also resulted in cooperative ventures with utility companies and tribal governments.[56] Others have begun to integrate natural riparian efforts with state entities to improve domestic water and wastewater management.[57] Still such systems require existing antiquated, outmoded and/or overstressed systems to be improved.

Transportation infrastructure continues to be problematic. Funds for road improvement are chronically under-funded by the federal government. This has led to third-world type interventions by non-profit organizations.[58] Yet as tribal communities continue to grow, they will be faced with urbanization. Many reservation areas that were once rural and isolated are now bisected by interstate highways that pass-through and bypass their townships. Major intersections provide motorists access to one-stop services and recreation (e.g., gaming). Feeder roadways link tribal housing HUD-type clustered subdivisions and government operations. Building construction along main thoroughfares tends to favor a point-to-point linear style development. There is still little or no consideration for the separation of pedestrians, autos and farm equipment. This lack of differentiation gives a semblance of congestion even through the local population itself may not be large.

Telecommunications infrastructure pins its highest hope on the penetration of wireless technologies. Among the major impediments though, have been the regulation of services within reservation areas and the role of leadership in the incorporation of new technologies.[59] This has spurred some communities to form their own tribally-controlled telecommunications enterprises.[60] Others are working with nationwide providers to provide reduced fees and access to reservation members.[61] Still others are taking on their own local solutions.[62]

Nonetheless, the telecommunications divide is largely along socio-economic lines. Those that can afford to subscribe and pay monthly fees, often do. Moreover, even when cable

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[55] An example is NativeSUN, a Hopi-managed non-profit organization that installs photovoltaic units for remote and isolated houses. http://www.nativesun.biz/

Since 1993, the Navajo Utility Authority with the collaboration of the Department of Energy and Sandia National Labs has installed over 300 homes with photovoltaic systems. News Release, December 13, 2005, Sandia Labs, http://www.sandia.gov/news-center/news-releases/2005/renew-energy-batt/tewa.html

[57] *Native Nations, The Environment, and The State Of California: Tribal-State Relationships and Environmental Quality*, U.S Environmental Protection Agency, Region 9, Native Nations Institute, Udall Center for Studies in Public Policy, The University of Arizona, April 14-15, 2003

An example is the Walking Shield American Indian Society. Recipients of the Maxwell Award of Excellence from the Fannie Mae Foundation, they provide funding for road improvement. www.walkingshield.org.

[59] *Native American Access to Technology Program: Progress Report*, A Report to the Bill & Melinda Gates Foundation, John E. Sirois. et.al., Public Access to Computing Project, Daniel J. Evans School of Public Affairs, University of Washington, December 2001.

[60] Examples in Arizona include Gila River Telecommunications, Inc., Fort Mojave Telecommunications, Inc., Saddleback Communications (Salt River Pima-Maricopa), San Carlos Apache Telecommunications, Inc., and Tohono O'odham Utility Authority. Jerry Conover, Arizona's Telecommunications Infrastructure, 2002, pg. 6, op. cit.

[61] Mescalero Apache Telecom, Inc, works with Cellular One to provide low-cost access. http://www.matisp.net/

[62] Wireless WALRUS (Web Access Links for Remote User Services) in Alaska utilizes advanced wireless and satellite earth station technology to accomplish its mission. http://www.kawerak.org/walrusProject/index.html

TV, cellular subscription and high-speed internet services can be had, its educational intent is questionable. Little or no programming with cultural or tribal language content is accessible. Local schools may or may not have community curriculum to make such access culturally relevant.

In conclusion, despite the enormous needs that tribes face in meeting infrastructure needs, they are best positioned to adapt self-reliant technologies and best-practices for their communities. Unencumbered by local regulations, there is still a great amount of latitude for experimentation and innovation in Indian Country.

TESTIMONY OF

CHAIRMAN WENDSLER NOSIE, SR.
SAN CARLOS APACHE TRIBE

FOR THE HEARING ON
REAUTHORIZATION OF NAHASDA

BEFORE THE SUBCOMMITTEE ON
HOUSING AND COMMUNITY OPPORTUNITY OF THE
FINANCIAL SERVICES COMMITTEE

UNITED STATES HOUSE OF REPRESENTATIVES

JUNE 6, 2007

Introduction

Thank you for holding this important hearing to discuss reauthorization of the Native American Housing Assistance and Self-Determination Act (NAHASDA) and ways to improve it so that it better meets the needs of Indian people. My name is Wendsler Nosie, Sr. As the Chairman of the San Carlos Apache Tribe, I am honored to testify before you today to provide the views of the San Carlos Housing Authority. With me today are Tribal Council Member Terry Rambler, who is Chairman of the San Carlos Housing Board of Directors for the San Carlos Housing Authority, Mr. Ronald Boni, Executive Director of the San Carlos Housing Authority, and Diana Lopez Jones, the Housing Authority's counsel.

My Tribe has testified before this Committee on its housing needs at the field hearings at Camp Verde in 2006 and at Tuba City in 2004. We thank you for your hard work and commitment to Indian Country in working with us as we seek ways to relieve the overwhelming housing shortage in our tribal communities. We have been making strides in tackling the severe housing shortage on the San Carlos Apache Reservation and in providing increased opportunities for our tribal members to live in affordable housing. But there is much that is left to be done. We are hopeful that the successful reauthorization of NAHASDA will provide us with increased flexibility, greater self-determination, less administrative burden, and new programs so that we can provide more and better housing options for our people.

Background on the San Carlos Apache Indian Reservation

To better understand the housing needs on the San Carlos Apache Indian Reservation as well as the Unites States' trust responsibility to the San Carlos Apache Tribe, it is helpful to know about the Reservation itself as well as the

history of the Apache people. The aboriginal territory of the Apache Nation included the western part of Texas, the current states of Arizona and New Mexico, and part of the country of Mexico. The Apache Treaty of Santa Fe in 1852 was executed by Mangus Colorado and others on behalf of the Apaches. Pursuant to the Treaty, lands within the aboriginal territories of the Apache Nation were to be set aside for a permanent Tribal homeland and the United States promised to provide for the "humane" needs of the Apache people. In exchange, the Apache Nation agreed to the end of hostilities between the two nations.

The San Carlos Apache Indian Reservation was established by an executive order of President Grant on November 9, 1871. Through the concentration policies of the United States, various bands of Apaches were forcibly removed to the San Carlos Apache Indian Reservation. These bands included the Coyoteros, Mimbrenos, Mongollon, Aravaipa, Yavapai, San Carlos, Chiricahua, Warm Springs, and Tonto Apaches. Famous Apache leaders who were located at San Carlos included Geronimo, Cochise, Loco, Eskiminzin, Nachie, Chatto, and others. Throughout history, the United States in 1873, 1874, 1876, 1877, 1893, and 1902 diminished the size of the Reservation several times by executive order due to the discovery of silver, copper, coal, water, and other minerals and natural resources.

The Housing Situation on the San Carlos Apache Reservation

My Reservation suffers from a severe housing shortage. I have attached pictures to this testimony of some of the sub-standard housing conditions that continue to plague my community and we have also blown up some of these pictures for you today. As you can see from the pictures, the San Carlos Apache Tribe is still struggling to meet a very basic standard of living. My hope is that the reauthorization of NAHASDA and your efforts will provide us with much needed resources and tools to address this grave problem.

The housing situation on my Reservation and in the rest of Indian Country is unacceptable in this great country of ours. Let me be clear that the San Carlos Apache Tribe supports our troops in Iraq, Afghanistan, and other parts of the world. The Apaches have many decorated war veterans that have served with distinction in the United States military throughout this country's history. However, I wonder about some of the priorities of the United States when my community needs to be rebuilt, my people need homes, and my people need infrastructure, including sewage and water systems. When I hear about the billions and billions of dollars the United States is spending to rebuild Iraq, to build homes for the Iraqi people, and to build infrastructure in Iraq, such as sewage and water systems, I wonder why the United States will do these things for the Iraqi people but not for its own citizens in the United States. Many Apaches do not have homes, do not have plumbing, and do not have drinkable

water. It is not right that the United States has not addressed our needs and instead addresses the needs of people in other parts of the world.

The San Carlos Apache Reservation has a land base of 1.8 million acres, but only a small percentage of the Reservation can be used for residential building purposes. The remainder of the Reservation is comprised of some of the most rugged terrain in the Southwest, including deep stands of timber, jagged outcroppings, and rocky canyons. As a result, the Reservation lacks infrastructure in all but two general housing areas. On the western edge of the Reservation, the Tribe has 3 districts: 7-Mile Wash, Gilson Wash, and Peridot. Located on the eastern edge of the Reservation is the District of Bylas. All together, these 4 districts are home to 13,456 tribal members. Approximately 84% of our tribal members live on the Reservation. Although we have worked hard to develop our Reservation economy, 76% of our population is unemployed, and the poverty rate on the Reservation is 77%. These statistics, far above the national and state averages, demonstrate the pressing need for adequate, affordable housing on the Reservation.

There are 3,325 families on the Reservation at this time. Of that number, there are 3,147 low-income, 806 near-elderly, and 643 elderly households. 40% of these families live in sub-standard housing conditions and 41% live in overcrowded conditions. Only 2,061 home ownership units are available on the Reservation. Some tribal members live in rental units or mobile homes. According to the estimates of the San Carlos Housing Authority, the Tribe would need to build 145 homes per year for the next 10 years to meet the housing needs of the current population alone. However, due to financial limitations, the San Carlos Housing Authority can only build 40 homes over the next two years. Further, the population of the Tribe continues to increase and more than 30% of the population is now under the age of 18 years. New young families are in desperate need of housing, yet many of them lack the ability to support themselves with anything other than a high school diploma. On the other side of the coin, it is important that the Tribe offer some hope of jobs and home ownership to young Apache professionals who desire to live and work on the Reservation.

Approximately 30% of the homes on the Reservation were built 3 decades ago. Their average value is less than $50,000.00. Approximately 21% of them have no telephone service. Almost 10% lack complete plumbing or kitchen facilities. Contrast that with the statistics for the border towns of Globe and Miami where approximately 30% of these homes were built in the past 5-10 years. A full 1/3 of the homes are worth between $100,000.00 – $150,000.00. Less than 4% lack telephone service. Less than 2% lack complete plumbing or kitchen facilities.

The physical distance between our communities is just a few short miles; however, the gap in home ownership between the Reservation and our

surrounding communities is disproportionately large. We are decades behind the surrounding areas in our ability to provide decent, safe, and sanitary home ownership opportunities for our tribal members.

Our dire housing situation is due to such factors as the lack of economic development, lack of educational and vocational opportunities, the challenge of attracting potential investors to the Reservation, the ongoing need for immediate access to capital, the need for comprehensive planning efforts and a land use plan, and its population growth. As you know, housing, employment, education, and infrastructure are inter-related. Higher rates of employment and educational attainment correspond to lower rates of poverty, which are then linked to more sophisticated financial consumers. My Reservation could greatly benefit from community-based programs designed to improve the employment and educational outlook on the Reservation and strengthen the tribal economy.

Recommendations on NAHASDA Reauthorization Legislation

Since its enactment in 1996, NAHASDA and its block grant and loan guarantee programs have provided us with critical support in addressing the overwhelming housing needs in Indian Country. Given its importance in our everyday lives, we urge the Congress to enact NAHASDA reauthorization legislation as quickly as possible. Further, we urge the Congress to provide increased funding for NAHASDA. As you know, NAHASDA is severely underfunded, thereby limiting its positive effectiveness. As pointed out by Marty Shuravloff, the Chairman of the National American Indian Housing Council ("NAIHC"), the impact of federal funding for the Native American Block Grant has been steadily eroded by inflation. More could be accomplished if there was more funding because the simple fact remains that it takes money to build and rehabilitate houses and the backlog for homes in Indian Country is astounding.

Below are our views on ways to improve NAHASDA to ensure that tribes have the tools they need to provide affordable, safe, quality housing for low-income tribal members in a manner that honors tribal self-determination and the unique government-to-government relationship between the federal government and Indian tribes. Further, we support the provisions contained in the Committee's discussion draft NAHASDA bill dated June 1, 2007, especially the new Self-Determined Model Activities Program. We provide more detailed comments on the discussion draft below.

Addressing the Need for Dedicated Funding to Maintain Rental Homes

The Tribe is doing all that it can to stretch every dollar to provide housing for its tribal members. The San Carlos Housing Authority is building new homes for home ownership (approximately 20 a year based upon its funding under NAHASDA) and maintains various rental units. Given the Reservation's depressed economy, most of our tribal members have great difficulties meeting

the income requirements for home ownership, which is currently $12,500 per year. The income standard should be $22,000 for the Housing Authority to fully recoup its costs and to allow the tribal member to be a successful home owner, but we cannot set the income standard at this level of $22,000 because most of our tribal members would not qualify. Also, the Housing Authority subsidizes most of the rental units for tribal members given their limited incomes or lack of incomes.

As a matter of financial survival, the Housing Authority has been focusing on building new homes for home ownership because, at some point, the owners assume responsibility for the homes. In contrast, with rental homes, the Housing Authority is responsible for their operations and maintenance. The Housing Authority maintains about 421 rental units and last built new rental units (8 homes) in FY 2004. The Housing Authority has not built new rental units over the past 3 years because it can not afford the operations and maintenance costs given that most of these homes are subsidized due to the poverty levels on the Reservation. We request that the reauthorization of NAHASDA help us and other tribes address this problem.

The discussion draft bill addresses this problem in part. In the draft bill, at page 4, lines 6-10, it amends section 202 of NAHASDA (25 U.S.C. § 4132(4)) to include "operation and maintenance of units developed with amounts provided under this Act" as an "eligible affordable housing activity." Accordingly, it makes it clear that NAHASDA funds can be used by housing authorities and tribes to operate and maintain rental units. This provision provides us with flexibility in using block grant funds to support the operations and maintenance of NAHASDA-built homes. This provision is logical and fiscally appropriate to use NAHASDA funds to maintain homes originally built with NAHASDA funds. However, given the limited amounts of funding under NAHASDA, it is difficult to both build houses and maintain rental units.

We recommend, in addition to language found at lines 6-10 on page 4, the inclusion of a rental subsidy mechanism that is similar to the rental subsidy mechanism found in the 1937 Housing Act. We have found the rental subsidy provision in the 1937 Housing Act to be vital in allowing us to maintain and operate our rental homes built under the 1937 Housing Act. We also recommend that the subsidy mechanism be needs-based and factor in certain information in its allocation formula, such as the age of the units and the number of units in inventory. Also, the subsidy mechanism should be adjusted on a yearly basis to account for the rising cost of inflation. In this way, housing authorities can receive funding which is commensurate with their true needs.

With a rental subsidy mechanism in NAHASDA, we could provide additional rental housing, which would greatly alleviate the housing crunch on the Reservation. We suggest the following legislative language for inclusion in the

reauthorization of NAHASDA by adding the following new subsection to the end of 25 U.S.C. § 4152(d)(2) :

(3) Formula for Operations and Maintenance

The Secretary shall develop a formula for determining the amount of assistance for operations and maintenance of units developed with amounts provided under this Act. The formula shall be actualized on an annual basis to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from inflation, aging inventory and substantial general increases in the cost of doing business such as higher utility rates or other similar costs.

The formula may take into account such factors as --

(A) the number of dwelling units owned, assisted or operated by the Indian Housing Authority, the characteristics and locations of the projects, and the characteristics of the families served and to be served (including the incomes of the families);

(B) the need of the Indian Housing Authority to carry out operations and maintenance, rehabilitation and modernization activities, replacement housing, and reconstruction, construction and demolition activities related to dwelling units owned, assisted or operated by the Indian Housing Authority, including backlog and projected future needs of the Indian Housing Authority;

(C) the cost of constructing and rehabilitating property in the area;

(D) the need of the Indian Housing Authority to carry out activities that provide a safe and secure environment in dwelling units owned, assisted or operated by the Indian Housing Authority;

(E) any record by the Indian Housing Authority of exemplary performance in the operation of its programs, as indicated by the system of performance indicators established pursuant to 42 USCA § 1437d(j); and

(F) any other factors that the Secretary deems to be appropriate.

Also, we recommend that the subsidy language contained in the 1937 Housing Act be amended so that the amount of the subsidy is increased to keep pace with today's rising costs. We propose the inclusion of the following

language to amend the 1937 Housing Act as part of the reauthorization of NAHASDA by inserting at 42 U.S.C. § 1437g(c)(1), immediately after the end of the first sentence, the following language:

> "The Secretary shall determine the amount of the allocation for each eligible agency pursuant to the formulas described in subsections (d)(2) and (e)(2) of this section. Such formulas shall be actualized on an annual basis to reflect increases in the actual and necessary expenses of owning and maintaining the units which have resulted from inflation, aging inventory and substantial general increases in the cost of doing business such as higher utility rates or other similar costs. The amount of the allocation shall be for any fiscal year beginning after the effective date of the formulas described in subsections (d)(2) and (e)(2) of this section --

Increasing the Dollar Amounts in Determining Adjusted Income

We recommend that the dollar amounts contained in the definition of "adjusted income" in section 4(1)(A), (B) and (F) of NAHASDA (25 U.S.C. §§ 4103(1)(A), (B) and (F)) be increased to account for rising costs and inflation. The exemption set forth in the definition for youth, students and persons with disabilities is currently $480.00, for elderly and disabled families is currently $400.00, and for mileage/travel costs is currently $25 per family per week. These items have never been adjusted for the rising cost of living. As a result, the families at San Carlos are paying more for housing than the statute originally anticipated.

We recommend that these amounts be adjusted for inflation and be subject to an increase every year by a percentage based on the Cost of Living index. For instance, a $25.00 travel expense per family per week is wholly inadequate when the current cost of gasoline is over $3.00 per gallon. Moreover, the current rate fails to account for the long travel distances that are the norm for families who live on reservations in rural areas. Increasing the dollar amount of these exemptions will ultimately bring down the number of tenants with delinquent balances because the exemptions will make the units more affordable by lowering the cost of the monthly house or lease payment.

Flexibility under the Self-Determined Model Activities Program

We strongly support the proposed Self-Determined Model Activities Program contained in the discussion draft because it provides for greater self-determination for tribes and housing authorities and provides flexibility in the use of block grant funds. However, we recommend clarification for the language at lines 24-25 on page 8 and at lines 1-2 on page 9 to assist housing authorities and tribes in determining the nature and scope of HUD's expectations under these provisions. The language in this section is cumbersome and open to

interpretation when compared to the language on the same topic found at page 10, lines 9-17. We suggest that the following language be used instead:

> " ... for model activities involving construction or rehabilitation of buildings that will: (a) support affordable housing, whether or not assisted under this Act, and (b) lower housing costs for the low income community served by the tribe."

Reducing Administrative Burdens and Maximizing Resources

We support the discussion draft's provisions that amend section 203 of NAHASDA (25 U.S.C. § 4133) pertaining to program requirements contained on pages 4 -7 of the bill because the ultimate effect of these provisions will be the reduction of administrative burdens. Also, these provisions will allow the San Carlos Housing Authority to utilize its human and financial resources in a more efficient and fiscally sound manner. These provisions allow for recertification of families on fixed incomes every 3 years, allow for the use of grant amounts over extended time periods, and implement a *de minimus* exemption for procurement of goods and services under $5,000.

Expanding the Availability of Records

We support the provision in the discussion draft that amends section 208 of NAHASDA (25 U.S.C. § 4138(a)) pertaining to the availability of records on page 7 of the bill. This provision allows for tribes or housing authorities to obtain criminal conviction records for applicants for employment in addition to the current provision that allows tribes and housing authorities to obtain criminal conviction records for prospective applicants and current tenants. This provision in the bill will allow for increased accountability of the workforce.

However, this provision could potentially be improved by implementing an enforcement mechanism for law enforcement agencies who fail to cooperate. Also, we suggest that language be included that allows tribes and housing authorities to be exempt from the costs of obtaining such information or allows them to obtain a waiver for the costs. The Housing Authority also anticipates additional operational and administrative challenges in terms of this provision when the provisions of the Adam Walsh Act take effect.

Conclusion

In conclusion, the San Carlos Apache Tribe is committed to improving the housing conditions on the Reservation, but we need your help. Additional federal funds and resources must be made available to Indian tribes in order to successfully confront the dire housing problems in Indian Country. I hope that this information is helpful in assisting the Committee as it works to reauthorize NAHASDA and to improve the housing situation in Indian Country. We deeply

appreciate your efforts and look forward to working with you to rebuild our communities so that our people can have a better quality of life and a more promising future.

"NATIVE AMERICAN HOUSING ASSISTANCE AND SELF DETERMINATION ACT REAUTHORIZATION"
BEFORE THE
UNITED STATES HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

CHERYL PARISH
VICE-CHAIRWOMAN
NATIONAL AMERICAN INDIAN HOUSING COUNCIL

WASHINGTON, D.C.
June 6, 2007

Introduction

Good Morning, Chairwoman Waters, Ranking Member Biggert and Members of the Committee. Thank you for inviting me to testify. I am honored to appear before you today to provide our views about the reauthorization of the Native American Housing Assistance and Self-Determination Act (NAHASDA). I am pleased to be able to share our enthusiasm about—and concerns with—the discussion draft of the proposed legislation you have provided.

My name is Cheryl Parish and I am the Executive Director of the Bay Mills Housing Authority in Brimley, Michigan. I am also a member of the Bay Mills Indian Community. Today I am here as the Vice Chairwoman of the National American Indian Housing Council. The NAIHC is the only national Indian organization that represents Native American housing interests. The NAIHC is composed of 264 voting members representing nearly 460 American Indian Tribes and Alaska Native Villages. I am here on behalf of the NAIHC membership and the tribal communities they serve.

NAHASDA

Tribal communities across this great Nation suffer daily from inadequate and unsafe housing. This reality impacts our education, our health, spirituality, and pride in community: we all want to lift our heads high, but cannot with housing that holds us back. NAHASDA has made significant strides to improve our communities. I urge this Committee, other Committees of jurisdiction, members of Congress, and this Administration to join us to ensure the timely reauthorization of NAHASDA. It is critical that we protect the nearly $6 billion dollar investment the Federal government has made toward in Indian housing over the past decade.

It is clear from this discussion draft that the Committee too recognizes the importance of the reauthorization of NAHASDA. NAIHC's member tribes and tribally designated housing entities (TDHEs) appreciate the willingness and support of this Committee to focus on, and to understand, what the law means to Indian Country—providing—desperately needed tools so we can continue to improve the housing conditions that our People face every day.

Discussion Draft (*See also* Appendix)

We will submit for the record a complete discussion of all amendments contained in the discussion draft. We would like to note for the Committee that we appreciate the clarification of the definition of essential families and program income. We look forward to the flexibility to establish reserve funds. The ability to purchase goods and services under $5,000 and carry over funds will be so beneficial as much needed streamlining so we can focus more on our programs. Access to the National Crime Information Center for employee background checks further serves to safeguard our homes and families.

Allow me for the moment to focus on three amendments that we find most encouraging.

- **Eligibility for Federal Supply Sources.**

This amendment is an example of the this Committee's continued support for the Congressional Findings in NAHASDA; namely, that federal assistance should be made available to tribes and their TDHEs in a manner similar to similar to those accorded Indian tribes in Public Law 93-638. This amendment would put housing on a par with other self-determination act programs administered by the Departments of the Interior and Health and Human pursuant to the ***Indian Self Determination and Education Assistance Act*, 25 U.S.C. §450.** On behalf of the NAIHC membership, thank you.

- **Tribal Preference in Employment and Contracting**

Again, thank you. This provision is a clear recognition of the inherent sovereignty of Indian tribes to follow their own tribal laws. This is not about good politics, this is about good policy.

- **Operations and Maintenance Costs**

This amendment will permit the use of funds provided for under NAHASDA to be used to operate and maintain NAHASDA-financed housing. Heretofore, only through a paperwork driven process could NAHASDA funds be used for such purposes. This amendment is devolution in the best sense of the term.

Again, we applaud—indeed we are grateful—to this Committee and the able staff we work have worked with, as together we seek ways to improve and to further enhance NAHASDA, especially in the area of self-determination. We hasten to add, however, that we are concerned about the discussion draft as currently written, particularly with regard to Subtitle B, "Self-Determined Housing Activities for Tribal Communities." While we address this issue at length in our written testimony, please allow me to summarize.

We have four areas of concern:

- The permitted activities identified in the this section currently exist within the statute;
- This section does not seem to permit any "common area" construction or communal usage that is so important in tribal communities; and,
- We are concerned that there seems to be a prohibition on the use of any funds proposed for the "Self-Determined Housing Activities" to be used for infrastructure.
- The fixed-income families section may be more restrictive than current statute and regulation require. The requirement to verify incomes every three years for fixed income families should, therefore, be stricken from section 2 as now proposed.

Conclusion

Indian tribes are steadily increasing their role in the decisions that governments make for their citizens. As Indian tribes become more and more self-sufficient, the federal role in providing key services such as housing will not be as crucial. But until that day, the NAIHC asks you to amend, extend, and reauthorize NAHASDA to address the daunting housing challenges facing Indian tribes and people.

I commented in my opening statement about the Federal housing investment that has been made in Indian Country. We must protect that investment by improving on our ability to manage that funding source. It is clear this Committee supports not only the investment, but the successful management of tribal housing programs.

I want to thank the Committee for its interest in pursuing the reauthorization of NAHASDA, its commitment to Indian self-determination and self-sufficiency, and its continued support for American Indian, Alaska Native, and Native Hawaiian people.

We believe it is the spirit of Indian self-determination that must be emphasized during the coming deliberations over the reauthorization of this law.

I would be happy to answer any questions you might have.

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June 6, 2007

APPENDIX

Discussion Draft – Section by Section

Section 2. Block Grants.

Section 2(b). Federal Supply Sources

The NAIHC supports this amendment which deems tribe executive agencies and makes Federal supply sources for lodging providers, airlines, and other transportation providers, available to Indian Tribes and is consistent with federal law in other contexts. For example, the Departments of the Interior and Health and Human Services currently make their General Services Administration

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(GSA) supply sources available to Indian Tribes pursuant to the Indian Self Determination and Education Assistance Act, 25 U.S.C. §450.

Section 2(b). Tribal Preference in Employment and Contracting

The NAIHC supports this amendment, which would recognize Indian tribal preference (as contrasted with "Indian Preference") by Indian Tribes for purposes of hiring and contracting when carrying out NAHASDA-related activities.

Section 2(c). Indian Housing Plans

The NAIHC supports this amendment that requires Indian Tribes to identify in their Indian Housing Plan (IHP) funds from any previous fiscal year that have not been or are not expected to be obligated or expended before the beginning of the fiscal year for which the IHP is being submitted. Any reserve funds carried forward from a previous fiscal year are also required to be reported in the IHP. NAIHC would further support the elimination of multiple year, open Indian Housing Plans (IHPs) although there may be the unplanned carryover of funds. For auditing purposes, any unexpended funds get carried over to the subsequent IHP and are simply treated as "deferred revenue." This is common practice for many federal Indian/Alaska Native programs, particularly under P.L. 93-638 programs.

Section 2(d). Program Income

The NAIHC supports this amendment, which will exclude from program income any amount of money attributable to developer's fees for low-income housing tax credit (LIHTC) projects. This means that revenues from an LIHTC project initiated by IHBG funds will not be considered program income. More specifically, it means that although IHBG funds are initially used to jumpstart the project, project construction is ultimately funded by private investments through the subsequent sale of tax credits to a tax credit investor, who by definition, is not a recipient of IHBG funds.

Section 2(d). Essential Families Exception

The NAIHC supports this amendment, which will authorize recipients to provide affordable housing or housing assistance to families if the recipient determines that family's presence in the community is essential to the well-being of Indian families, and the housing needs of the family cannot reasonably be met without such assistance. The amendment removes the distinction between Indian and non-Indian families that current law draws, thereby excluding essential Indian families from eligibility.

Section 2(e). Law Enforcement Officers

The NAIHC supports this amendment, which will clarify current law that provides that law enforcement officers employed by any "local government" and who serve an Indian reservation or Indian area, are considered "eligible families."

Section 2(f). Operation and Maintenance

The NAIHC supports this amendment, which would expressly authorize the use of NAHASDA funds to operate and maintain rental and homeownership units funded by NAHASDA.

Section 2(g). Reserve Funds

The NAIHC supports this amendment, which allows 20 percent of any grant amount to be deposited in reserve accounts for funding affordable housing activities.

The NAIHC is concerned, however, with the investment restrictions of the 1937 Housing Act placed on such reserves. The NAIHC would like the Committee to note that Section 204 of NAHASDA already places restrictions on investments and proposes that those restrictions apply to such reserves. The NAIHC proposes that such language after line 13 be removed and that reference to Section 204 be made.

Section 2(f). Use of Grant Amounts Over Extended Periods

The NAIHC supports this amendment, which authorizes Indian Tribes to carry unexpended funds from one fiscal year to a subsequent fiscal year.

Section 2(g). De Minimis Procurement Rule

The NAIHC supports this amendment, which will provide a de minimis rule whereby the competitive bid requirement would be eliminated for the purchase of goods and services under $5,000.

Section 2(i). Access to NCIC

The NAIHC supports this amendment to make the criminal records of applicants for employment with the Indian Tribe or tribally designated housing entity accessible to a requesting Indian Tribe or tribally designated housing entity. NAHASDA expressly permits access to the National Crime Information Center (NCIC) records for tenants, but it is equally critical that tribes/TDHEs have access to NCIC for prospective employees. This access gives tribes/TDHEs an additional tool for ensuring the safety of their communities.

Section 3. Subtitle B - Self-Determined Housing Activities for Tribal Communities

We applaud the Committee for its efforts to enhance and further Indian Self-Determination in NAHASDA. We appreciate how a tribe or tribally designated housing entity can set aside a portion of their IHBG to devote to housing activities with long term planning and decreased HUD reporting and oversight during the five year period in mind.

We are concerned, however, with a recent development in the Third Discussion Draft's Subtitle B – "Self-Determined Housing Activities for Tribal Communities." Although the program carves out the lesser of 15 percent of the grant amount or $1 million dollars, this proposal strikes us as more restrictive than the current NAHASDA. Our reading is that the language, as written, does not

allow any new opportunities beyond what is already allowed in NAHASDA. The allowed activities of construction, acquisition, or rehabilitation of housing units are readily allowed under existing NAHASDA language. Thus, the recipients of IHBG funds are not likely to embrace the Subtitle B option as written. The structure of Subtitle B is good for creating expansion of self-determination but the allowable activities language needs to be expanded.

As written, this section does not take into account any types of buildings for "common areas," or communal use, which is so important in tribal communities.

We are also concerned about the prohibition on using amounts set aside for infrastructure. Infrastructure goes hand in hand with any structural development and it will really bind recipients' hands in long term planning and development. Allowance of infrastructure should be included.

While the NAIHC appreciates the need for accountability and results, we ask that the ability for creativity on the part of TDHEs and tribes to serve their housing needs be enhanced. We propose that section 233 (a) incorporate the following language:

> SEC. 233. USE OF AMOUNTS FOR HOUSING ACTIVITIES.
>
> "(a) ELIGIBLE HOUSING ACTIVITIES. –Any amounts made available for use under this subtitle by a recipient for an Indian tribe shall be used only for housing activities, as selected at the discretion of the recipient and set forth in the Indian housing plan for the tribe pursuant to section 102(c) for new housing and housing related purposes that provide significant benefit to families described in Section 201(b). Such activities, however, may not be, capitalization or financing of non-recipient business or commercial activities, general government activities or infrastructure except as provided under Section 202(2). The Secretary shall not otherwise restrict or regulate this standard by regulations, rules or in the process of making determinations on Indian housing plans under section 103.

Section 4. Effect of NAHASDA on HOME Investment Partnerships Act.

The NAIHC supports section 4, which clarifies that "insular areas or participating jurisdictions" (as defined in 42 U.S.C. 12721 et seq.) are not precluded or prohibited from providing amounts under the HOME Investment Partnerships Act to Indian tribes or TDHEs.

Section 5. Federal Guarantees for Financing Tribal Housing Activities.

The NAIHC supports section 5, which reauthorizes to Fiscal Year 2012 both the Secretary's authority to assume commitments for notes and obligations under section 605 (a), and the credit subsidy under section 605(b).

Section 6. Training and Technical Assistance.

The NAIHC supports section 6, which reauthorizes through Fiscal Year 2012 section 703's financial assistance to a national organization representing Native American housing interests for training and technical assistance.

Section 7. Housing Assistance for Native Hawaiians.

The NAIHC supports section 7, which reauthorizes through Fiscal Year 2012 grants for Native Hawaiian housing.

ANEVA J. YAZZIE
CEO
NAVAJO HOUSING AUTHORITY

TESTIMONY BEFORE THE

SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY

UNITED STATES HOUSE OF REPRESENTATIVES

"REAUTHORIZATION OF THE NATIVE AMERICAN HOUSING ASSISTANCE AND SELF-DETERMINATION ACT"

JUNE 6TH, 2007

WASHINGTON, DC

[NOTE: This testimony is provided as prepared. Testimony delivered by Ms. Yazzie to the Committee may differ in some respects and cannot reflect responses to questions from Members of the Committee.]

Thank you Madam Chairwoman for this tremendous opportunity to testify before the Subcommittee on Housing and Community Opportunity. I applaud you, Chairman Frank, Ranking Members Bachus and Biggert and all the Members of this Committee for their attention to housing issues, particularly the issues affecting Indian Country. This Committee's focus on housing is inspiring and much appreciated. I would also like to say "ya 'at 'teeh" to Congressman Pearce whose district includes a significant portion of the Navajo Nation.

I would like to begin this testimony by greeting you in the traditional Navajo manner. For the Navajo people, a greeting is very important. It tells about not only who you are as a person, but where you come from, your family and your clan. It gives perspective so that the person who is listening knows where the speaker is coming from, both literally and figuratively.

As Chief Executive Officer of the Navajo Housing Authority, I am charged with operating the largest Tribal Housing organization in the country. I am lucky to have the support of a tremendous staff, both in our headquarters in Window Rock, and throughout the Navajo Nation. I am also blessed by the support of a strong Board and tribal government, including President Shirley and his staff and the Navajo Nation Council.

I realize that many of you have not had the opportunity to visit our beautiful country, so let me take a moment to give you perspective on Navajo and our challenges. The Navajo Nation spreads across three states: Arizona, New Mexico and Utah. The Nation covers nearly 27,000 square miles, making it larger than the state of West Virginia and nine other states and more than two and a half times as large as Chairman Frank's home state of Massachusetts.

There are roughly a quarter of a million members of our tribe, 200,000 of whom reside on or near the reservation. The Navajo Housing Authority manages 8,000 units of housing (approximately 7,000 rental units and 1,000 homeownership and lease-to-own units) and is the largest developer of housing in this vast area.

As is all too often the case in Indian Country, we suffer from chronic unemployment, insufficient infrastructure, a lack of available housing and the associated challenges, including poor health and substance abuse, particularly among our youth.

The Navajo Housing Authority has made great strides in improving the lives of tribal members and in the last decade has done even better thanks to the Native American Housing Assistance and Self-Determination Act (NAHASDA), about which we are testifying today.

The law is not without its challenges and for the past decade tribes have worked with HUD to implement the law in the most effective and efficient manner possible. We have had our disagreements, both amongst ourselves and with HUD and other federal agencies, but those are to be expected. I have worked for the federal government, both

the Bureau of Indian Affairs and the Department of Housing and Urban Development. I have also worked as Deputy Director of Arizona's state housing department. Disagreements between those running local housing agencies and those overseeing the operation of a national program are to be expected, but I am glad to say our relationship with HUD is overwhelmingly one of cooperation, not conflict.

The Navajo Housing Authority is grateful for the support of our local Regional Director for the Office of Native American Programs, Raphael Mecham, as well as Deputy Assistant Secretary Rodger Boyd and Assistant Secretary Orlando Cabrera. We do not always agree, but they have been responsive and, when possible, quite accommodating. In the five months I have been chief executive of NHA we have faced many challenges, some of which continue as we address structural and programmatic issues within our own organization. HUD, rather than being combative or accusatory, has worked with the housing authority and our Board to address these issues and I am glad to say we are well on our way to their final resolution.

Census Data

By far the most contentious issue facing Indian housing in the last few years has been the use of various forms of Census data to determine funding allocations. NHA has been heavily involved in this discussion because we believe this is not simply a financial debate; it is fundamental to NAHASDA and to all Indian programs. Simply put, tribal housing must remain for tribal members and tribal members should be counted when determining funding allocations.

NAHASDA is not a racial housing program. Indian programs are not created and supported by this Congress to benefit a race. Indian programs, NAHASDA included, exist because of the unique relationship between the Federal government and Indian tribes. Treaties, statutes and Supreme Court decisions have all demonstrated, clarified and supported this notion.

Individuals benefit from these programs because they are members of a tribe, not because of their ethnicity. Nevertheless, when the original negotiated rulemaking committee met to draft regulations, Census data was chosen because while the Census Bureau is often criticized for its undercounting in Native communities, it was considered a relatively unbiased source of data to help quantify the need for housing in tribal service areas. The data used was from the 1990 Census, in which individuals chose one race.

In the collection of data for the 2000 Census, individuals now had the option of selecting one or more races by which to identify themselves. This so-called multi-race Census data was chosen for use in the NAHASDA formula not by a committee representing the interests of Indian Country or because of the desires of Tribes; it was chosen by one official at HUD whom we know now was being actively lobbied by former lobbyist and admitted felon Jack Abramoff. The decision benefited Abramoff's client, but set off a firestorm of controversy in Indian Country, shifting federal funds away from the majority of tribes, particularly those in traditional rural tribal areas to a minority of tribes.

This single HUD official, having already made his decision and announced it to tribal representatives, released a list showing which tribes benefited from the multi-race data. He then announced that if all tribes present at the meeting -- even those would he had just pointed out would gain financially by his decision -- agreed unanimously to reverse his decision, he would do so. Needless to say, the minority of tribes who benefited financially from his decision vetoed the will of the majority. This was a mockery of tribal consultation.

Frankly, the time has come to replace Census data as a means by which to measure housing need for tribal members. NAHASDA is a tribal program, not an ethnic program, and counting those who identify themselves as Indian regardless of whether they are tribal members is wrong and dangerous. If we are distributing funds to tribal members, we should count tribal members. We should not count those people who think they might have had ancestors who were Indians.

After much internal controversy, the National American Indian Housing Council has declined to take a position. Considering the other challenges NAIHC faces, we feel this is a good decision. NHA is a member and strong supporter of NAIHC.

We also understand why this issue was left out of the discussion draft. The controversy could jeopardize the passage of this important legislation. As Assistant Secretary Cabrera has said, opportunities under NAHASDA are the "golden eggs" that can lead to so much more success in Indian Country and our first goal must be to make sure the goose lives. But because this issue is so important, I feel I must express in no uncertain terms that we support the use of tribal enrollment data, not Census data, to determine need under NAHASDA. Until terms of verifiable enrollment data can be agreed upon by federal government and tribal representatives, NHA urges a return to the use of single-race Census data because, while imperfect, it is the better approximation of tribal enrollment numbers.

Appropriations

While appropriations are not in the jurisdiction of this Committee, as I am testifying before Members of Congress I would be remiss if I did not comment on Appropriations. NAHASDA is a good law, but the funding for NAHASDA is too low for the real promise of this law to be realized. A disproportionate share of NAHASDA funds go to support existing housing stock, leaving little room for the innovation and new opportunities envisioned by the members of this Committee and Tribal leaders who crafted this legislation a decade ago.

Furthermore, we hope Congress will consider the re-introduction of funds for Indian housing training and technical assistance. NAIHC's programs have provided much-needed assistance to tribes and tribal housing professionals. Effective training is vital to the long-term success of any program, whether in Indian Country or anywhere else.

Proposed NAHASDA Amendments

We would like to thank Chairman Frank, Chairwoman Waters and Congressman Kildee for making their staff available to us to provide input on the proposed legislation. Likewise, we have met with the staff of the minority and had excellent conversations about the nature of this bill and legislation in general. I would like to highlight a few key provisions.

I am particularly pleased with the inclusion of the Self-Determined Housing Activities program. NAHASDA's findings and purposes establish that self-determination and self-governance are to be the hallmarks of the law:

> *Federal assistance to meet these responsibilities should be provided in a manner that recognizes the right of Indian self-determination and tribal self-governance by making such assistance available directly to the Indian tribes or tribally designated entities under authorities similar to those accorded Indian tribes in [the Indian Self-Determination and Educational Assistance Act].*

The Self-Determined Housing Activities program goes a long way to making true self-determination possible. We are excited by the prospect and look forward to implementing this provision at Navajo. However, we hope the Committee will consider broadening the language to allow the support of activities that require some expenditure of funds on infrastructure. In Indian Country in general, and Navajo in particular, housing cannot be built without infrastructure. Existing water and waste water facilities are hopelessly overburdened and in many areas of our land do not exist at all. At Navajo and other tribes, units of housing sit vacant because they have no electricity or lack water and sewer hook ups. In Indian country, lack of infrastructure is an affordable housing problem.

The exclusion of developer fees from consideration as program income in low-income housing tax credit projects is welcomed. The developer fees from tax credit projects are the result of risks taken by a tribe and are for developers would constitute a form of profit. We should reward tribes who undertake these activities themselves. Anything this committee, or your colleagues at the Ways and Means Committee, can do to encourage tribes to use the tax credit program is welcome. I have been involved in a tax credit project in support of Indian housing, the Apache Dawn project in Arizona. Tax credits are a small but growing portion of total housing development in Indian Country, but one that must be supported.

Other provisions in the bill, including the eligibility of essential Indian families in housing and the inclusion of police officers, will go far to strengthening our communities. Likewise, the de minimis exemption from procurement rules when a NAHASDA recipient is spending less than $5,000 will alleviate administrative burdens. The savings one might find through a competitive bid process for such small amounts is far outweighed by the amount of time and effort that must be put in to solicit and review the bids. Saving $100 on supplies is not worth it if it took 30 staff hours to accomplish that,

time that could be better spent elsewhere and if accounted for would actually be shown to cost more money than the supposed "savings."

We recognize the goal of the provision concerning certification of tenant income, but I am afraid we may be addressing a problem that is not actually present in the current statute. Certifying tenant income can be a challenge and draws on staff resources, especially as in our case when we have thousands of families. But the current statute is silent on the manner in which recertification is done so the requirement that we only certify for fixed-income residents every three years actually adds to the statutory burden, although in practice it would be less. We would prefer not to deal with this matter through a statutory amendment.

Title VI

One provision not present in the bill, but that we have discussed with staff, is a proposed amendment broadening the scope of the Title VI Loan Guarantee program. Title VI is underutilized for two basic reasons. First, there has been a lack of effective education about the program. We are pleased to see that the draft bill addresses that by including a requirement that HUD provide training on the use of Title VI guarantees and we support the provision. Second, the activities allowed under the current Title VI program are so limited that most activities, no matter how beneficial to local tribal communities, cannot generate enough income to cover debt service on the guaranteed loan.

Title VI is based on the very successful Section 108 program, which allows recipients of Community Development Block Grant dollars to borrow or issue bonded debt for up to five times their annual formula allocation to support the functions otherwise allowed under CDBG. Tribal governments are statutorily prohibited from utilizing the Section 108 program because tribes compete for one national set-aside, known as ICDBG. Without a formula allocation under CDBG, tribes will never be able to access this vital program.

Amending Title VI to include the eligible activities allowed under Section 108 would allow tribes to access the benefits of a program long used by urban communities. This would have the effect of increasing investment in economic development and infrastructure in communities desperately in need of such investment without increasing federal appropriations. Making this definitional change would also increase utilization of Title VI, the credit subsidy for which often goes unused.

We are not proposing any change in the eligible activities for the block grant. This would simply allow tribes to use funds from outside sources -- banks or bond investors -- to support desperately needed development in Indian Country. The only way funds meant for housing could go to economic development is if the borrowing, which HUD itself must individually approve, results in a claim against the U.S. government. In the history of the Section 108 program we are unaware of any time in which HUD has withheld CDBG grant funds. Defaults in Section 108 are rare and in each instance have been

covered by the Treasury. This would be a question best posed to the Government Accountability Office and we would welcome a chance to discuss this further.

The potential benefit of pumping hundreds of millions of dollars into economic development and infrastructure without an increase in appropriations far outweighs the hypothetical possibility that HUD might choose to withhold funds from a few tribes because of poor oversight on their part. Effective education and diligent oversight can prevent this.

We would like to work with the Committee to see if this proposal, even in the form of a demonstration, could be included in this bill.

Conclusion

Again, I would like to thank the Committee for this opportunity and applaud you for your efforts so far. I recognize there is much work to be done before this legislation becomes law, but I look forward to continuing this important work to see that these amendments do become law and NAHASDA is strengthened.

PREPARED STATEMENT OF DAN DUAME, CHAIRMAN

LEGISLATIVE COMMITTEE - ASSOCIATION OF ALASKA HOUSING AUTHORITIES

BEFORE THE SUBCOMMITEE ON HOUSING AND COMMUNITY DEVELOPMENT

HEARING ON THE REAUTHORIZATION OF THE

NATIVE AMERICAN HOUSING ASSISTANCE AND SELF DETERMINATION ACT

H.R. ___

JUNE 6, 2007

Good morning Chairwoman Waters, Ranking Member Biggert and distinguished members of the Subcommittee on Housing and Community Development. My name is Dan Duame and I am the Director of the Aleutian Housing Authority and Chairman of the Legislative Committee of the Association of Alaska Housing Authorities (AAHA).

On behalf of the 14 regional housing organizations that comprise the AAHA, I offer this brief statement for your consideration on the occasion of the Subcommittee's consideration of draft legislation to reauthorize the *Native American Housing Assistance and Self Determination Act of 1996*, (NAHASDA), as amended, 25 U.S.C. §4101.

After several years of deliberations in Congress and in Indian country, NAHASDA was enacted in 1996 to revamp Federal authorities through which housing and housing-related infrastructure is built and maintained for the benefit of Indian Tribes and their members. The NAHASDA was intended to mark a clean break with past Federal housing statutes by emphasizing tribal authority to design, implement, and administer housing programs in Native communities. While NAHASDA was a decided improvement on past efforts, it is fundamentally flawed in its mission to emphasize Indian self determination because at the end of the day, the

United States --- in the form of the Department of Housing and Urban Development --- continues to retain final authority over NAHASDA's housing program activities.

Compared to the service alternatives being employed in the continental U.S. and the State of Alaska, such as the *Indian Self Determination and Education Assistance Act* (25 U.S.C. §450) and the *Tribal Self Governance Act* (25 U.S.C. §458aa-458hh), NAHASDA is an especially inefficient service delivery model.

Recognizing this and acknowledging the growing assumption by Indian tribes to provide services to their members, in 2002 Congress approved a series of amendments to NAHASDA including a requirement that the Department of Housing and Urban Development (HUD) conduct and submit to Congress a study on the feasibility of establishing a demonstration project in which Indian tribes and tribal organizations would be able to receive assistance in a manner that maximizes tribal authority and decision-making in the design and implementation of Federal housing and related funding activity. HUD was to conduct this study "consistent with" the *Indian Self Determination and Education Assistance Act*, (ISDA) 25 U.S.C. § 450.

In December 2005, HUD issued its report, concluding that "[a] demonstration project to maximize tribal authority and decision-making with respect to the administration of HUD's Indian housing programs is neither necessary nor practicable. NAHASDA, by design, already provides for tribes to exercise self-determination within the parameters of the statute." Clearly, this was not the kind of analysis Congress sought when it launched the study in 2002.

Notwithstanding HUD's predictable reluctance to yield authority to Indian tribes, members of the Association of Alaska Housing Authorities [1] are proposing an amendment to the

[1] The AAHA is composed of the following housing authorities: Aleutian, Association of Village Council Presidents (AVCP), Baranoff Island, Bering Straits, Bristol Bay, Cook Inlet, Copper River Basin, Interior Region, Kodiak Island, North Pacific Rim, Northwest Inupiat, Tagliugmiullu Nunamiullu (TNHA), Tlingit-Haida, and Ketchikan. The Alaska Housing Finance Corporation is also a member of the AAHA.

NAHASDA to launch a "Demonstration Project" based on the Indian self determination statutes as regards the delivery of housing in Alaska.

As this Subcommittee knows, other Federal programs and services are routinely delivered by tribes and tribal consortia through contracts and compacts. In fact, Indian tribes and tribal consortia are now responsible for delivering more than one-half of the functions and programs of the Bureau of Indian Affairs and the Indian Health Service.

The AAHA is proposing that the next logical step in the inexorable march of Indian self determination is in the area of housing and that it be taken in the form of a 5-year demonstration program. The proposal will allow for greater flexibility, greatly reduced Federal oversight from HUD, improved accountability and, ideally, increased funding stability. In short, the proposal is intended to provide a framework where Alaska housing authorities can better serve their member tribes and individual tribal beneficiaries, essentially allowing us to maximize scarce resources and provide more and better housing services

I have appended a copy of the AAHA's proposal for your consideration. I appreciate the opportunity to share this information with you and look forward to the Subcommittee's continued deliberations on this most important topic.

ALASKA NATIVE HOUSING ASSISTANCE DEMONSTRATION PROGRAM

A bill to specify the terms of contracts entered into by the United States, through the Department of Housing and Urban Development (HUD), and certain eligible Alaska Native Tribes and Tribal organizations to provide housing programs and services to Indian/Alaska Native families and individuals.

SEC. 1. The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 et seq.) (hereinafter "NAHASDA") is amended by striking section 107 and inserting the following:

"SEC. 107. ALASKA NATIVE HOUSING ASSISTANCE DEMONSTRATION PROGRAM.

(a) DEFINITIONS. In this section:

(1) "affordable housing activities" means housing activities identified by the participant under subsection (j) of this section;

(2) "Alaska housing area" means the NAHASDA service area for each eligible participant;

(3) "demonstration program" means the Alaska Native Housing Assistance Demonstration Program established by this section;

(4) "eligible tribal organization" means those regional housing entities established pursuant to Alaska Statute (A.S. 18.55.996) that are current recipients of funding pursuant to section 101 of this Act.

(5) "participant" means any eligible tribal organization that has timely elected to participate in the demonstration program for the fiscal year.

(b) ESTABLISHMENT. The Secretary shall establish and implement a five year demonstration program in accordance with the provisions of this section. The program shall commence for fiscal year 2008. In the event that the demonstration

program is not reauthorized after fiscal year 2012, participants in the program shall be transitioned back to the block grant program established under section 101 of this Act. Eligible entities that choose not to participate in the demonstration program shall remain fully eligible as block grant recipients under section 101 of this Act.

(c) ELIGIBLE TRIBAL ORGANIZATIONS. Eligible tribal organizations that elect to participate in the demonstration program for a fiscal year, and Alaska tribes that either utilized the participant as their tribally designated housing entity on the effective date of this section or elect to participate in the demonstration program through the participant under subsection (f) of this section, may not be a recipient of block grant funding under section 101 of this Act for that fiscal year.

(d) DEADLINE FOR ELECTION. An eligible tribal organization desiring to participate in the demonstration program for a fiscal year must notify the Secretary of its intent to participate within 60 days of the commencement of each fiscal year; *provided, however,* that all designations must be made before the beginning of the fourth year of the program and for fiscal year 2008, the designation may be made no later than October 1, 2007.

(e) FUNDING AGREEMENTS. The Secretary shall on an annual basis enter into individual Annual Funding Agreements (hereinafter "AFA's") with each eligible participating entity, which agreements shall:

(1) set forth the general terms and conditions which shall be applicable to all participating entities, and those which may be negotiated on an individual basis pursuant to the authority provided under this section; and

(2) specify the funding amounts to be provided to each participant, which

amounts shall, consistent with the Federal Government's laws and trust relationship to and for Indian people, provide an annual base funding amount which shall be equal to that which each participating entity would have otherwise received in the year this Act is enacted, pursuant to the section 101 of this Act; and

(3) provide that in each subsequent fiscal year, such individual base amounts as proportionate totals of the Alaska statewide total, shall only be adjusted based on overall national congressional increases to the NAHASDA block grant program or general rescissions; and

(4) provide that in the event of overall increases to the NAHASDA block grant at the national level, Demonstration Program participants shall collectively be entitled to a proportionate amount from the national total based on the proportionate NAHASDA formula allocation percentage of the total Alaska allocation relative to the national pool at the time of the enactment of this Act; and

(5) provide that, consistent with existing law, that each agreement entered into hereunder shall specify the amount of funding designated as Current Assisted Stock ("CAS") funding and "Needs" funding; and

(6) provide that to the extent that affordable housing activities carried out by a participant under this Act reduce administrative or other responsibilities of the Secretary and result in savings that have not otherwise been included in an AFA, the Secretary shall make such savings available for the provision of additional services to program beneficiaries in a manner that is equitable for

beneficiaries receiving services under the provisions of this Act as well as those who continue to receive services under NAHASDA. Such identified savings, if any, as well as any funding made available pursuant to subsection (3) above, shall be distributed to participating entities pursuant to a negotiated formula allocation methodology to be mutually negotiated by the participants and the Secretary through the negotiated rulemaking process provided for below.

(f) ADDITIONAL BASE AMOUNT INCLUSIONS; TRIBAL ELECTION. Any Alaska tribe within a participant's housing area that did not utilize that participant as its tribally designated housing entity on the effective date of this section may designate that participant as its tribally designated housing entity, and, upon designation, that participant's base amount under paragraph (e)(1) of this section shall be credited with an amount equal to the amount of funding received by the designating tribe under section 101 of this Act for the fiscal year in which the designation is made. Any designation made under this subsection must be provided to the Secretary in writing no later than 90 days prior to the commencement of the fiscal year in which the designation will take effect, and must be made no later than July 1, 2011; *provided, however,* that for fiscal year 2008, the designation may be made no later than October 1, 2008.

(g) PARTICIPANT BUDGETARY AUTHORITY. Subject to the limitations of subsection (k) of this section, participants may expend funds awarded under this section on affordable housing activities and the cost of administering the demonstration project in the participant's housing area based solely on the internal

budgeting approval processes established by the governing board of each participating entity. Secretary may not require review or approval of any participant's budget allocation or reallocation.

(h) CARRYFORWARD OF FUNDS; PROGRAM INCOME. Notwithstanding any other provision of law, funding provided to a participant under this section for any fiscal year, which are not obligated or expended prior to the beginning of the next subsequent fiscal year shall remain available for obligation or expenditure during such subsequent fiscal year and thereafter until obligated or expended and accounted for in the annual single audit required of each participant pursuant to subsection (l) of this section. A participant may retain any income any program income that is realized from any amounts received under this section, and no awards under this section may be reduced on account of the realization of any such income.

(i) GENERAL ADMINISTRATIVE PROVISIONS.

(1) FEDERAL SUPPLY SOURCES. For purposes of section 201(a) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(a)) (relating to Federal sources of supply, including lodging providers, airlines and other transportation providers), a participant shall be deemed an executive agency when carrying out programs, services, functions and activities under this section and participant and its employees shall be eligible to have access to such sources of supply on the same basis as employees of an executive agency.

(2) MATCHING FUNDS. Notwithstanding any other provision of law, a participant may use funds provided under this section to meet matching or cost participation requirements under any other federal or non-federal program, and

funds provided under this section shall be considered non-federal funds.

(3) TDHE AUTHORITY. Unless otherwise limited by tribal resolution, TDHE's shall be authorized, on behalf of their respective designating tribes, to assume all duties, responsibilities and functions which are provided for under this Act and which may be lawfully delegated by such tribes.

(j) ELIGIBLE USES OF FUNDS.

(1) ADMINISTRATION AND PLANNING. Not more than twenty percent of any fiscal year award may be expended for demonstration project administration and planning.

(2) AFFORDABLE HOUSING ACTIVITIES. Participants shall be authorized to develop or to support affordable housing for rental or homeownership, or to provide housing services with respect to affordable housing, through the following activities:

(A) *Indian Housing Assistance* - The provision of any service or facility authorized for Indian tribes under Section 202(1)-(6) of this Act.

(B) *Maintenance and Modernization* - The maintenance, operation and modernization of affordable housing units constructed with funds provided under this Act.

(C) *Rental Vouchers* – Notwithstanding any other provision of law, the issuance of rental assistance payments to a building owner, including facilities owned in whole or part by a participant, or to a tenant eligible to receive assistance under this Act shall not be considered a federal award with respect to Title 26, Internal Revenue Code, Section 42. Said

rental assistance payments to either a building owner or tenant shall not affect the eligible basis of a qualified building for the taxable year and all succeeding taxable years.

(D) *Housing Related Community and Economic Development* – The development of any facility, community building, business, activity or infrastructure that –

(i) is necessary to the direct construction of affordable housing in the housing area; would help a participant reduce the cost of construction of affordable housing; or would otherwise promote the purposes of this Act;

(ii) *provided that*, 'housing related community and economic development' does not include any activity conducted under the Indian Gaming Regulatory Act (25 U.S.C. 2710 et seq.); and

(E) *Other Activities* - Participants may negotiate with the Secretary to authorize expenditures for other programs and services that may best meet or support affordable housing needs within their respective service areas. Any activities demonstrated to meet such needs that are designed to carry out the purposes of this Act, and not otherwise prohibited by law, shall be allowed by the Secretary to the maximum extent possible.

(k) BASE BUDGET REQUEST. For fiscal years 2009 through 2012, the Secretary shall identify, in the annual budget request by the President to the Congress under section 1105 of Title 31, United States Code, a separate Alaska Native Housing Assistance Demonstration Program funding amount which shall be equal to the sum of the

amounts received by participants in the previous fiscal year pursuant to the provisions of this section.

(l) RECORDS AND MONITORING.

(1) MAINTENANCE OF RECORDS. Each participant shall keep such records as the Secretary shall prescribe by regulation promulgated under sections 552 and 553 of Title 5, United State Code, including records which fully disclose:

(A) the amount and disposition by such participant of the proceeds of funds awarded under this section,

(B) the cost of the project or undertaking in connection with which such assistance is given or used,

(C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and

(D) such other information as will facilitate an effective audit as required by subsection (e) below.

(2) ACCESS TO RECORDS. The Comptroller General and the Secretary, or any of their duly authorized representatives, shall, until the expiration of three years after completion of the project undertaking referred to in the preceding paragraph of this subsection, have access (for the purpose of examination) to any books, documents, papers, and records of participants which in the opinion of the Comptroller General or the Secretary may be related or pertinent to the grants, contracts, subcontracts, sub-funds, or transactions other by which funds may have been received or expended.

(3) ACCESS BY INDIAN PEOPLE. Each participant shall make such reports

and information available to the Indian people served or represented by such participant as and in a manner determined to be adequate by the Secretary.

(4) REPAYMENT OF FUNDS UPON DISSOLUTION. Should any participant, for any reason, be subject to dissolution, funds paid to the participant under this section and not expended or used for the purpose for which paid shall be repaid to the Treasury of the United States through the Secretary.

(5) SINGLE AGENCY AUDIT. All participants receiving awards under this section shall be subject to the reporting requirement of the Single Audit Act of 1984 (98 stat. 2327, 31 U.S.C. 7501 et. seq.). No other financial audit may be required by the Secretary relating to funds awarded under this section. In addition to the single-agency audit report requirements, participants shall submit such additional information concerning the programs, functions, services, or activities carried out pursuant to an agreement under this section as participants may jointly negotiate with the Secretary pursuant to Section 12 of this Act.

(m) REGULATIONS.

(1) NEGOTIATED RULEMAKING COMMITTEE.

(A) Notwithstanding sections 563(a) and 565(a) of Title 5, all regulations required under this section shall be issued according to a negotiated rulemaking procedure under subchapter III of chapter 5 of Title 5.

(B) Final rules under this subsection shall be adopted and published by the Secretary no later than eighteen (18) months following the

effective date of this Act.

(2) MEMBERSHIP. A negotiated rulemaking committee established pursuant to this section shall have as its members only Federal and participating entity representatives, a majority of whom shall be representatives of participating entities, with each entity entitled to appoint no more than 2 official representatives.

(3) EFFECT. The lack of promulgated regulations shall not limit the effect or implementation of the provisions of this section. Regulations promulgated under Section 106 of this Act shall not apply to participants, *provided that*, participants may in their sole discretion elect to include select NAHASDA regulatory provisions within an individual participant funding agreement.

(n) REPLACEMENT OF PARTICIPANT

(1) REPLACEMENT. Notwithstanding any other provision of law, the Secretary may, only in the circumstances set forth in paragraph (2) of this subsection, replace the participant with another qualified participant capable of servicing the housing area of the participant being investigated.

(2) CONDITIONS OF REMOVAL. The Secretary may replace the participant only upon a determination by the Secretary, on the record after opportunity for a hearing, that the participant has engaged in a pattern or practice of activities that constitutes substantial or willful noncompliance with the applicable requirements of this Act.

(3) Any replacement participant under this subsection shall act as a participant only for a period that expires upon:

(A) a date certain, which shall be specified by the Secretary upon making the determination under paragraph (2); or

(B) the occurrence of specific conditions, which conditions shall be specified in written notice provided by the Secretary to the removed participant upon making the determination under paragraph (2).

(o) APPLICABILITY OF OTHER LAWS.

(1) EFFFECT OF OTHER LAWS. The provisions of this section supersede any conflicting provisions of law (including any conflicting regulations) in effect at the time of enactment, and at the request of any participant, the Secretary is authorized to waive or repeal any regulation inconsistent with the provisions of this section.

(2) FACILITATION. Except as otherwise provided by law, the Secretary shall facilitate the implementation of agreements entered into under this Act by interpreting, negotiating and implementing each existing Federal law and regulation, and negotiating implementing regulation as required by section 12 of this Act that are similar in nature, purpose and scope to agreements and regulations entered into pursuant to the self-determination and self-governance provisions of Titles I, IV and V of the Indian Self-Determination and Education Assistance Act of 1975, as amended (25 U.S.C. 450 et seq.). A participating entity may, at its discretion, choose to identify and list in an AFA which, if any specific provisions of NAHASDA and its implementing regulations shall be applicable and deemed to be incorporated into the individual AFA.

(p) AUTHORIZATION OF APPROPRIATIONS.

(1) TRAINING, COORDINATION AND TECHNICAL ASSISTANCE. There is authorized to be appropriated, and the Secretary is authorized to provide a sum of not less than $500,000.00 for each of fiscal years 2008 through 2012 to the Association of Alaska Housing Authorities to provide training, coordination and technical assistance to participants to assume the self-governance responsibilities imposed by this section.

SEC 2. EFFECTIVE DATE. This Act takes effect October 1, 2007.

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Statement of William Picotte, Eagle Thunder Consulting,
and Board Member and former President.
Housing Assistance Council
on
"Native American Housing Assistance"
for the Subcommittee on Housing and Community Opportunity
House Financial Services Committee
United States House of Representatives
June 6, 2007

The Housing Assistance Council (HAC) very much appreciates the opportunity to submit this statement for the record on the reauthorization of the Native American Housing and Self Determination Act. My name is William Picotte. I am President of Eagle Thunder Consulting in Rapid City, South Dakota. I also am a Board member and former Board President of the Housing Assistance Council. And I was the founder and Executive Director of Oti Kaga, Inc., a nonprofit housing development organization located on and serving the Cheyenne River Reservation in north central South Dakota. I have 15 years of experience in housing development and management.

BACKGROUND

HAC is a 36-year old, national nonprofit organization that provides training, technical assistance, research, information and other services to the rural poor. During that time, we have provided direct services and maintained close relationships with Native American housing groups across the country, and thus are knowledgeable about the housing needs and delivery systems in Indian areas.

To set a context, first let me say something about our own situation in South Dakota. The poverty rate for the Cheyenne River Sioux Indian Reservation is 40.9 percent, compared to 13 percent statewide and 12 percent nationally. Median family income for the reservation is $15,797 and per capita median income for the reservation is $6,405. Those are median incomes, something that may be difficult to grasp in a major metro area where the median household income is $80,000 or higher. The homeownership rate for Cheyenne River is 51.6 percent, compared to 66.1 percent statewide, and 67 percent nationally. These statistics demonstrate one local example of the extreme poverty and housing need faced in Indian country.

THE NEED FOR NAHASDA

The Native American Housing Assistance and Self-Determination Act of 1996 has helped more than 60,000 Indian families improve their housing conditions, including new construction, home rehabilitation, down payment assistance and rental assistance. However, the need is still great:

- An estimated 200,000 housing units are needed immediately in Indian country.
- Approximately 90,000 Native families are homeless or underhoused.[1]

[1] U.S. Commission on Civil Rights, "A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country," 2003.

- The poverty rate for Native Americans is approximately 26% - 2.6 times higher than that for whites and more than twice the average for all Americans. (Census Bureau, 2000).
- On Native American lands, 11.7% of residents lack complete plumbing facilities, compared to 1.2% of the general U.S. population (Census Bureau, 2000).
- In 2005, it was reported by the Government Accounting Office that 11% lacked kitchen facilities in tribal areas compared to 1% of American population.

Clearly, NAHASDA needs to be reauthorized as the major funding source for housing in Native areas. Clean, safe and affordable housing is a necessity.

SPECIFIC RECOMMENDATIONS FOR NAHASDA

⌂ When NAHASDA was implemented following its passage in 1996, Section 8 rental subsidies were removed from the operation of Indian housing authorities. Since that time, IHAs have used their resources to create tax credit rental developments, as well as some Section 515 rental housing, but the tenant rent subsidy has either been in the development cost or, in the case of 515s, an allocation of USDA Rental Assistance to the extent it is available. The lack of Section 8 authority became particularly troublesome when the Section 8 Housing Choice program was created. Tribal members wishing to make use of this assistance to purchase housing are required to move off the reservation and into a geographic area where a non-Indian housing authority is operating a Section 8 housing choice program. Though some tribal members have done this to make use of this important subsidy, it has caused dislocation. As tribes create new, non-1937 Act rental housing, as well as new single family homeownership opportunities, it is only equitable that they benefit from the Section 8 subsidies, including the Housing Choice program. Either NAHASDA or Section 8 legislative authority should be amended to restore to Tribally Designated Housing Entities (TDHEs) the Section 8 authority now denied to them (Section 4182 of PL 104-330).

⌂ Implementation of NAHASDA also created a disconnect between Indian Health Service (IHS) infrastructure assistance and developments receiving any amount of block grant funding, thereby eliminating both the experience and much needed dollars to create the infrastructure so critical to housing development. If a property has benefited from IHS funding, then NAHASDA funding is used to develop the housing, the IHS funds must be repaid. This prohibition of joint funding may have been based on expectations of NAHASDA budget levels that far exceed those appropriated annually, thus using precious block grant dollars for housing development on basic infrastructure. NAHASDA dollars rarely can support all the costs of developing a new unit; instead, these dollars are more often than not used to leverage other funds. Even when only a small portion of total development costs are provided by the block grant, such as in the case of down payment/closing cost assistance, IHS infrastructure assistance is prohibited. This disconnect between IHS and NAHASDA funding should be removed so that the programs can support each other, and can benefit from joint planning for housing development.

⌂ Certain tribes are reporting that the use of 2000 Census data that allows individuals to check numerous racial/ethnic boxes to self identify is having a profound effect on the formula allocation for NAHASDA block grants, favoring those tribes where intermarriage has been more prominent than in other areas. Though this certainly was not the intent of

the Census form, the consequences for some tribes may be significant. Though no legislative solution is proposed, it would be useful for Congress to consider studying the impact before the prior allocation formula is changed in a potentially harmful way.

⌂ Capacity building is essential to the successful delivery of housing assistance. Training and technical assistance are the key components needed to build and maintain capacity. Under Title VII, Section 703 of NAHASDA, Congress addressed the need for training and technical assistance by authorizing funding "for a national organization representing Native American housing interests for providing training and technical assistance" (25 U.S.C. 4212). The National American Indian Housing Council (NAIHC) has provided technical assistance and training to their member tribes and tribally-designated housing entities (TDHEs) for more than 20 years. However, current funding has dropped dramatically. In FY05, NAIHC received $4.6 million from HUD for training and technical assistance; in FY06, that amount was reduced to $2 million and in FY07 to $1 million. The administration's FY08 budget proposal zeroes out funding for this important work. We hope that the appropriations process will restore this funding in FY08.

⌂ Additional areas to be clarified in NAHASDA could be amendments to provide authorization and appropriations language to allow repair and maintenance funding for HUD-funded rental units, as there is no funding currently to assist tenants in maintaining their homes, thus increasing the deterioration of homes and families living in substandard conditions.

OTHER ISSUES

NAHASDA is not the only source of funding for needed housing services. We urge the Congress to continue USDA's Sec. 502 direct single-family and Sec. 515 multi-family rural housing loan programs. The administration's 2008 budget proposes to eliminate these programs, which can be important components of the housing delivery system to Native areas. In addition, the Department of Interior's Housing Improvement Program (HIP) serves the neediest Indians in Native communities and the infrastructure to support Indian economies as well as housing is still desperately needed in Native areas. The Indian Health Service estimates the need for sanitation facilities exceeds $2.2 billion. We hope the Congress will support continuation of these important programs in Native areas.

HUD Section 184 is another important program. Unlike the USDA Section 502 home ownership mortgage program, 184 requires that only Department of Justice (DOJ) attorneys may represent HUD in pursuing foreclosures. This is not always timely (though foreclosures have been infrequent), but DOJ attorneys have shown reluctance to represent the government in tribal court. USDA Rural Development has legislative authority contained in 42 USC 1480(d), specifically (d)(1)(C), which HUD's Office of Native American Programs would like to replicate. Contracting with a knowledgeable, *local* attorney could speed the process and would not require federal attorneys to steep themselves in tribal laws/procedures. Replicating 41 USC 1480(d) within HUD's legislative framework would result in the authority needed.

The Housing Assistance Council looks forward to your support of the programs that provide Native Americans with decent, safe and affordable housing and healthy communities. We would be happy to provide additional information if needed. Thank you.

Statement of Alazne M. Solis
Vice President and Director, Public Policy
Enterprise Community Partners

On "Native American Housing Assistance"
For the Subcommittee on Housing and Community Opportunity
House Financial Services Committee
United States House of Representatives
June 6, 2006

Introduction and Overview

Enterprise appreciates this opportunity to submit this statement for the record in connection with the above-reference hearing on improving the Native American Housing and Self-Determination Act. Enterprise is a national nonprofit organization whose mission is to see that all low-income people have the opportunity for fit and affordable housing and the opportunity to move up and out of poverty into the mainstream of American life. Enterprise invests $1 billion a year to create affordable homes and economic development in low-income communities across the United States, working mostly with community-based housing organizations, including tribes and tribally-designated housing entities (TDHEs).

Enterprise is committed to improving housing opportunities for Native Americans. Since 1997, Enterprise has invested $89 million in grants, loans and low income housing tax credits to help 54 tribes develop or renovate nearly 1,800 affordable homes. These investments have leveraged an additional $13 million from private lenders for tribal housing and economic development initiatives.

Enterprise has assisted dozens of tribal entities in developing and implementing their Indian Housing Plans (IHPs) and has launched eight national partnerships to help tribal entities access capital and development expertise. We have also partnered with the National American Indian Housing Council to develop Pathways Home, a certification training course for tribal housing staff who work with families to become homeowners. This program is currently being replicated across the country.

Enterprise's Native American program is headquartered in New Mexico, where we have launched the Native American Lending Group Inc. (NALG), one of the first Community Development Finance Institutions (CDFIs) serving tribal lands in the Southwest. NALG serves the housing and economic development financing needs of tribal communities and businesses by providing on- and off-reservation loans, as well as technical assistance and one-on-one trainings designed to increase clients' financial skills.

Native American Housing and Economic Conditions

More than three-quarters of a million Native Americans live on reservations or in other tribal areas while another 1.68 million live outside tribal areas. Housing and economic development on tribal lands is challenging, as Native Americans suffer from some of the worst housing conditions in the nation with significant over-crowding and dilapidation, and poor access to utilities and roads. In 2003, the U.S. Commission on Civil Rights found that approximately 90,000 Native families are homeless or under-housed, and estimated that Native Americans are in immediate need of 200,000 housing units.[1]

The unemployment rate for Native Americans living on reservations and tribal-designated statistical areas is 22 percent for non-gaming tribes.[2] The poverty rate for Native Americans is more than twice the average for all non-native Americans. The 2000 Census indicated that in tribal areas, 14.7 percent of homes are overcrowded, compared to 5.7 percent of homes of the general U.S. population. On Native American lands, 11.7 percent of residents lack complete plumbing facilities and 16.9 percent lack telephone service. [3]

Two-thirds of the land on reservations is held in trust by the federal government, limiting its use for housing and commercial development. Most tribes lack the basic legal infrastructure that makes mortgage lending possible, while lenders lack experience in underwriting development on tribal lands.

The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) has helped more than 60,000 families access down payment assistance, rental assistance, home rehabilitation funding and new homes. NAHASDA has represented a unique opportunity to transform the old, often ineffective tribal housing system into a new community-based planning and development process. Federal NAHASDA funds are intended to leverage other resources, increasing the support available to tribes. Since 1997, new programs have been developed to enable tribes to meet the housing needs of families with a wider rage of income levels, rather than just very low-income tribal members.

While NAHASDA is a marked improvement over previous policies, its upcoming reauthorization provides an opportunity to streamline the tribal housing development process, resulting in more accessible and affordable rental and homeownership opportunities, as well as improved housing conditions for tribal members.

Recommendations for improving NAHASDA

Expanding NAHASDA Eligible Activities
One of the first steps in creating affordable housing is generating a comprehensive plan for development. HUD's current interpretation of regulations does not permit NAHASDA funds to be used for affordable housing planning purposes to leverage other program funding, such as Low Income Housing Tax Credits (LIHTC), HOME funds and Rural Housing and Economic Development resources. This is a serious impediment to carrying out affordable housing activities and is inconsistent with NAHASDA's intent. Small tribes are particularly challenged to find other resources to learn about how to leverage and plan affordable housing. We strongly urge the committee to include affordable housing planning as an eligible activity under NAHASDA.

Additionally, NAHASDA funds currently cannot be used to provide operations, maintenance or utilities assistance housing services for privately owned affordable housing units or affordable rental housing owned or built using NAHASDA funds. On many reservations, the elderly and the very poor are most in need of assistance with maintenance and utilities. Low-income families should be made eligible beneficiaries for housing services such as operations, maintenance and utilities and all other NAHASDA affordable housing activities, irrespective of whether the units are rental or homeownership.

Access to Credit and Financial Education
Credit and financial literacy education are ongoing issues in Indian Country. Often as a result of limited financial education opportunities, tribal members are more likely to be susceptible to predatory or sub-prime lending. Some banks are eliminating government lending products from the services they provide to tribes, but tribal members continue to need access to more lenders with a greater menu of flexible products.

Tribal members have limited choices for lenders and CDFI resources, making financial education even more imperative. There are continuous problems with outreaching to and qualifying families on trust land for the HUD 184 loan and other programs. As a result, tribal members may not qualify for a mortgage, or may qualify for only very small mortgages. NAHASDA reauthorization should include an emphasis on expanding financial literacy programs in order to facilitate asset building and financial well being among Native Americans.

Leveraging NAHASDA Funds
The NAHASDA statute includes the goal of leveraging NAHASDA with other programs, but some tribes struggle to make it work in practice. For example, in order to achieve the scale necessary for the use of Low Income Housing Tax Credits to be feasible, tribes may be forced to "save" annual allocations of Indian Housing Block Grants over several years just to build 20 to 40 units of housing.

A complication is that different program rules may require different income and rent limits. For example, the HOME and LIHTC programs use area median income limits,

while NAHASDA uses the greater amount between area median and U.S. median income. Meanwhile, the 30 percent housing payment maximum under NAHASDA may limit a family that is interested in a conventional or a HUD 184 loan guarantee mortgage.

State housing finance agencies are positioned to create innovative products and adapt existing programs to help meet the pressing needs on reservations. Congress should design a system to share these valuable program models and disseminate information and lessons on blending state-administered federal programs and state programs with NAHASDA funds.

Harmonizing NAHASDA and the LIHTC Program Rental Subsidies
NAHASDA, along with several other small programs at HUD, the USDA and the Department of Veterans Affairs, provides assistance to enable housing to be affordable to the lowest income tenants. The IRS currently provides limited guidance clarifying that these programs will not be treated as federal grants for the purposes of reducing the amount of housing tax credits in a property. Congress should modify Section 42(d)(5)(A) of the Internal Revenue Code to reflect that NAHASDA funds shall not be treated as a federal grant for the purposes of reducing the amount of low income housing tax credits in a property.

Better Tracking of Impact
Quality information is needed to reform and advance programs. We believe there are several important areas to track that would help gauge the impact of NAHASDA and identify potential ways to improve the programs efficiency and effectiveness. Currently, HUD Office of Native American Programs (ONAP) tracks and provides status reports on the number, location and value of 184 loans made. We believe it would be valuable to also track the number and amount of 184 loans made to families living on reservations with difficult title processes and possibly lower incomes, versus loans made to families living off-reservation. Additionally, HUD ONAP should track the number of 184 loans made to TDHEs, typically for developments where families are expected to purchase the home under a lease-purchase program, and for which there is no existing data.

HUD ONAP should collect specific data on how tribes are banking their NAHASDA funds for future development. As mentioned, tribes with smaller allocations of NAHASDA need to reserve Indian Housing Block Grants for larger-scale developments and to be able to package NAHASDA resources with other sources of financing. Many tribes have been successful with this strategy, but data is anecdotal.

Congress should encourage HUD ONAP to collect data on specific sources of leverage funds being combined with NAHASDA resources. In many cases, tribal governments may contribute resources to build infrastructure and provide other resources for affordable housing development.

Full Block Grant Funding
The implementation of NAHASDA has resulted in great advances for community development in Indian Country. The policy recommendations detailed above will provide

valuable additional information as well as streamline the development process to ensure that more families have expedient access to fit and affordable housing. However, as tribal block grant funding decreases and interest rates rise, tribes lack resources to meet the great housing demand. It is imperative that NAHASDA is fully funded with maximum flexibility for tribes and TDHEs to meet local needs in a timely and effective manner.

We look forward to working with members of this Subcommittee to ensure that NAHASDA is streamlined and improved to most effectively meet the serious housing and economic development needs of Native American communities.

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[1] U.S. Commission on Civil Rights, "A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country," 2003

[2] 2005 Harvard Project on American Indian Economic Development: A Databook of SocioEconomic Change between the 1990 and 2000 Censuses. www.ksg.harvard.edu/hpaied/pubs/pub_151.htm

[3] 2000 Census Bureau

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