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Field Hearing before the United States House Committee on Financial
Services, Subcommittee on Housing and Community Opportunity

United States House of Representatives



“Removing Barriers to Homeownership for Native Americans”

July 31, 2006

INTRODUCTION

Chairman Ney, Congressman Renzi, and Members of the Subcommittee, thank you for inviting me to talk about “Removing Barriers to Homeownership for Native Americans.”

My name is Orlando Cabrera, and I am HUD’s Assistant Secretary for Public and Indian Housing. Among other things, I am responsible for the management, operation and oversight of HUD’s Native American programs. These programs are available to 561 federally-recognized Indian tribes. We serve these tribes directly, or through their tribally designated housing entities – TDHEs – by providing grants and loan guarantees designed to support affordable housing, community, and economic development activities.

Our partners are diverse: they are located on Indian reservations, in Alaska Native Villages, and in other traditional Indian areas. In addition to our tribal programs, we have been working with Native Hawaiians and the Department of Hawaiian Home Lands.

It is a pleasure to appear before you, and I would like to express my appreciation for your continuing efforts to improve the housing conditions of American Indians and Alaska Natives. Tribes are taking advantage of new opportunities to improve the housing conditions of the Native American families who live on Indian reservations, on trust or restricted Indian 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 all Native American communities.

As we move forward, we’re cognizant of, and will work within, the government-to-government relationship that exists between this Department and the federally recognized Indian tribes we serve.

You’ve asked me to speak about barriers to homeownership for Native Americans. Let me share with you how I’d like to help tribal communities succeed. My background is in housing, so I would like to focus on the tools of my profession. Today, there are more ways to leverage federal funds than ever before. Tribes should look beyond HUD’s Indian Housing Block Grant and Title VI programs. They also need to pursue opportunities such as the low-income housing tax credits, wherever possible. There are other federal and state programs that they may qualify for but are not using now, and they need to explore partnerships with the private sector, the most overlooked resource.

All these new efforts involve some risk, but without risk, fewer families are assisted.

We’ve 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’re also examining 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.

HUD NATIVE AMERICAN HOMEOWNERSHIP EFFORTS

Secretary Jackson has requested that I share with you the President's vision for homeownership. Homeownership and the ability to build equity in one's home is an important component in the development of strong tribal communities for generations to come. Creating homeownership opportunities continues to rank at the top of the Administration's priorities for the American people, and nowhere is this more important than in the Native American community.

In 2002, the President established a goal of adding 5.5 million new minority homeowners by the end of the decade. Since then, we have added 2.6 million new minority households; 455,000 in fiscal year 2005 alone. The greatest proportional gain among new minority homeowners in fiscal year 2005 came from the category that includes American Indians, Alaska Natives and Native Hawaiians. The overall minority homeownership rate at the end of fiscal year 2005 was 51.2 percent—the highest it has ever been.

Section 184 Accomplishments

HUD's Section 184 Indian Housing Loan Guarantee program has made a significant contribution to the overall success of the Administration's homeownership initiatives. This program provides a federal guarantee to lenders for 100 percent of the principal and interest on market rate loans to Native American homebuyers. In fiscal year 2006, Congress appropriated \$3.96 million in credit subsidy, which could guarantee over \$116 million in loans. The President's budget request for fiscal year 2007 asked for \$5.94 million, which could guarantee up to \$251 million in loans. The House has recommended that the Section 184 program be funded at last year's level of \$3.96 million, while the Senate recommends the President's request of \$5.94 million. There has only been one rescission during the life of this program.

Section 184 loan activity for the past fiscal year shows that tribes and TDHEs are using this program with increasing frequency. In fact, in fiscal year 2005, we increased the number of loan guarantees to 634, representing \$76.8 million in mortgage guarantees. So far in this Fiscal Year, HUD has guaranteed 893 loans. Since the beginning of the program, we have completed more than 3,465 Section 184 loan guarantees.

The rate of loan obligations confirms that the Section 184 program is making homeownership possible for more and more Native Americans, and at very little cost to the federal taxpayer.

The Office of Native American Programs has made a number of enhancements to HUD's Section 184 Program. I believe these improvements will make it easier for tribes and individual borrowers to access mortgage financing.

In the past, lenders have stated that reservation housing markets are non-existent. To correct this misperception, ONAP's Office of Loan Guarantee has instituted new refinance options to support the development of a housing market.

Mutual Help Homeownership Program participants who have lived in their homes for at least a year may now:

- Apply for a cash-out refinance loan to pay off the Mutual Help and Occupancy Agreement;
- Make improvements to the property; and
- Consolidate their consumer debt.

Secondly, tribes may now apply to refinance homes built with Indian Housing Block Grant funds or tribal dollars, as long as the proceeds are designated for future affordable housing activities.

I believe these are positive changes and that they help ensure that the Section 184 program continues to play a vital role in the Department's homeownership efforts in the coming years, so I ask you to work with us as we strive to increase the number of Native American families who realize the American dream of owning their own home.

The Importance of Leveraging Federal Funds

When I think of leveraging, the word "collaboration" comes to mind. 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 fiscal year 1998, has now distributed over \$5.7 billion in funding to tribes or their TDHEs.

But relying on IHBG funding alone – without leveraging those dollars – misses a significant opportunity. We need to continue exploring new ways to combine HUD resources with those of other federal agencies, the states, and the private sector.

Title VI Program

Although it has been in existence since NAHASDA became law, the Title VI Tribal Housing Activities Loan Guarantee Fund continues to be underutilized. Those tribes and tribally designated housing entities with no significant audit findings can borrow up to five times their annual Indian Housing Block Grant allocation and use their future IHBG funds as collateral to back up a market rate loan. HUD will provide a 95 percent federal guarantee to a lender in the event of a default.

The flexible nature of the program makes it possible to finance any eligible activity for a period up to 20 years. Title VI has proven to be a cost effective source of gap financing during the early stages of a development project. For example:

White Mountain Apache Housing Authority borrowed \$5 million in two separate Title VI loans to provide infrastructure for the "Apache Dawn" housing development project. The Water Infrastructure Financing Authority of Arizona, or WIFA, funded the Title VI loans in the amount of \$3 million and \$2 million respectively, from its Drinking Water and Clean Water Revolving Loan Funds. Apache Dawn used a \$25 million Ginnie Mae collateralized, tax-exempt bond to fund 320 single-family homes using Section 184 guaranteed mortgages. The White Mountain

Housing Authority's project demonstrates the benefits of mixing federal loan guarantees with state financing vehicles to lower the interest rates and thereby increase the economic viability of this large-scale project.

To date, \$95.2 million in Title VI financing has been leveraged with funding from other sources to produce 1,474 housing units with a total investment of \$132 million in affordable housing.

Title Status Reports and the HUD/BIA/USDA Memorandum of Understanding

The homeownership rate among Native Americans, while at all-time highs, lags behind that of the rest of the country. Although there are a number of contributing factors, streamlining the TSR process and increasing the level of homeownership and credit counseling will contribute to the evolution of a more vibrant housing market in Indian Country.

In a combined effort to increase the homeownership rate in Indian Country, address affordable housing needs, and promote mortgage financing, my office, the BIA, and USDA Rural Development signed an MOU to work together with tribes to provide housing development and related assistance to all sectors of Indian communities. A major aim of the MOU, which was signed in September of 2004, was to obtain a commitment from the BIA to expedite the production of Title Status Reports, or TSRs, a necessary document for the mortgaging of trust or restricted Indian lands.

The BIA released an interim TSR processing policy on September 29, 2005, that established the use of a title endorsement in place of a second certified TSR in leasehold mortgage transactions. In theory, the use of a title endorsement to update a title report brings the TSR process closer to title insurance industry standards and practices. This policy, however, was not implemented universally by BIA regional offices, and the document itself fell short of the generally accepted standards of title insurers.

Lenders continue to express concern about the length of time it takes to process leasehold transactions. The discussion has focused on the potential costs to the borrower, who is subject to interest rate fluctuations due to market conditions while waiting for the Bureau to complete the TSR process. While progress has been made, there continue to be inconsistencies from region-to-region in the time it takes to process a TSR request.

In an effort to reach our common goals, I met recently with Interior Associate Deputy Secretary James E. Cason to determine if there is more that we can do together. At that meeting, Deputy Secretary Jim Cason restated the BIA's commitment to streamlining the TSR process, and I agreed to a plan to assist them in resolving the current backlog of TRS requests. HUD drafted and submitted to the BIA a new title endorsement document that addresses the deficiencies in the previous title endorsement document. In addition, HUD has offered to collaborate with the BIA in order to develop and facilitate a series of regional training sessions for BIA personnel stressing the importance of the uniform implementation of the TSR process to ensure a consistent application of the BIA's policy.

In summary, the TSR process has room for improvement. But, through our partnership with the BIA, it is also evolving well. We look forward to working with the Bureau to develop solutions to further streamline the TSR process. HUD is committed to supporting homeownership education programs and is working with the BIA and USDA to develop some successful models that demonstrate the benefits of a collaborative interagency initiative.

NEW ONAP INITIATIVES

I'd also like to mention some of our other Native American initiatives. In the early years of our loan guarantee programs, most banks thought there were no housing markets on reservations. I am pleased to say that this is no longer the case. In addition to our Section 184, Title VI and Indian Housing Block Grant programs, we've begun some new initiatives that were unthinkable just a few short years ago. One of them is tax-exempt bond financing.

Tax-Exempt Financing

I have asked ONAP's Office of Loan Guarantee to work with the Public Housing Capital Fund's Bond Counsel, and bond rating agencies, to develop a tax-exempt financing instrument with characteristics similar to HUD's Capital Fund Financing Program. This tax-exempt financing will make it possible to leverage Indian Housing Block Grant funds to issue bonds, notes, loans and other financial instruments for affordable housing, including model activities. Once this happens, tribes and TDHEs will be able to borrow private capital and pledge a portion of their future IHBG funds to make debt service payments for either a bond or conventional bank loan transaction.

What is the significance of this type of financing?

- Tribes will be able to pledge up to one-third of their annual Indian Housing Block Grant allocations to make principal and interest payment on tribal bonds.
- The financing instruments are not guaranteed by the federal government, and therefore are not subject to appropriated subsidy rates and caps. The program could be used for any affordable housing activity and is subject to NAHASDA's income restrictions.

Once the program's procedures are finalized, ONAP would market the program and provide any required technical assistance.

Land Assignment Law

We are currently working collaboratively on another effort, the land assignment law initiative, which is designed to increase the private-sector housing market on reservations. Through the use of land assignment law, a tribe will be able to issue a land assignment to a tribal member that is not subject to the 50-year statutory limitation on encumbrance. The Office of Native American Programs and the BIA have worked with the Mashantucket Pequot tribe to establish a model tribal land assignment law. Interior's Solicitor's Office has approved the process and issued an

opinion that individual assignments governed by tribal land assignment law do not require BIA approval or recordation.

A national title insurance company is prepared to issue title opinions on the assignments, creating the necessary mechanism to perfect a lien on the assignment. The tribe must develop an approved process to record assignments that meets the title company's requirements. ONAP will issue program guidance on land assignments for the Section 184 program in the coming months, and we expect other tribes to take advantage of this innovative process.

Environmental Review Process

Tribes may assume environmental review responsibilities, or designate HUD to do so on their behalf. Some tribes believe HUD's environmental review requirements are unduly burdensome, and that different federal agencies require duplicative reporting. NAHASDA's environmental review provisions were amended to permit a "good faith waiver" for inadvertent errors that are capable of correction, if the error does not threaten the health or safety of the Native American community. HUD is in the process of streamlining the waiver process, and we have asked the Assistant Secretary for Policy Development and Research to undertake a study comparing the various Native American environmental review requirements among federal agencies. The ultimate objective is to see if there is duplication, and if there is, to seek standardization of federal environmental review requirements for Indian tribes.

CONCLUSION

Let me state for the record that the Department is working toward eliminating all barriers to homeownership for Native Americans. We're working with tribes and their housing entities to share innovative approaches to housing development in Indian Country, and to make the dream of homeownership a reality.

This concludes my prepared remarks. Again, thank you for allowing me to testify. I would be happy to answer any questions you may have.