

NAHASDA: 20 YEARS ON

FIELD HEARING
BEFORE THE
SUBCOMMITTEE ON
HOUSING AND INSURANCE
OF THE
COMMITTEE ON FINANCIAL SERVICES
U.S. HOUSE OF REPRESENTATIVES
ONE HUNDRED FIFTEENTH CONGRESS
FIRST SESSION

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NAHASDA: 20 YEARS ON

Friday, July 21, 2017

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

The subcommittee met, pursuant to notice, at 9:15 a.m., at the Lac Court Oreilles Ojibwe School, 8575 North Round Lake School Road, Hayward, Wisconsin, Hon. Sean P. Duffy [chairman of the subcommittee] presiding.

Members present: Representatives Duffy and Moore.

Also present: Representative Sensenbrenner.

Chairman DUFFY. The Subcommittee on Housing and Insurance will come to order.

Today's hearing is entitled, "NAHASDA: 20 Years On." Without objection, the Chair is authorized to declare a recess of the subcommittee at any time.

Also, without objection, members of the full Financial Services Committee who are not members of this subcommittee may participate in today's hearing for the purposes of making an opening statement and questioning the witnesses.

Ms. Moore, we welcome you today, and appreciate you traveling from Milwaukee to be at today's hearing; thank you for that. And without objection, the gentleman from Wisconsin, Mr. Sensenbrenner, has committed to participate in today's subcommittee hearing. Mr. Sensenbrenner, we welcome you today and appreciate you coming from the suburbs of Milwaukee, leaving the urban area and coming to the heart of Wisconsin up north, so both of you, welcome.

The Chair now recognizes himself for 5 minutes for an opening statement.

The Native American Housing Assistance and Self-Determination Act (NAHASDA) was enacted in 1996 to provide Native Americans greater self-determination and self-governance in how to spend Federal affordable housing funds.

Prior to the establishment of NAHASDA, Native American tribes received assistance for affordable housing through various Federal programs such as housing development and modernization grants, public housing operating subsidies, and Section 8 rental assistance through the 1937 Housing Act.

Under the Act there were no specific provisions related to treatment of Native Americans addressing the unique circumstances for

how to provide assistance to those living on tribal lands under sovereign governments.

NAHASDA sought to change that by streamlining multiple channels of housing assistance to Native Americans into two programs: the Indian Housing Block Grant Program; and the Title VI Tribal Housing Activities Loan Guarantee Program.

The goal of NAHASDA was to assist and promote affordable housing activities in safe and healthy environments on Native American reservations, in order for Native American areas that occupy low-income areas and families to be better helped.

It also sought to ensure better access to private mortgage markets for Native American tribes and promote self-sufficiency for those tribes.

By coordinating activities to provide housing for tribes and their members at the Federal, State, and local level, tribes were then able to plan and integrate infrastructure resources to develop housing.

Importantly, tribes were also given the ability to promote development of private capital markets for the benefit of Native American communities.

Today, we have a number of witnesses who are involved in NAHASDA, but I have asked a few here today to also address a rising problem in our Nation, and that is the problem of mold that is affecting our low-income housing community, especially our Native American lands.

The last time NAHASDA was reauthorized with changes was in 2008 and the program was extended for 5 years. Since 2013, we have not had a successful reauthorization, but instead have simply been appropriating funds.

I hope that this hearing will provide some insight as to how the program is faring and what changes need to be made, specifically those changes under H.R. 360 that passed the House of Representatives last year.

As I have looked into NAHASDA, I have learned that Native American tribes generally view NAHASDA positively because of the emphasis on self-determination.

However, one particular issue has caught my attention, and that is the amount expended but unobligated of NAHASDA funds. I want to make sure that our tribes that are being awarded money are taking proper initiative to put those dollars to work and ensure their tribal members are living in safe and healthy affordable housing.

Just this morning the members here with me today had an opportunity to tour one of the homes here at LCO, and I know that Ms. Moore, and I hope she will talk about this, as she went into this home, it was one that was full of mold, and if you have a respiratory ailment and you are an adult and you go into that home, you are triggered almost immediately.

We have little children in our community who live in these homes, and I am all about autonomy and sovereignty for our tribal lands, but the Federal taxpayers sent \$800,000 to remediate what we thought would be 53 homes; we have done less than ten. And I think not only does the LCO community, but the Congress has

a right to know how that money is spent. We have a right to see receipts that if it wasn't 53 and it is only 6 or 8, what went wrong?

What do we have to do differently, looking forward, to make sure that people are cared for.

And if this is a situation where we don't have enough money, your Congress will fight for more money; but if this is a problem where money isn't being spent well, we want to make sure that our Federal tax dollars are spent effectively before we come back and ask for more.

And so today I want to have a conversation about NAHASDA, its future, its past, but I also want to talk about this significant issue that we have in our community, that we need to partner together, local, tribal, and your Federal Government, to resolve this issue. No one should live in a home like the one we toured today, not in America. And so with that I look forward to the witnesses' testimony.

Right now, I want to recognize the gentlelady from Wisconsin, Ms. Moore, the ranking member of our Financial Services Committee's Subcommittee on Monetary Policy and Trade, for about a 3-minute opening statement.

Ms. MOORE. Thank you so much, Mr. Chairman, and I want to thank the witnesses, some of whom have traveled a great distance to make this trek to lovely Wisconsin.

We are sparing you from the horrible heat wave in other parts of the country.

I want to thank the chairman, Mr. Duffy, for holding this hearing and I think it is helpful for us to get outside of D.C. from time to time to these field hearings. Of course, I always love being home here in Wisconsin, and I'm really happy to be here with the LAC Courte Oreilles.

As Mr. Duffy indicated, we toured a home today that was contaminated with black mold and I had to flee that housing. I was unable to continue the tour because I am very allergic, and I do think it is important to recognize that we are compelled to act.

I have been working on the reauthorization of the Native American Housing and Self-Determination Act, also known as NAHASDA, since late 2012 and early 2013, and I am happy to report that I have had some tremendous partners on both sides of the aisle, on a bipartisan basis, and we have passed our bill and it has been sitting in the Senate.

And I thought that we really dealt with a number of issues in that bill, up to and including, including all native peoples, including Native Hawaiians.

NAHASDA has been largely a huge success, and to the extent that there are any problems like mold, it is largely a function of the program needing more resources.

For example, we have reauthorized \$650 million and that is a lot of money, but it is only scratching the surface of the need. We are here with the LAC Courte Oreilles, for example, and Ms. Gokee and I had a sidebar conversation where we knew up front in our allocation that you were 50 houses short of what would be needed to do a good job. And if the chairman and the Majority party are so inclined, I would be absolutely open to including more moneys.

The Sioux tribe actually brought one of their housing units to D.C. by semi-trailer truck and put it on the mall so that we could see this black mold for ourselves, so thank you for bringing us to northern Wisconsin so they wouldn't have to do that.

I want to hear from our witnesses, but I do want to say that I am deeply committed to the reauthorization of NAHASDA.

Again, we have passed a strong bipartisan bill twice and it needs some updates and it needs some reforms, but I think the bill we have honors self-determination for all Native populations, legislation on which I was very pleased to have Mr. Duffy's support when it passed in 2015.

So thank you and I look forward to hearing from our witnesses.

Chairman DUFFY. Thank you, Ms. Moore. The Chair now recognizes the gentleman from Wisconsin, Mr. Sensenbrenner, Chair of the House Judiciary Committee's Subcommittee on Crime, Terrorism, Homeland Security, and Investigations, for 3 minutes. Mr. Chairman?

Mr. SENSENBRENNER. Thank you very much, Chairman Duffy, for inviting me up to this hearing to let me know a little bit more about how this program is being administered.

One of the constitutional obligations and duties of the Congress is to do oversight and, unfortunately, I don't think the Congress does as much oversight as we should to see that money is being effectively spent and spent according to the purpose for which Congress appropriated the money.

I guess what I am concerned about here is that we have a lot of money that is unobligated, meaning it has been appropriated and not spent, and we do not see the mold remediation and other problems where this money could effectively be spent, and I think that it was important for the Congress to know why and to figure out what can be done to use this unobligated money to take care of problems like I am sure we are going to hear about in a little bit greater detail when the witnesses come to speak.

One of the things that I did during my chairmanship of the Judiciary Committee and the Science Committee is spend a lot of time on oversight; and we were effective in making agencies better, we were effective in having money spent in a more effective manner and giving the taxpayers more bang for their buck.

But a lot of whether oversight is done and done effectively depends upon the chairman of the committee and the subcommittee, and by bringing the subcommittee out of Washington and up to northern Wisconsin, where there have been problems with how this money has been spent, I think is a way for us to find out firsthand, and from the people who have been affected by this, what the problem is and what we can do to fix it, and for that reason I think that Chairman Duffy has been extremely unique in identifying the problems, and starting to put a little heat under the agencies: one, to spend the money; and two, to spend the money to fix the problems and make sure that we don't have any more problems arise.

So thank you, Chairman Duffy, for having me up here and I am looking forward to seeing how we can constructively address this problem so as to fix it.

Chairman DUFFY. Thank you, Mr. Chairman. The Chair now recognizes and welcomes our witnesses. Our first witness is Ms. Heidi

Frechette, the Deputy Assistant Secretary for the Office of Native American Programs at the U.S. Department of Housing and Urban Development, better known as HUD. Ms. Frechette, welcome.

Our second witness is Mr. Tony Walters, executive director of the National American Indian Housing Council.

Third, we have Dr. Harry Malcolm of the Essentia Clinic, who was previously a family practice doctor in the U.S Air Force and has practiced here in our hometown of Hayward for over 20 years. Dr. Malcolm, welcome and thank you for your service to our country.

Our fourth witness, Mr. Mark Montano, is the executive director for the LCO Housing Authority. He previously served as both vice chairman and director of the tribal operations for the Red Cliff Band of Lake Superior Chippewa in Bayfield, Wisconsin. Welcome.

Ms. Rosalie Gokee is our fifth witness and she is a governing board member here at the LCO tribe and was with us, as many others were, this morning for our tour.

Our sixth witness, Mr. Floyd Tortalita, is the executive director for the Pueblo of Acoma Housing Authority.

Mr. Tortalita has 17 years of experience in planning, design, and housing development projects for the Acoma and Laguna Pueblos. He also currently serves as the Region 8 representative for the Ameren Board of Directors, which provides important insurance products to our tribal community.

And finally, we have our seventh witness, Mr. Jeff Tribble, a member of the LCO tribe.

All of you are welcome. In a moment, you will be recognized for 5 minutes to give an oral presentation of your testimony. And without objection, all of your written statements will be made a part of the record.

Once the witnesses have finished presenting their testimony, each member of the subcommittee will have 5 minutes within which to ask questions of our panel.

With that, Ms. Frechette, you are now recognized for 5 minutes for your testimony.

STATEMENT OF HEIDI FRECHETTE, DEPUTY ASSISTANT SECRETARY, OFFICE OF NATIVE AMERICAN PROGRAMS, U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT (HUD)

Ms. FRECHETTE. Thank you. [Speaking native language.] Hello and thank you. My name is Heidi Frechette, I am the nominee from Wisconsin and it's great to be home, especially in the summer; and I am also the Deputy Assistant Secretary of Native American Programs at HUD.

I want to say [speaking native language] and thank you to Chairman Duffy for the opportunity to discuss American Indian housing programs, and to Chairman Louis Taylor for hosting us here today.

I am very honored and humbled to testify with this esteemed panel of tribal leaders and tribal housing advocates.

And as a career SES at HUD, I administer the Federal Government's largest national Indian housing programs and work closely with tribal leaders, tribally designated housing entities, and tribal housing departments, who are doing amazing and innovative work in their communities.

Since I began my tenure in June of 2016, I have visited Native communities across the country to discuss the issues and challenges tribes face and to hear directly from tribal leaders on what HUD can do to strengthen Indian housing programs.

Like my tribe, far too many Native American communities struggle with severely overcrowded housing conditions, affordable housing shortages, substandard living conditions, and significant barriers to economic opportunity.

Today, one out of every four Native Americans lives in poverty, including one-third of all Native American children. Given these grave statistics, HUD's Native American programs provide a vital resource to tribal communities.

These programs include the Indian Community Development Block Grant, known as ICDBG; the Indian Housing Loan Guarantee, known as Section 184; the Indian Housing Block Grant, known as IHBG, which is under NAHASDA; and the Tribal Housing Activities Loan Guarantee or the Title VI program.

HUD's Indian housing programs are successful examples of Federal programs that provide local choice, contain streamlined governmental requirements, leverage private market investment, and respect tribal self-governance.

In the interest of time, I am going to focus on two of the programs: the ICDBG program; and the IHBG program.

The ICDBG program was authorized in 1977 through an amendment to the Housing and Community Development Act of 1974, and it's a competitive award that's awarded to American Indian tribes and Alaska Native villages under the Community Development Block Grant.

This program funds infrastructure, community buildings, and housing rehabilitation for lower-income Native American communities. And in FY 2014 and 2015 the program included the set-aside of funding for competitive loan remediation and prevention grants.

The IHBG program was authorized by the Native American Housing Assistance and Self-Determination Act and provides a formula to block grant funding to tribes eligible for affordable housing activities.

Tribes across Wisconsin have used ICDBG funds to support their communities, including development of community facilities that target support to elders, to at-risk or homeless tribal youth, and ensuring the health and safety of their communities through water infrastructure projects and improvements to things like portable water infrastructure.

Tribes have made great strides on NAHASDA and the IHBG program. The recently published Indian Housing Needs Study thus concluded that NAHASDA works.

Under NAHASDA, tribes have produced more housing units than under the previous programs, and they have actually produced better housing, housing that is tailored to the local community, the customs and the climates.

NAHASDA supports the government-to-government relationship between the Federal Government and tribal governments, and it recognizes tribal sovereignty because it provides for flexibility and

local control, because tribes can decide what they need best in their communities.

NAHASDA funds are often used as seed money to leverage funding for new construction and rehabilitation. Last month, I had the honor of traveling to New Mexico to the San Felipe Pueblo. The tribal housing entity there used their \$500,000 annual Indian Housing Block Grant funding to attract an additional \$5 million in leveraging funds to construct a whole new housing subdivision.

There are examples like this from tribes across the country, tribes that are leveraging the housing dollars and utilizing other Federal programs to address their housing needs.

HUD looks forward to working with Congress on reauthorization of NAHASDA.

My written testimony submitted today includes HUD's observations on the main elements of H.R. 360, the bill that was introduced in the House in 2015.

So in closing, when considering reauthorization, I always am reminded of the fact that HUD's Indian housing programs are more than just building homes; they bring hope to many communities.

I recently visited a tribe and was invited into a new home of a mother and her four small children, and often on my tribal visits I am not invited into homes that are occupied, I see vacant units so as not to disturb families, so I was surprised that the mother was insistent that we visit her home.

And when we arrived we were welcomed by the grandmother, who was there because the mother was at work, and she was accompanied by her eight-year-old granddaughter, who was out of school for the summer. And it was so moving to see how happy this young girl was that she got to move out of her overcrowded home and she insisted on giving me a tour of her new home.

And she was particularly proud to show me that for the first time in her life she had her own bedroom and she didn't have to share it with her three little brothers, which she was incredibly thrilled about, and I understand where she's coming from.

So as I left I thanked the grandmother because I felt it was incredibly generous that they invited us into the home, and she hugged me and thanked me for the hope and the opportunities that the HUD programs provide. And I was encouraged by the difference that the tribes and the tribally-designated housing entities were making in the lives of their people.

So I thank you again for the honor to appear before you today and I am happy to answer any questions you may have. [Speaking native language.]

Chairman DUFFY. Thank you, Ms. Frechette, and welcome back to Wisconsin.

Ms. FRECHETTE. Thank you.

[The prepared statement of Ms. Frechette can be found on page 41 of the appendix.]

Chairman DUFFY. Mr. Walters, you are now recognized for 5 minutes.

**STATEMENT OF TONY WALTERS, EXECUTIVE DIRECTOR,
NATIONAL AMERICAN INDIAN HOUSING COUNCIL;**

Mr. WALTERS. Thank you. Good morning. My name is Tony Walters, and I am the executive director of the National American Indian Housing Council. I am a member of the Cherokee Nation of Oklahoma. I have been with the Council for only 3½ months, so I am clearly learning some of the services that we provide as a non-profit, advocating on behalf of tribes, as well as all of the services and programs designed with our Federal partners in D.C., and across the country.

I would like to thank Chairman Duffy, and Representatives Moore and Sensenbrenner for the hearing today and for allowing NAIHC to testify.

Just a little bit more about myself. My grandparents grew up on tribal land in Tulsa, Oklahoma. They took advantage of HUD and tribal housing opportunities there and moved from a small trailer in rural Holler up on top of a hill where they had a new home and they recently completed that purchase under a lease-to-ownership program over the last 20 years, so I know—I grew up a little bit in Indian housing specifically that was designed by the Cherokee Nation and for my family and for families in our community and now I work and live in D.C., advocating on behalf of tribal communities and housing in that area.

NAIHC is a nonprofit, and we serve 250 members, which represents almost 500 tribes across the country in their housing entities. We do that in two ways. The first is through advocacy and partnership with the Federal partners in Washington, D.C., whether it is on the Hill or the agencies themselves.

The second way we help our tribal members is through our training technical assistance program. We usually provide conferences, training programs across the country throughout Indian country and regional and specific communities as requested.

So we try to be a great advocate for our tribal members, we work well with our partners in Washington, D.C., such as NODAC, as well as other programs, the USDA, the Department of the Interior, and others.

We were asked to talk a little bit about NAHASDA. I think everyone on the panel here and everyone I have spoken with generally says NAHASDA has worked for 20 years.

When NAHASDA was enacted, tribes took over the ownership and maintenance of nearly 70,000 units that they needed to maintain, as well as continuing to address the unmet need in their communities moving forward.

In 1996 or 1998, one of the first years of NAHASDA funding, it was around \$600 million at the time. When you think about that, that's roughly just a million per tribe, tribe members, there's 567 tribes across the country all in distinct, often remote communities, so we think about funding for these challenges and meeting the housing needs, tribes really have to stretch those dollars and I think they have shown over the 20 years with NAHASDA that they have really done that.

Since NAHASDA was enacted tribes have built 34,000 new units, while continuing to maintain the 70,000 units that existed prior to NAHASDA's enactment. So I think tribes are doing a lot with—you

could argue sometimes not as much as they should get, not as much as the need would justify.

When you look at funding generally over time, in 1998 or 1996, \$600 million of funding, now in 2016 we are only at \$654 million of funding, so when you count inflation into that number, it's about two-thirds of the purchasing power of what tribes had in 1996. Still, that represents 567 tribes trying to address housing needs in their communities.

So I think there is a need, there is an unmet need in Indian country that NAHASDA can continue to address and does address through the IHBG and other programs at HUD and then tribes have used, as Ms. Frechette said, NAHASDA money to leverage their funds; there are other programs, both Federal programs and private programs and lending institutions across the country, to really address the housing needs in their communities. So I think just generally we can say NAHASDA is working.

The HUD needs assessment that Ms. Frechette mentioned highlighted the need even more, actually specifically recommending that 68,000 more units were needed to address substandard housing and overcrowded homes in Indian country. I think the rate for overcrowded homes in Indian country is 6 or 7 times the national average. I have the numbers in my written testimony.

But when you talk about addressing housing needs, you can imagine a lot of these needs in Indian country are compounded by the nature of overcrowded homes and having these types of homes, kind of the maintenance and upkeep that they require in these communities, so with that—and I actually have been working with Congress the last few Congresses to reauthorize NAHASDA since 2015.

And the last two comments; I would like to thank the leadership of this committee, the Financial Services Committee, and others, other allies for passing the NAHASDA reauthorization each of the last two Congresses. We have been working with the Senate to try to address the issue and concern there and will continue to do so. I certainly appreciate H.R. 360 and for what many of the components of that bill really do address and build upon the NAHASDA provisions itself, so we look forward to working with you.

A lot of the specifics are outlined in my written testimony. I think the one concern that we do have with H.R. 360 was the cap on authorization, talked about funding, capping that at \$650 million without a mechanism to allow for growth and funding for these tribal communities is the one concern. H.R. 360 is a great bill to start with and I appreciate the committee's work and will work with them moving forward to address that bill and other ways to address the housing needs in the tribal communities. Thank you.

[The prepared statement of Mr. Walters can be found on page 77 of the appendix.]

Chairman DUFFY. Thank you, Mr. Walters, and we will talk about a nonproductive Senate later in our hearing.

Mr. WALTERS. Sure.

Chairman DUFFY. Dr. Malcolm, welcome. You are recognized for 5 minutes for an opening statement.

STATEMENT OF DR. HARRY MALCOLM, ESSENTIA CLINIC

Dr. MALCOLM. Thank you, I appreciate the opportunity to speak here.

I look at my role, if I understand it correctly, to talk briefly about what we know about indoor mold exposure and what it can do to people's health, and then to talk about what I have seen here as a medical provider in the 21 years that I have worked in the Hayward, Wisconsin, area and have worked with people coming to our hospital and clinics from the tribal community.

Quick background. Before I was here, I was in the Air Force, and they paid for medical school, and I am very grateful for that. I served active duty for 7 years. The last 4 years I was in Okinawa, Japan, which is a hot, humid climate that's about the level of the Florida Keys; certainly mold is an issue there. I was deemed the island allergist, so I was sent to a one-month course at the Wilford Hall Hospital in Texas, and then for the last 3 years I was in Okinawa, I did all the allergy testing, so I have some background in this. I am not a board-certified allergist, I don't want to claim to be that in any way, shape or form, but that is my background that I come to this with.

And in the hospital I work in the ER, I work on the floors, I work in the clinic, I deliver babies and take care of young children. I am the hospice director at certain times, so I take care of people at home, at the end of life, so I have a lot of exposure in all walks of life over the last 21 years here in Hayward.

Now, what do we know medically about mold, and specifically indoor mold exposure? There are a lot of controversies here, but there are clear-cut medical problems related to mold that we understand.

The first is infections. Most people, if they are immuno-competent, which means they have a healthy immune system, they are not going to get an infection from mold; but if you are immuno-compromised, you can get infection from mold.

And many, many people are immuno-compromised. You don't have to be an AIDS patient to be immuno-compromised; certainly they are, but lots of other people are immuno-compromised.

If you have chronic kidney disease, bad kidneys, the immune system doesn't work well. If you are on dialysis, you are immuno-compromised. If you have bad liver disease, you are immuno-compromised. If you are a cancer patient, even if you are cured, your immune system isn't right and you are immuno-compromised. And certainly if you are a cancer patient and you are receiving treatment, you are immuno-compromised. If you are a newborn baby, you are immuno-compromised. Your immune system really starts to get pretty healthy around 3 months of age, but from birth to 3 months of age your immune system isn't very good; in fact, your first month of life your immune system is really pretty wimpy.

So there are a lot of people out there who are immuno-compromised—you don't need to talk about substance issues, but if you use alcohol or abuse alcohol, you are immuno-compromised.

When you look at the percentage of the population that's immuno-compromised, it is a lot, and so in immuno-compromised people, infections from indoor mold exposure can occur, be it lung infections, be it sinus infections, be it bone infections, joint infec-

tions, be it sepsis, which can even lead to death, so there is a risk to the immuno-compromised population.

For the people who, again, have a normal immune system, the risk of infection is negligible; but if you are immuno-compromised, there can be issues.

So the first risk for indoor mold exposure is infections. The second risk is hypersensitivity reaction; this is what we see a lot of. Probably 20 percent of our population in this country has asthma, it may be very mild, it may be just exercise-induced asthma, but that is where your lungs are extra-reactive to irritant exposures, and mold is certainly one of those, so it can flare.

Asthma can flare allergies, which may sound trivial, but there's pretty profound evidence that if you are a teenage kid trying to study in school and your asthma is bothering you or your allergies are bothering you, it is harder to study, it is harder to learn, so there are issues with that.

And then there are more profound hyper-sensitivity reactions. Something called hyper-sensitivity pneumonitis and that's where you get a really severe inflammatory process in the lungs from exposure to various things, one of which can be indoor mold exposure, and it's essential to treat that condition so that the mold or whatever the irritant that's causing that hyper-sensitivity pneumonitis, that severe inflammatory lung process, can be removed and then you need long-term steroids to treat that.

And there are people with hyper-sensitivity pneumonitis that even end up needing a lung transplant, so it is not just a mild thing that you take some Benadryl for and it goes away; this is a serious medical problem.

There are other medical conditions, and they have long ugly names, as doctors tend to approach things, like allergic bronchopulmonary aspergillosis, an allergic fungal sinusitis, but there are other medical conditions that are clearly related to indoor mold exposure. These things are generally accepted in the medical community. There are controversies about other issues that are controversial—can it cause fatigue, can it cause immune issues, that is a controversial area, but there is clear-cut knowledge that there are infections that can occur and there are hyper-sensitivity reactions that can occur from indoor mold exposure.

And then the last leg of my comment lies with what I see here. I have handled a number of patients in the ER and the clinics and the hospital who come in with respiratory issues, and they tell me that they have substantial mold exposure in their home. I see that, I am in the hospital, I treat that, but it is clear that I see that at times in Native youth and Native adults. I can't say specifically that I have seen a case of hyper-sensitivity pneumonitis, the lung transplant, I can't say that, but I can actually say with certainty that I have seen a number of kids, and a number of adults who come in to see me who have been hospitalized, put on hydrous steroids to decrease the inflammation, and then try to contact the tribe to see if their house can be remediated, in terms of mold exposure, with the thought that's probably a trigger.

That's most of what I had to say. I have the opportunity after to entertain any questions. I hope that this is helpful to the committee.

[The prepared statement of Dr. Malcolm can be found on page 55 of the appendix.]

Chairman DUFFY. Thank you, Dr. Malcolm.

The Chair now recognizes Mr. Montano for 5 minutes for his opening statement.

STATEMENT OF MARK MONTANO, EXECUTIVE DIRECTOR, LCO HOUSING AUTHORITY

Mr. MONTANO. [Speaking native language.] And good morning, Chairman Duffy, committee members, and other Congressional leadership. My name is Mark Montano, I am the executive director of the Lac Courte Oreilles Housing Authority, and I am an enrolled citizen of the Red Cliff Band of Lake Superior Chippewa.

First and foremost, I would like to say it is an honor to be invited to provide testimony in regards to the reauthorization of the Native American Housing Assistance and Self-Determination Act, NAHASDA, which was first passed in 1996 and last reauthorized some 7 years ago.

With that said, I am optimistically enthused about the possibilities of NAHASDA being reauthorized in the current 115th Congress.

At this time I will attempt to summarize my written testimony, which has been submitted, within my allocated time.

The background of the Lac Courte Oreilles Housing Authority: Lac Courte Oreilles Housing Authority was established in January 1967 and operates as a tribally-designated housing entity, and by virtue of such, we have to adhere to all rules and requirements of the program.

From approximately 1969 to currently, the Housing Authority has constructed a total of 554 homes, of which approximately 160 homes were built utilizing the discontinued Mutual Help Program, which assisted families to become homeowners, of which today all but three of those homes have been conveyed to those families.

The Housing Authority receives NAHASDA formula funding for 343 homes, which leaves a shortfall of 54 homes that have been built with no annual appropriations to operate and maintain.

This shortfall means that the Lac Courte Oreilles Housing Authority has had to utilize its NAHASDA formula funding to operate and maintain all of its housing stock, thus creating a further shortage of adequate funding.

Over the past 20 years the Lac Courte Oreilles Housing Authority has made great strides with leveraging its NAHASDA dollars so address housing issues and, in fact, has been very successful in utilizing the low-income housing tax credit program with the IRS. The following projects were a direct result of those low-income housing tax credit efforts: LCO-1 consisted of the rehabilitation of 24 existing homes scattered throughout the reservation; LCO-2 consisted of the construction of 24 new rent-to-own homes in a newly-constructed subdivision, which included all the infrastructure needed to support the development; and LCO-3, which was just recently completed in approximately 2014, consisted of the rehabilitation of 24 existing homes in the K-Town and Schoolhouse areas.

There's still much work that needs to be done and, in fact, the LCO is no different than other tribal communities, which leads me to the next subject matter, the condition of housing in Indian country.

Numerous reports have been written and provided to Congress in regards to the deplorable conditions of housing in Indian country and the challenges that have been faced by tribes to address this issue.

Some of those reports, which I am sure you are aware of, include the following, and I am certain there are others: In July of 2003 the U.S. Commission on Civil Rights provided a report entitled, "A Quiet Crisis, Federal Funding and Unmet Needs in Indian Country." And in January of this year HUD issued a report entitled, "Housing Needs of American Indians and Alaska Natives in Tribal Areas: A Report From the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs."

I would encourage you, if you have not already, to review the contents of those reports, which continuously report the issues faced in Indian country regarding housing, but more importantly, the inequities with funding levels.

My comments regarding H.R. 360 are contained in my written testimony, but I would like to reiterate a few of the important areas.

We would ask that the tribes be allowed to increase their formula for current assisted stock to the true number of housing stock they own and operate as low-income housing rental units; as previously stated, we are underfunded, we are not receiving the full funding that we need to take care of all of the homes under our control.

We also encourage Congress to ask HUD to provide a report that would accurately state the real operation and maintenance costs, so that a starting point for appropriations could be identified.

In addition, we would ask that language be included in the bill that would allow for inflationary and fixed-cost increases over the authorization time period.

We at this time would like to offer some other recommendations to the committee. First, provide direct allocations from the IRS of the low-income housing tax credits, instead of tribes having to go through the State for competitive applications.

Second, the tribes should be able to have full access to all HUD programs and services similar to States, public housing agencies, and other entities.

Third, tribes, as well as other communities, are faced with a very, very serious methamphetamine epidemic and there needs to be Federal intervention. This issue is costing the LCO Housing Authority well in excess of \$100,000 annually for clean-up and testing.

Currently, the State of Wisconsin has no regulations in regards to this, including clean-up standards, so the people of Wisconsin are going into homes not knowing the history, and potentially becoming contaminated by this drug.

In closing, I applaud the chairman for scheduling this hearing, and other Congressional leadership for attending, but I would also encourage this committee and other committees of the 115th Congress to have more hearings throughout Indian country.

We certainly have many more suggestions that would improve the housing conditions and the ability to deliver services; however, the information I have provided orally today and in my written testimony is the starting point to addressing the issues we face.

In addition, I firmly believe that we can collectively address the needs of Indian country by being proactive and not by kicking the can down the road or closing our eyes to a crisis that exists; but more importantly, not blaming each other, and agreeing to cooperatively work to improve the lives of the first Americans of this land.

Tribes have been the invisible people for far too long, and if anything should come out of this hearing, it is due time that the reports are done being written to Congress and a resolution is found to address this one important issue once and for all.

I personally stand ready to assist my Native brothers and sisters in any way possible and also commit to assisting Congress with this endeavor. [Speaking native language.]

[The prepared statement of Mr. Montano can be found on page 58 of the appendix.]

Chairman DUFFY. Ms. Gokee, you are recognized for 5 minutes.

**STATEMENT OF ROSALIE GOKEE, GOVERNING BOARD
MEMBER, LAC COURTE OREILLES TRIBE**

Ms. GOKEE. First of all, I would like to say good morning to everyone, all of you who have traveled here to hear the concerns regarding housing, Chairman Duffy for organizing this meeting here today, and also a special recognition to Representative Moore for taking the time to listen to our needs here by listening to me this morning and honoring the government-to-government relationship that exists. Thank you for doing that.

The Lac Courte Oreilles Reservation was established by the 1854 Treaty with the Chippewa. Currently, the tribe is composed of approximately 8,000 tribal members, of which 2,425 reside within the reservation boundaries.

The tribe operates as a Native housing entity which has a director and a housing board of commissioners that act in an advisory capacity. The mission of the Lac Courte Oreilles Housing Authority is to shelter and protect their people and help their community prosper.

As a TDAG tribal-designated housing entity, it gives HUD the authority to fund our housing authority directly, those funds do not come to the tribe; I think it's important to know that.

I would like to talk a little bit about the treaty and trust responsibility for adequate housing. The tribe's treaty reserved inherent rights include the right for adequate housing.

In the Treaty of 1854 the Federal Government established the Lac Courte Oreilles Indian Reservation and induced the various bands to forego their existing homes in the seated territories by the promise of assistance in building new homes on the reservation. Despite the pivotal role of housing promises in the negotiation for the 1854 Treaty, many Ojibwe people have lived in substandard housing since the establishment of the reservation.

Safe, decent, and adequate housing in the form of funds for building, repairs, and renovations, and related infrastructure is a treaty right and forms part of the Federal trust and fiduciary re-

sponsibility of the Federal Government as established in its treaties.

As Congress continues to address the ongoing housing crisis experienced by many tribes, policymakers must consider the complete history of the Federal Indian housing obligation in making its decisions.

It is concerning to me that many tribal members continue to live in unhealthy and substandard housing for Lac Courte Oreilles, conditions which are a direct result of inadequate funding from the Federal Government to adequately address the housing needs in our tribal communities.

And I have to agree with you, Congressman Duffy, no one deserves to live in the conditions we saw today, no one. The real issue here is lack of funding to meet the housing needs of our members, so they no longer need to live in these conditions.

I agree with our housing director, Mark Montano, that more housing needs to happen. This issue just isn't here at Lac Courte Oreilles, but all across Indian country.

As a tribal leader, quite frankly, I feel that tribal members deserve better. Funding from the housing program fulfills Congressional trust and treaty responsibilities to tribal nations.

I strongly urge this committee to advocate for the reauthorization of NAHASDA that will benefit all tribal nations. [Speaking native language.] Thank you for your time.

[The prepared statement of Ms. Gokee can be found on page 48 of the appendix.]

Chairman DUFFY. Thank you, Ms. Gokee. The Chair now recognizes Mr. Tortalita for 5 minutes.

**STATEMENT OF FLOYD TORTALITA, EXECUTIVE DIRECTOR,
PUEBLO OF ACOMA HOUSING AUTHORITY**

Mr. TORTALITA. [Speaking native language.] Good morning, my name is Floyd Tortalita, and I am from Pueblo of Acoma in New Mexico. Thank you for the invitation to come before the subcommittee, in this wonderful country here.

Good morning, members of the Subcommittee on Housing and Insurance, and thank you for inviting me to testify on the Federal housing programs that impact families in Native American communities and reservations. I am the executive director of the Pueblo of Acoma Housing Authority (PAHA). PAHA serves as the Tribally-Designated Housing Entity (TDHE) of the Pueblo of Acoma.

Under the Native American Housing Assistance and Self-Determination Act of 1996, as amended, tribes can designate TDHEs to receive and administer Indian Housing Block Grant funds under NAHASDA.

There are 22 tribes in New Mexico: 19 Pueblos; the Navajo Nation; the Mescalero Apache; and the Jicarilla Apache. The majority of our lands and all of our housing developments are on tribal trust lands. This means that the Federal Government holds legal title to our lands for the benefit of each of our tribes.

As you might guess, development on tribal trust lands looks somewhat different than development on private lands. If you are in New Mexico and you are wondering why there are no stores, fast

food places, or banks in certain areas, it's because you are probably on the reservation.

I would like to start my testimony by highlighting the impact that Federal housing programs have had on Indian lands with a quote from the Housing Needs Study published in January 2017: "The most important driver of economic well-being in any area is the state of the local economy." But many of these programs, including NAHASDA, ICDBG, BIA, USDA, VA loans, and IHS help many tribes develop the capabilities of sustained development of their own economies.

The Pueblo Acoma is currently the largest employer in Cibola County. How much of that money stays within our community: very little. With these programs and use of NAHASDA, it brings tribal members back to develop economies.

To develop these economies for us to become self-sustaining, we turn dollar over dollars to start making these dollars available. Tribes rely heavily on Federal funding to meet the housing need for development, developing these housing needs.

The United States has a Federal trust responsibility to protect the interests of its 567 federally-recognized tribes, including our interest in providing tribal members with access to shelter and security through affordable, safe housing opportunities.

NAHASDA was enacted in 1987 and reauthorized in 2008 to help fulfill the goal and address the housing crisis plaguing many Native communities.

NAHASDA reauthorization has failed the past two Congressional sessions, despite widespread support, due to the inability to bring the bill to the Floor vote in the Senate. Consequently, housing-related issues such as overcrowding, homelessness, and incomplete plumbing and kitchen facilities, all have associated negative health outcomes, and continue to impact the quality of life of countless Native American families and communities.

We would like to make the following recommendations for the subcommittee and Congress to consider in making NAHASDA more workable for tribes going forward:

First, remove barriers to building on floodplains by allowing the use of NAHASDA funds on floodplains without requiring a tribe to be a member of the National Flood Insurance Program (NFIP). NAHASDA should have language providing that if a tribe has a tribal flood management program or law, that the law should be applied in lieu of complying with the Federal Floodplain Act, which requires a Federal funding recipient to be a NFIP participant. Some State funding, including Community Development Block Grant funds and HOME funds, are exempt from this requirement. Tribes should have a similar exemption.

Second, allow tribes to access other HUD programs, such as the Drug Elimination Program and Section 8 Program. NAHASDA combined many HUD programs into one Federal funding source without increasing funding; as a result, tribes can't access programs they once had prior access to.

Third, authorize the Department of Justice to go into tribal court for foreclosures and evictions of the 184 program. Currently, tribes are not allowed, if they are still pending on the reauthorization of the 184 program, HUD is now saying that we must adhere compli-

ance to jurisdiction of Federal court and not tribal court. We think that should be in tribal court.

Fourth, incorporate similar provisions as those set forth in former H.R. 360, introduced by Congressman Steve Pearce during the 114th Congress.

PAHA and the 19 Pueblos in New Mexico would like to support the reauthorization of bills like former H.R. 360, introduced by Congressman Pearce, and its Senate companion bill S.710, introduced by Senator John Barrasso. Congressman Pearce worked closely with New Mexico tribes in introducing 360. Importantly, 360 included language that would have expedited required Federal approvals, authorized tribes to blend IHBG funds with IHS sanitation facilities funding and launch, a demonstration program for alternative critical provisions within NAHASDA. They would provide tribes with the flexibility to effectively respond to the unique housings of the communities. We recommend that similar provisions be included in any future NAHASDA reauthorization.

[The prepared statement of Mr. Tortalita can be found on page 64 of the appendix.]

Chairman DUFFY. Mr. Tortalita, thank you for your testimony. Mr. Tribble, you are now recognized for 5 minutes for an oral statement.

**STATEMENT OF JOHN TRIBBLE, MEMBER, LAC COURTE
OREILLES TRIBE**

Mr. TRIBBLE. Hello, my name is John Tribble, and I am a member here of LCO. I have been involved in housing issues for over 12 years. I have talked with many people who have concerns about the way housing has been handling these issues, especially with the mold issues inside their homes. There has been mold growth in my home, as well as the homes of everybody that I have talked to in my community.

There have been many attempts by individuals to address this health issue that does not have a satisfactory solution for housing.

There have been questions on how housing and how the former members now of the Tribal Governing Board have been spending the funds that are given to provide homes for any and all projects. I have questioned numerous people and I cannot obtain information on why we are not receiving any remedies or the funding needed to address the housing issues, especially the mold.

Some people who have been involved in determining projects before have come forth and said that there has been misappropriations, misspending of those fundings, misallocating and mismanagement, and that they have evidence of this mismanagement; however, under nondisclosure agreements they are unable to testify to that fact unless subpoenaed or requested to testify before the review committee.

I spoke with a lot of people who live in these homes, I asked about their health concerns, and everybody I have talked to all has the same health concerns and issues, such as asthma developing in their young children, and there's no history of asthma in their family; the mother and grandfather's never had asthma, but now their children do.

We have had elders who have been rushed to emergency rooms for respiratory illnesses. This is quite common, but not recognized because nobody speaks about it.

Now, I understand Federal funding is always an issue with a lot of programs, but one of our concerns is, as Congressman Duffy has addressed before, how are these dollars being spent? Well, we believe that they are not being properly spent, especially to address these issues.

There has been mold in these homes for many, many years. There have been previous projects in the past, even before Mr. Montano became director, and yet the mold issue has grown substantially instead of decreased.

As you have seen in the house that you inspected this morning, I assure you there are many, many more just as bad, if not worse.

I represented a group of people who started a petition because we were concerned about the spending of those dollars and why are these issues still a big concern for the communities. It's not just here at LCO, I have spoken with other tribal members and other members of executive boards overseeing their housing committees and they all have the same issues.

We would like to see that the committee and HUD administer some kind of accountability, such as when you send money to a tribe for a big project such as this and the seriousness of this issue, especially with the mold and health concerns, even the doctor said it could even lead to death, which has been proven.

I believe that there should be some kind of field administrators or inspectors to go and view these projects, and make sure that the money is being spent correctly, especially with the mold. This is a really big thing, it's still new yet, as far as the medical field, but the doctor said there are a lot of issues. And this is one of our big concerns is about how are these dollars being spent, are they being spent and administered correctly? We would like to see this committee and HUD form some kind of accountability, some kind of administration to oversee the spending of these dollars.

[The prepared statement of Mr. Tribble can be found on page 76 of the appendix.]

Chairman DUFFY. Mr. Tribble, thank you for your testimony and for leading the effort to bring this to my attention. I appreciate that.

The Chair now recognizes himself for 5 minutes for questions.

I do want to thank Chairman Taylor, newly-elected, for opening this facility up today and allowing us in, and I congratulate him on his election. I know we have many tribal board members here today and I welcome them and thank them for their participation as well, including Ms. Gokee, who is here testifying.

I want to start off with Dr. Malcolm; I know he has taken time between rounds and clinical, I think would be the proper terminology, to come and testify for us, but he probably can't be here for the full hearing.

So to you first, Dr. Malcolm, we went to a house today where we were looking at 2 to 3 feet of black mold at the base of a bedroom; the window sills of this bedroom full of black mold; another bedroom right next to it, I didn't even think it was being used, it was full of black mold; the bathroom, spots of black mold everywhere.

And in this home we had a mother, we had a very young child, a little over a year old, we had two young ladies and a beautiful little chihuahua, Taco, which we met today.

What impact does that environment have on these kids? Can you tell us, with your medical profession, that kids can be raised in a healthy environment living in a home with conditions such as this?

Dr. MALCOLM. There is a high risk that those children will have problems, that they are going to have allergic problems, they are going to have asthma problems.

As people commented earlier, some people are genetically prone to asthma, but we also realize that sometimes it's just your exposure, and mold is clearly—if you look at the triggers of asthma, there's dust mites, there's various pollens of trees, weeds, and grasses, but also mold is a big trigger of that, and that can also then lead to chronic life-long lung problems, so those children growing up in that environment are at health risk going forward.

Chairman DUFFY. So your point is, this is not consequence free?

Dr. MALCOLM. No.

Chairman DUFFY. Having children and families live in this environment has short-term and potentially long-term implications on the health of those living in these homes; is that fair to say?

Dr. MALCOLM. Absolutely.

Chairman DUFFY. Okay. Mr. Tribble, you've expressed your concern about mismanagement of funds and you rallied 100-plus people to try to have this issue addressed.

If money comes from the Federal Government in the form of grant money to remediate mold on the reservation, if that's what happens and that money is mismanaged, who does it hurt?

Mr. TRIBBLE. It hurts the community, especially our children.

Chairman DUFFY. It hurts the community and the children that it was meant to help, right?

Mr. TRIBBLE. Yes.

Chairman DUFFY. This money was supposed to go to help, I believe, 53 homes; 53 homes were in the grant. And I will ask Mr. Montano in a second. Do you know how many homes have been remediated?

Mr. TRIBBLE. Less than ten.

Chairman DUFFY. Now, I have asked for documentation from the tribe to lay it out in regard to this \$800,000, but I haven't been given anything. But you are a tribal member, right?

Mr. TRIBBLE. Yes.

Chairman DUFFY. Have you asked for transparency?

Mr. TRIBBLE. Of course, we have.

Chairman DUFFY. Have you received it?

Mr. TRIBBLE. No.

Chairman DUFFY. And I want to be clear, this is not the new tribal government, this was the old tribal government, and it was to them that you asked for transparency.

Mr. TRIBBLE. That's correct.

Chairman DUFFY. So to the whole panel, is it fair to say that there is agreement that you need more money to fix your housing problems?

Mr. TRIBBLE. Yes.

Chairman DUFFY. Everyone is shaking their head. Is that a “yes?” [Numerous people responded, “Yes.”]

Chairman DUFFY. And do you all know where the money comes from? It’s a stupid question. It comes from the Congress, right? We are the ones who appropriate money to these programs. So if the Congress asks for documentation about a grant and a tribe doesn’t give the Congress that information, does it just hurt that tribe or does it hurt all of our tribes? Mr. Tortalita?

Mr. TORTALITA. All of those recipients do suffer. Unfortunately, being on the board for NAIC for 6 years, I have visited many tribes within that time and some of those tribes have those issues.

It does create issues for all tribes because those are the ones that stick out, but many tribes are successful.

And I can sit here and talk about my tribe for one.

When I took over as the executive director of the housing authority in 2009, we had 22 findings in our audit, and we had 16 findings in our HUD review. In 3 years, I turned that around to where we had no findings, zero.

Chairman DUFFY. A success story.

Mr. TORTALITA. A success story.

Chairman DUFFY. And I don’t know if it was Ms. Frechette or Mr. Walters who mentioned the \$500,000 grant that was turned into \$5 million.

Ms. FRECHETTE. Yes.

Chairman DUFFY. A success story.

Mr. TORTALITA. Yes.

Chairman DUFFY. But when we have scenarios where money is mismanaged and there’s a lack of transparency, that doesn’t just affect that one tribe, it affects all the tribes, because when Ms. Moore and I go back to Washington and we say, we care about the money that goes to help Indian housing, to help our tribes, and we have to verify that this money has been spent well, and we can then fight for more money. But if we can’t advocate and say, this money has been spent in an appropriate fashion, how do I ask for more?

We have a \$20 trillion debt, that’s in the back of people’s minds, and so I am going to say, every dollar that we sent you have used to its best ability, to help the most people; and when we asked, you were transparent and you just need more.

If Ms. Moore and Mr. Sensenbrenner wouldn’t mind, if I could just go for a couple of minutes, and I will then say thank you.

Mr. Montano, you sent the grant in to HUD and you asked for \$800,000 to remediate 53 homes; is that right?

Mr. MONTANO. First and foremost—

Chairman DUFFY. Is that correct?

Mr. MONTANO. First and foremost—

Chairman DUFFY. Is that correct?

Mr. MONTANO. Congressman Duffy—

Chairman DUFFY. Were there 53—did you make a request for \$800,000 to remediate 53 homes?

Mr. MONTANO. No, I did not.

Chairman DUFFY. So did the tribe make that request?

Mr. MONTANO. Yes, they did.

Chairman DUFFY. So we can play semantics and say you did, but, okay, the tribe made that request?

Mr. MONTANO. Correct.

Chairman DUFFY. And now as the director, how many—this was done almost 2 years ago, the money was received?

Mr. MONTANO. The grant was awarded in September of 2015.

Chairman DUFFY. So we are almost 2 years on. How many homes have been remediated?

Mr. MONTANO. Ten homes have been remediated. We are on phase three with an additional six homes being worked on.

Chairman DUFFY. Six additional homes.

Mr. MONTANO. Yes.

Chairman DUFFY. Do you recall, in our conversation in Washington, that you told me that you'd only be able to do eight homes with that money? And then you don't remember—well, you do remember, what has changed; how are you able to double the number of homes you were going to remediate at that point, since our conversation?

Mr. MONTANO. I do not recall that conversation.

Chairman DUFFY. So it has always been 16 homes you were going to be able to do with the \$800,000 grant?

Mr. MONTANO. I think that's a misrepresentation of the facts, Mr. Duffy.

Chairman DUFFY. Okay, well, is it fair to say you indicated that you were going to do—that the tribe was going to do 53 homes, that was the grant?

Mr. MONTANO. That's correct.

Chairman DUFFY. And with that specific money, the \$800,000 from HUD and the \$300,000 that LCO was going to put in, how many homes are you going to be able to do?

Mr. MONTANO. Adding the two together, \$1.2 million.

Chairman DUFFY. Correct.

Mr. MONTANO. I am not prepared to answer that question, really.

Chairman DUFFY. We are 2 years on. I thought you just told me it was 16 homes. We are 2 years into getting this money, as Mr. Tribble has pointed out, and you can't tell me how many homes are going to be remediated with the \$1.1-, \$1.2 million?

Mr. MONTANO. Congressman Duffy, as the ICDBG grants were awarded out, you have to take the whole project and divide the \$800,000 by the number of homes. So at this current time we are at 16 homes that the \$800,000 is infusing money into.

The housing authority has been utilizing its IHBG dollars and other program revenue to support the construction and this \$800,000 is a small portion of the amount that was used for construction.

Chairman DUFFY. I am asking you specifically about the \$800,000, I am not talking about any other money, so—

Mr. MONTANO. That is how the program works.

Chairman DUFFY. So you can't delineate that \$800,000—

Mr. MONTANO. That \$800,000 would be divided by the number of total homes done with the project.

Chairman DUFFY. And how many total homes will be done?

Mr. MONTANO. We are at the point where we are looking at about 20 to 21 homes.

Chairman DUFFY. So it has gone from 8 to now 21 homes. I will come back and ask some more questions, but my time is way over.

I now recognize the gentlelady from Wisconsin, from the Milwaukee area, Ms. Moore, for 5 minutes.

Ms. MOORE. Thank you so much, Mr. Chairman, and I thank our witnesses; I have learned a great deal sitting here today.

I want to perhaps continue with this line of questioning with Ms. Gokee, Mr. Montano, and Mr. Tortalita, just jump in anywhere you can fit in, as we say.

It is really eerie, Mr. Chairman, that you have harked on this 53 houses because that just happens to be almost exactly the number of houses that reappropriating NAHASDA—less than what they need.

And by the way, the funds we are talking about today are not NAHASDA funds, they are special funds, but it is just eerie almost that we are talking about 53 houses and that is the exact amount of money that they have to use whatever funds they get to sort of spread over the entire stock to maintain them. Is that correct, Mr. Montano?

Mr. MONTANO. Yes.

Ms. MOORE. Okay. Now, back to the expenditure on these houses. One of the things that I know, from being a homeowner and being someone, Dr. Malcolm, who is very asthmatic, is I don't see how these people can spend 5 minutes in the house, is that you don't know when you are putting together a prospective scope of work how much the houses are going to cost until you actually tear the walls down.

So if I am making a proposal for moneys and say, this is what it is going to cost, I don't know whether I am going to get a little gallon of bleach and some Kilz and that is going to remediate the situation, or if I am going to have to strip it down to the studs; or worst-case scenario, spend \$1,500 to replace each stud. Is that correct, Mr. Montano; did you find any surprises?

Mr. MONTANO. You are on point, that is true.

Ms. MOORE. I used to be a housing—before I became a Congresswoman, I had a real job.

I also wanted to—Mr. Tortalita, you traveled a great deal and so I guess I want to talk a little bit about how difficult it is to negotiate these funds that don't seem to have any nexus.

For example, you talked about sanitation and funds that are restricted for one use and can't be used for other purposes, and not being able to access the low-income housing tax credits, as are other sovereign bodies like cities and States.

So what extent do you think that Justice Department issues, to what extent do you think the mismatch of law and the lack of respect for sovereignty contributes to not being able to get a very cost-effective project? And before I yield to you to answer, I am also thinking about the fact that it might be more cost-effective just to tear the house down, but if you do that, you sort of shoot yourself in the foot because you then will diminish the amount of NAHASDA funds to which you are eligible.

Can you just share with us the conundrum of trying to do these projects?

Mr. TORTALITA. Thank you, Congresswoman Moore. I think a lot of times it is a lot of the red tape within the Federal Government itself. Many of the programs, many of the Departments that do not communicate with one another create a huge barrier, whether it be dealing with USDA, the VA, IHS, HUD.

We will take the environmentalists, for example, which creates a huge hindrance. You do environmental assessments all under compliance with NEPA, but yet IHS will not accept an environmental done under HUD requirements, which will not be accepted under USDA, which will not be accepted under other programs, but yet we all comply to the Federal Government, so that—

Ms. MOORE. And that adds to the cost.

Mr. TORTALITA. —adds to the cost.

We just recently did a project where we were not required to do an EA on it, but because we needed a Federal land lease on it, the BIA required us to do an EA to put their thumbprint on it, which cost us an extra \$24,000 just to put their thumbprint on it and recognize their lease.

So a lot of these issues between many of the Federal entities create issues, so there needs to be—many of these need to become standardized, are those issues that are there and what requirements that many of these programs that are there. But as I mentioned, there are many, many successful programs that we—through which is required.

Under NAHASDA we recently completed 67 units of rehabilitation. We had mentioned the cost of new construction and rehabilitation. The average cost of construction at Acoma is \$250,000 for a new home. We have renovated homes at approximately \$65,000 per unit, bringing traditional homes to code, many of which we thought didn't have a hope of doing it, but addressing all of these homes—about \$65,000, 67 units addressed. We have spent approximately \$4.3 million in direct construction in the last 5 years, since 2012, which is about \$6.3 million of our overall NAHASDA grant, through administration of current units that we have, but this was direct construction that we had to 65 families.

We had one individual, and I love this story, I could go on and on about the stories that we get with these families because many of them are low-income families, elderly families or families with disabilities.

We recently assisted a 90-year-old woman, a widowed woman, in remodeling her home, so—

Ms. MOORE. So do you do this with some of your tribal funds—

Mr. TORTALITA. Yes.

Ms. MOORE. —gaming funds?

Mr. TORTALITA. No, we don't. We are one of those tribes that have a gaming source, but it's not very much. We are—

Ms. MOORE. Do most tribes have gaming revenues enough to be able to do what you—

Mr. TORTALITA. No, no, we don't.

Ms. MOORE. So—

Mr. TORTALITA. No, we don't. We don't get enough revenue from our gaming enterprises to be able to assist individual families or into—it goes into larger part systems: infrastructure; tribal admin-

istration. We don't get the large, large game dollars like some other tribes do, depending on location.

But this individual, in her comments she cried when she walked into her new home. This was a traditional home built with rock, had a wood-burning stove, hand-made cabinets, but we put in a whole new up-to-date ceramic tile floor, a new kitchen; she cried. And for lack of a—in her words that she said in Acoma, she said, I have a home like people on the outside.

Ms. MOORE. I do want to give Ms. Gokee and Mr. Montano an opportunity and maybe Mr. Tribble an opportunity to say something, too, so thank you so much for that.

And Ms. Gokee, Mr. Montano, anything to add to the costs and what you have inherited, what you have found?

Ms. GOKEE. Yes. When this grant was applied for, it did indicate 53 homes, that is the truth, but when work started and it was discovered the extent of the mold, those numbers needed to change.

Mr. Montano, our housing director, submitted a report to HUD showing that change to 23 homes; that was approved by HUD. They did not want to take a Band-Aid approach on these homes, we wanted to fix them because we believe our tribal members deserve better.

Ms. MOORE. Well, they deserve better, but also HUD has very strict guidelines, so if they say you have to cut the grass in addition to getting rid of the mold, I know how they are with the strict code upgrades that you might not do except that these are their guidelines. Did you find yourself in that situation as well, Mr. Montano?

Mr. MONTANO. The mold remediation grant has several components to it. The first and probably most important part of the mold remediation grant was that we were required to remediate and perform construction practices and install materials to prevent it from re-occurring again. In other words, they wanted it taken care of once and for all.

The second component of that particular grant is education. We were required to provide tenants in the general public education about mold—the effects of mold, the issues that cause mold to grow, the general housekeeping conditions that potentially could cause mold to grow, and things that tenants could do to help prevent it from re-occurring after we do the remediation.

Ms. MOORE. And you have to spend money out of the grant for that?

Mr. MONTANO. Correct. So as Councilwoman Gokee had mentioned, once we began exposing the homes, the issue was far worse than we had expected.

As a matter of fact, one of the homes that we had worked on under this project had received prior ICDBG funding to remediate mold, and it was not done correctly because they had a cost cap and they could only spend so much money on the home so, therefore, they tried to do the best that they possibly could and correct the issue. That home we had to deconstruct down to the studs and it had severe mold issues.

Ms. MOORE. Thank you. My time is waning. I just wanted Mr. Tribble to weigh in and tell you that I think you are very brave, as a person who represents folks who are frustrated. I know I have

asthma and hay fever, it is in my family, and it would be untenable for me to live in these homes. I want to thank you for your service and I do—I can appreciate your frustration.

I also was wondering if there were any discussions, among the hundreds of people, about the absolute lack of adequate resources to do them all. I know there are great expectations, but I just want you to know that the Federal Government has not been as generous as you might believe.

In our current budget, for example, the Indian Housing Block Grant has been zeroed out. Unfortunately, in the last couple of days the Appropriations Committee has sort of flat-funded. And as you heard testimony here today, the level of funding that we have provided is equivalent to what the money was worth back in 1996, and so I just wanted you to know that we are going to work really, really hard, and I know that while there may have been suggestions with your fraud or your abuse, there is also a lack of funding that is coming from the Federal Government as well, and I just wanted to—

Mr. TRIBBLE. Thank you. I am aware of a lack of funding. I have been doing this kind of work for quite a few years, I am an advocate for the people, advocate for the rights of the people.

Our concern—we are well aware of the dollars that we were supposed to receive for these projects, not only for housing but for other projects.

Ms. MOORE. Health, yes.

Mr. TRIBBLE. Health, schooling. Our biggest concern is, how are these funds being managed? If they were properly managed, maybe we wouldn't be in such a dark hole, maybe we wouldn't be this far in the health concerns, maybe we wouldn't be this far in the mold.

Like I said, there have been people who came forward to me; I have been extensively investigating and talking with numerous people, key people who were part of the finance projects, who say and claim that these funds were misappropriated.

So our concern is that this cannot happen, this should not be allowed to happen. There has to be a precedent set, an example set that this should not be tolerated by Congress, by the people who are providing these funds.

Ms. MOORE. So you should run for the council. Whoops.

Mr. TRIBBLE. Well, that's—

Ms. MOORE. I am leaving soon so I can get away with that.

Thank you, I think my time has expired.

Chairman DUFFY. The gentlelady yields back to the Chair. The Chair recognizes the other gentleman from Wisconsin, Mr. Sensenbrenner, for 5 minutes.

Mr. SENSENBRENNER. Thank you very much, Chairman Duffy.

There is a government accountability law, it is a GAO report, that the tribes cumulatively had \$1 billion from unexpended NAHBG funds in July of 2013. Ms. Frechette, what are the current levels of unexpended funds?

Ms. FRECHETTE. The current level is 95 percent expended.

Mr. SENSENBRENNER. I'm sorry, I can't hear you.

Ms. FRECHETTE. The current level is 95 percent expended IHB—

Mr. SENSENBRENNER. I am talking about dollars. You are doing apples and oranges here. You said a billion dollars in 2013. How many dollars now?

Ms. FRECHETTE. I will have to check on the dollar amount and get back to you.

Mr. SENSENBRENNER. Okay. So, you don't know.

Now, obviously, there's a lack of funds that are flowing down to get the job done here. I think that Congress has been adequate in providing funds, it is just that there is a billion dollars a few years ago that has been squirreled away someplace where it hasn't been used.

That's a problem, and it is a problem for the three of us and our colleagues who have to go back and justify appropriating tax dollars from our constituents to take care of necessary programs like this and the money isn't being utilized.

Now, I guess what I have to ask is, where has this money gone, where is this pot of gold that's sitting somewhere, is it the fact that the tribes aren't spending it? From what I have heard from the other witnesses, they are spending it, maybe not in the best possible way, but they are spending it. Is it still sitting in the safe in your office, figuratively speaking, Ms. Frechette? Where is the billion dollars? We can do a lot of good with a billion dollars and nobody seems to know where it is. I think we ought to find out.

Ms. FRECHETTE. Yes. The funds have been obligated to the grantees, which means sitting in an account for the grantees to draw down.

While I will get you the dollar amount, 95 percent of those funds that have been appropriated from NAHASDA have been drawn down by the grantees and expended. Once they draw it down, they have to expend it within 3 days.

The bulk of that number that you are referring to in 2013 was from our one large grantee, who gets about \$88 million a year; that was a concern of HUD's as well. We have been working with the grantee to get them to spend down their funds and—

Mr. SENSENBRENNER. How many large grantees get \$88 million and have it add up to a billion? Maybe we are losing some zeroes around here.

Ms. FRECHETTE. They had at one time their unexpended balance, I believe, was around \$500 million, so they are a large portion of the amount.

We have been working closely with them, we have even engaged in an enforcement process and are currently in litigation to resolve the issue of expenditure.

Mr. SENSENBRENNER. Okay. I think we are going to have to get out the bloodhounds to find out where all this money is on that. HUD says that 95 percent has gone to the tribes, the tribes say that they are getting a shortage of money and it's unexpended, so we really have to solve this problem.

What I can say is, I favor tribal sovereignty, and if the problem is within the tribes, then the members of the tribes are going to have to deal with that and fix it. And if they don't deal with that and fix it, you are going to see the argument in favor of sovereignty infringed upon in Congress and around the country.

If the money is sitting somewhere around HUD, where nobody seems to know where it is, then the problem is with HUD.

I think what I have gotten out of this hearing, as a non-committee member, is that there is money that's there, that money is not being spent to the highest possible effect, according to Mr. Tribble's testimony, but there's a lot of money sloshing around somewhere where nobody knows what it is. And I think before we appropriate more than flat funding to continue this program, we are going to need an answer, and HUD is going to have to give us the answer because I can say that I am leaving this hearing more discouraged about the administration of this program than when I walked in the door back there. So thank you very much.

Chairman DUFFY. The gentleman yields back. The panelists are fine with us doing a second round. I know, Dr. Malcolm, you have to leave and get back to work, but thank you for coming and thank you for your testimony today.

Dr. MALCOLM. You are welcome.

Chairman DUFFY. The Chair now recognizes himself for a second 5 minutes.

Mr. Montano, you weren't in office and in this position when the homes we are talking about today were built, were you?

Mr. MONTANO. No, I was not.

Chairman DUFFY. You didn't design them, you didn't construct them, you had nothing to do with what I would argue is pretty shoddy construction of the homes that we are talking about?

Mr. MONTANO. That is correct.

Chairman DUFFY. So that part, no one is putting that on you and you didn't actually even write this grant, you came in after the grant was requested?

Mr. MONTANO. I participated in providing some information to the grant so that the grant department could write the grant.

Chairman DUFFY. And so I just—what I am trying to do is just get some clarity on where we are today.

So in regard to the grant money and the additional money that LCO has put in for mold remediation, how many homes have been completed?

Mr. MONTANO. Ten are currently completed, five more are under current deconstruct and reconstruct, as you have seen today, and the home that you walked through today is planned to begin the process as well.

Chairman DUFFY. So ten homes are done, all the way done?

Mr. MONTANO. Complete, people are living in them.

Chairman DUFFY. And we have the next phase of five that are slated to be done; is that correct?

Mr. MONTANO. Yes.

Chairman DUFFY. So with the ten homes that have been completed, how much of the \$1.1-, \$1.2 million has been used up to this point?

Mr. MONTANO. That has all been used.

Chairman DUFFY. Okay. So there is no additional money from this grant left for the other five homes; is that fair to say?

Mr. MONTANO. Yes. We are using IHBG funds to—and other program income to finance the reconstruction and continue working on the project.

Chairman DUFFY. So in regard to—did the \$1.1- to \$1.2 million cover all 10 homes or did that not cover all 10 homes?

Mr. MONTANO. No, it did not.

Dr. MALCOLM. How many homes did the \$1.1-, \$1.2 million cover, if you know?

Mr. MONTANO. The average cost to properly remediate a home is dependent on several factors, one of which is, of course, the size of the home; we have three-bedroom homes, four-bedroom homes, and five-bedroom homes that remediation had to be performed on. The average cost is anywhere from \$110,000 to upwards of \$170,000, \$180,000, depending on what it was that was found when we started opening things up.

Chairman DUFFY. I want to be crystal clear on that, it was \$110,000 to \$170,000 a home; is that what you are saying?

Mr. MONTANO. Correct.

Chairman DUFFY. And on average, what's the square footage of the homes that you are remediating?

Mr. MONTANO. 1,300 to about 1,500 square feet.

Chairman DUFFY. I have asked builders in our area who have said, to build a new home it's not just to pull the sheetrock and bring it down to the studs and dry it and put Kilz on, fix the ductwork, brand-new kitchen, brand-new construction, 110,000 square foot, so if—now, you might have a different opinion on that, but I have talked to local builders that for 110,000 square feet you could, in essence, have built a brand-new home, with a brand-new kitchen and a brand-new basement for the cost of—and I have also asked about what's the cost to remediate a 12,000 or 1,300 square foot home, what should that cost us, those who are in this field.

And at the low end, it was quite consistent with your estimate about \$20,000 at the low end, which is what I think the grant estimated, but at the high end, the information I got back from builders and experts in our area in this space was it should be \$45,000 to \$60,000, so that would be well over what you, "you" being LCO, had proposed in the grant.

But if it was only \$60,000, which was at the high end, there are a lot more homes that we could remediate and a lot more children who wouldn't be living in a home that is full of mold, which is my concern.

And so I would ask Ms. Gokee and you, Mr. Montano, I have asked for documents about how this money was spent, and I know there has been a campaign and an election on transparency, can both of you commit to me today that you will provide the documentation in regard to the grant money that came from HUD, documentation specifically about how this money was spent?

Mr. MONTANO. Congressman Duffy, first and foremost, I think it's important that when we are comparing costs of construction or reconstruction, that there is a fair comparable, that we are comparing apples to apples and not oranges to apples.

Now, I say that because I have no doubt that a local contractor could build a house for \$100,000. I don't know what you are getting for \$100,000, I don't know the construction practices that are being used for \$100,000, I don't know the type of furnace that's being used for \$100,000, I don't know the type of interior doors, I don't know the kind of insulation that is being used for \$100,000.

Chairman DUFFY. These are individual, not to—I am interrupting you, but to clarify. They are building homes, licensed home builders building—

Mr. MONTANO. I understand that.

Chairman DUFFY. —homes to Wisconsin code, which is a baseline on how we build; furnaces, insulation, doors, building a home—by the way, the homes I looked at were not gold-plated homes, these are pretty slimmed-down basic homes. Building a basic home to Wisconsin code, that's what I am referring to, so I am comparing apples to apples.

Mr. MONTANO. I beg to differ with you on that, but we can debate that issue at some other point in time.

But if a certain specification is written, and Mr. Contractor from the City of Hayward has that specification, gives a price on it, which we have gotten prices on, and they are comparable, and what we are doing to ensure that mold does not reoccur back in those homes. And I think it's critically important that we ensure that it does not happen again and we are coming back and saying, we need more money to fix something that we should have fixed right in the first place.

I also want to comment on the fact that—

Chairman DUFFY. Mr. Montano, I reclaim my time. I have spoken with experts who deal with mold, at the high end, meaning it won't come back, they are going to get rid of the mold in the house, they are going to address the venting problems, the insulation problems, at the high end the numbers I got back were \$60,000.

And so I can't take up a whole lot of time because I can't keep my colleagues here all day. I would stay all day. I want to know if you are going to answer my last question, which was to you and to Ms. Gokee, will you provide me the documentation in regard to how this money was spent, specifically, show the receipts, show the invoices?

Mr. MONTANO. Congressman Duffy, I want to back up in time—

Chairman DUFFY. Mr. Montano, I don't have a lot of time right now and I want to ask you that question. Will you—

Mr. MONTANO. I cannot answer that question because I don't have liberty or—

Chairman DUFFY. You don't have—

Mr. MONTANO. —authorization to answer that question.

Chairman DUFFY. Ms. Gokee, will you offer to provide those receipts, those invoices?

Ms. GOKEE. I don't think that there would be an issue with providing documentation to you, there's no secret there. I know that there are reporting requirements that HUD has that our housing authority is required to meet and which has done that. I recall when we met you in February, Mr. Duffy, that we did provide you with 2 years of audits for your review.

And also, you are making allegations here that the tribe is mispending money; I take offense to that.

Chairman DUFFY. Oh, I am not—

Ms. GOKEE. I take offense to that because you have not checked clearly into the facts. We invited you here to Lac Courte Oreilles—

Chairman DUFFY. And I—

Ms. GOKEE. —on numerous occasions, you are here now; it's Lumberjack Weekend, we invited you here. And out of respect for the government-to-government relationship, I would expect that our Congressman would come here and meet with us about your concerns, we would have been more than happy to answer all of your questions.

Chairman DUFFY. And so that goes back to my question, are you—

Ms. GOKEE. We will provide you the documents, as we provided those documents to HUD, as we are required to report.

Now, there is no misappropriation of funds because we need to cover expenses first, provide documentation, and then we receive our reimbursement.

There's no misappropriation of funds—

Chairman DUFFY. So Ms. Gokee—

Ms. GOKEE. —the problem here is we are underfunded, that is it.

Chairman DUFFY. So Ms. Gokee, if that's the case, I have asked for different information than HUD has asked for. I am drilling down specifically into an issue that Mr. Tribble and others have written me about. And though you represent tribal members, so too do I, and this is Federal taxpayer money, and so I have an obligation to Mr. Tribble and tribal members who are living in homes that haven't been remediated, that they were told would be remediated, to ask questions, see receipts, see documentation.

And in regard to not what you provided HUD, but—and what I have asked the tribe to provide me and to provide Mr. Tribble and everybody else who was asked, are you going to provide me those documents?

Ms. GOKEE. Absolutely.

Chairman DUFFY. Thank you, I appreciate that, because that is the starting point. And I have told you, Ms. Gokee and Mr. Montano, I want to make sure this money was spent well. You show me those documents, we expose this and you can show me that, I am going to join Ms. Moore and we are going to go fight for more money, but I am not going to do that until I can answer the questions that Mr. Tribble has asked me and others have asked me, and so we can have a partnership, but it starts with transparency.

And I appreciate Chairman Taylor for committing to making sure we have an inter-governmental relationship that we can build trust and transparency, which allows us to better fight for your needs. So I appreciate your willingness now, after many months of my request outstanding, that you are going to provide that information.

Ms. GOKEE. So are you also saying that when we need your assistance, Congressman Duffy, we request you to come and meet with us, that you will also honor that government-to-government relationship and meet with—

Chairman DUFFY. Absolutely.

Ms. GOKEE. —the tribe regarding our needs in our community as well?

Chairman DUFFY. Absolutely. I will ask, Ms. Gokee and to the panel, how many Congressional hearings have you had at the LCO

reservation? The answer is none. I have answered the call that tribal members had to fight for their homes, to fight for their health, and that's why I have asked Ms. Moore and I have asked Mr. Sensenbrenner and why I have talked to everyone on Ms. Moore's side of the aisle and on our side of the aisle about this issue that is happening at LCO, and we have been asked, when we come back from this hearing, to report about what we found.

Though you have only three Members of Congress, you have a whole committee who cares about what's happening here, because the stories I tell have both sides outraged, and so you have a Congressman who is here today holding a hearing, fighting for your people and that hasn't happened yet.

So with that, my time has expired, and I yield to the gentlelady from Wisconsin.

Ms. MOORE. I guess I would ask the audience to clap for me before I speak, just in case you don't like what I say.

Just let me say, I want to keep the main thing, the main thing, I am here for a hearing on, "NAHASDA: 20 Years On," so I want to clarify with the panel here that NAHASDA has been effective. Am I wrong about that, Ms. Frechette, from the Department of Housing and Urban Development, that NAHASDA has worked?

Ms. FRECHETTE. Yes, I think tribes, the independent study that was conducted and also the continual funding that NAHASDA—

Ms. MOORE. Could you speak up a little bit. I know I am a loudmouth, but—

Ms. FRECHETTE. I think the tribes would agree, I think that the independent study that I quoted earlier agrees and continual funding, as well as the number of units that have been produced and the leveraging and attraction of private dollars that—

Ms. MOORE. They have been able to leverage. And, Mr. Tribble, would you agree that NAHASDA is very, very critical and has been effective?

Mr. TRIBBLE. Yes.

Ms. MOORE. Okay, so we all agree on that. And none of the funds that we are talking about here today that have been focused on, we are focusing on the importance of reauthorizing NAHASDA and so I just wanted to get it in the record, Mr. Chairman, that NAHASDA works.

I also wanted to deal with the questions that my good friend Mr. Sensenbrenner raised about the unexpended funds for projects that are receiving over \$5 million, and I guess I am going to start with Mr. Walters and Ms. Frechette regarding this.

Now, the problem came in from the Navajo, who use a great deal of the NAHASDA funds, and they have expended the funds, but is it or is it not true that 95 percent of the other tribes are teeny-weeny tribes and what they do is that they have obligated funds from previous cycles, but they have not expended them because they need to save up these funds in order to do a project of any magnitude. So it's not that the funds are being squirreled away or misappropriated or fraudulently misused, these are funds that are not adequate from one year to the next and so they are saved and they are subject to Indian housing plans that move from year to year.

Ms. Frechette, Mr. Walters, can you share with us, give us an education about these obligated but not expended funds?

Ms. FRECHETTE. Thank you. Yes, as I responded to Representative Sensenbrenner's line of questioning, and I do have the dollar amounts for you, sir, \$11.9 billion in IHBG funds has been awarded over the history of the program, \$11.4 billion has been expended. The 2013 \$1 billion level was at a point in time, has since been spent down, so it remains \$536 million unexpended, \$200 million of that is the Navajo Nation's unexpended balance, so that's about 5 percent of the grant.

And then the \$336 million unexpended is across 567 tribal grantees, so all of the money has been obligated; it is not located at HUD, it is available. But as you said, many of them are small grantees that get about \$50,000 or more a year that have to bank the money for several years to even produce one home.

Ms. MOORE. Thank you. Anything to add very quickly, Mr. Walters?

Mr. WALTERS. Just briefly, in 2013, when that report came out, tribes themselves took notice as well and they took steps to try to address this issue through negotiated rulemaking. There is language that was developed through rulemaking where tribes are limited to new funds if their unobligated balance is 3 times their annual. So if a tribe is saving up its funds, and usually in a way that you describe, they save up money to actually complete a single project, a larger project, they will be penalized for that in the sense that they would not be able to get future funds from the fourth, fifth, sixth year until they do spend those moneys back down, so that would have been a direct response.

Ms. MOORE. Thank you so much.

I also just wanted, Mr. Chairman, to get on the record just to find out, one of the discussions we are having on a bipartisan basis is the importance of including all indigenous people in the language, and I was wondering if you all agree that Native Hawaiians ought to be included in the NAHASDA package as eligible recipients of NAHASDA funds. Mr. Montano?

Mr. MONTANO. Congresswoman Moore, I would have to say, yes, we could agree to that, as long as it does not further dilute the already underfunded funds that come to us.

As native peoples and indigenous peoples of this land, the first Americans of this land, we respect our brothers and sisters; and if they happen to be Native Hawaiians, whom LCO has a very close relationship with due to their language immersion school, then so be it. But I do not think it would be right if we were to discriminate against them, but in the same sense we have to make certain that whatever money we are getting, we are not further diluting it down.

Ms. MOORE. Yes, I get that, they are your brothers, you just don't want to split the money up too much. I get that, you need more money.

I am afraid that my time is going to expire, so I just want to make one point about stewardship over taxpayers' funds.

We are all taxpayers, including Indians, and we are all citizens of the United States, you all have dual citizenship, and I just want

to point out that when we start talking about taxpayer funds, that it is your tax funds as well.

So with that, Mr. Chairman, I would respectfully yield back to you.

Chairman DUFFY. The gentlelady yields back. The Chair now recognizes the gentleman from Wisconsin, Mr. Sensenbrenner, for 5 minutes.

Mr. SENSENBRENNER. Thank you very much. I did not go on the house tour this morning. I am glad I didn't, because I have bad hay fever, and if I had gone into that moldy house, I would have had to blame Mr. Duffy and Ms. Moore for making me cry, and I don't want to have to do that, but there is a problem here and that is why we are here today.

Ms. Frechette, I am glad, though, that you found \$464 million since the first round of my questioning, but there still is over half a billion dollars that is obligated but unexpended.

Now, maybe the Navajo are not very good at spending money, they have \$200 million left in the sod, but there is a problem in terms of getting the money that Congress appropriates out the door and actually being used to do what that money was appropriated to be used for.

Now, I have two questions, Ms. Frechette. First, what kind of internal procedures does your agency have to make sure that the money is being used once it goes out of your door.

And second, what kind of auditing procedures do you have to make sure that the mess that I have heard about today, which I didn't know anything about until this morning about lack of transparency in the tribe and things like that, don't happen?

Because when there is a dispute, as I have heard from people at that end of the witness table, it certainly doesn't do any part of this program any good. And the question is, how do we prevent future disputes from happening, that end up spilling out into the Congressional offices, oversight letters, hearing unfavorable news coverage and the like, that's what the bottom line of oversight has to be and I am hopeful that this hearing is going to solve all of these problems so that me representing that part of Wisconsin that is referred to as "down there," up here, never has to hear about it again. So how are you going to do that?

Ms. FRECHETTE. In regard to getting the funds out in a timely manner, we have several tools that we didn't have in the past. This accumulative amount is over time, before my tenure at HUD. However, since that time the appropriations used to be, know your money, there was statutory language that allowed tribes to carry it over and that's what happened.

As Mr. Walters indicated, tribes are now mindful of the fact that they have a responsibility to expend that money in the manner that they had told HUD they would.

The other tool is the language that was negotiated during the negotiated rulemaking with HUD, that other tribes are concerned as well as HUD to have more teeth to be able to go after those tribes that don't expend their funds and that's why there's 3-times language, which provides anyone over \$5 million grantee who has 3 times their balance will forfeit that money in the future, so we have those tools.

In addition, we have statutory language that requires us to get the initial grant allocations out to the grantees within 60 days upon passage of the appropriations.

And then on the programmatic level, there has been much more of a focus under my tenure on the performance end. We don't want to be on the back end with enforcement, we want to be on the front end to make sure that those dollars are being used effectively in the community.

One particular concern that we have heard with Navajo and some other tribes is the fact that new units are not being constructed and a lot of money is going into rehab. We are focused on, how can we get the best bang for the buck as far as—especially with these resources.

Mr. SENSENBRENNER. My question to you is, is HUD going to be prepared to be the performance police that says, until you perform you are not going to get any more money, that is the way to get the attention of lack of performance pretty quickly, I would submit.

Ms. FRECHETTE. Right. We have statutory and regulatory authority, we don't have that authority in the statute of the regulations because it is a block grant, because it's based on self-governance. If that is something that Congress would like us to do, we would need the authority to be able to do that.

Mr. SENSENBRENNER. Let me see if those of us who believe in tribal self-determination, the issues that we have heard about down at the other end of the table should be resolved within the tribe, rather than spilling over either to HUD or, even worse, to Congress.

I have been in this business quite a long time and I can say that people who have problems with Federal agencies that get in contact with me and with my office are basically at their wit's end, they have tried everything that they can with the Federal departments and agencies; it is more that they haven't gotten an adequate answer, than that they disagree with the answer.

Most of the casework I do is not resolved favorably with the constituent, but the constituent is entitled to an answer on why the answer is no; and I don't see this coming out of HUD, in terms of preventing disputes like this from boiling over. Please work a little harder.

Ms. FRECHETTE. Thank you. And I would like to note that we didn't get contacted directly from the individual who has some concerns, but we did get contacted from Chairman Duffy's office and have been working over several months to be responsive, to look into it deeper and also to provide the information requested.

Mr. SENSENBRENNER. I yield back.

Chairman DUFFY. The gentleman yields back. I know Ms. Moore has to catch a flight out as well. I want to thank our panel for your testimony today, and from this point I look forward to moving forward with regard to far more transparency, which Ms. Gokee has committed to, and I know that the tribal government has as well, making sure this is a new start, to make sure we resolve the issues that have been brought up here today.

Because this is about people, this is about families, this is about children; and that is not partisan, that's American, and so I look

forward to this hearing being our starting point and partnership with our LCO tribe.

Jimmy Edmund is here from their State Government, but also with our Federal Government, making sure we are partnering to address these problems.

So with that, again, to our panel, thank you for your testimony.

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 5 legislative days for Members to submit written questions to these witnesses and to place their responses in the record. Also, without objection, Members will have 5 legislative days to submit extraneous materials to the Chair for inclusion in the record.

Without objection, this hearing is now adjourned.

[Whereupon, at 11:15 a.m., the hearing was adjourned.]

A P P E N D I X

July 21, 2017

Ranking Member Maxine Waters**Statement for Housing and Insurance Subcommittee Hearing entitled, “NAHASDA: 20 Years On”****July 21, 2017**

I am very pleased that Chairman Duffy is holding this hearing to shine a spotlight on the housing needs of our Native communities, and the need to reauthorize key affordable housing programs for these communities. For over two decades, the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) has served as a successful framework for supporting safe, decent, and affordable housing for Native Americans, while respecting tribal sovereignty. The programs authorized under NAHASDA are designed to be flexible and to provide tribes with the tools they need to overcome the unique challenges that they face when it comes to developing and maintaining affordable housing for its low income residents.

The unique status of tribal lands puts traditional financing for homeownership out of reach for the vast majority of Native Americans hoping to own their own homes in tribal areas. The Section 184 Loan Guarantee program (Section 184) helps these prospective homeowners by providing a government guarantee for traditional, 30-year fixed rate mortgages for eligible borrowers in tribal areas. Native American tribes also face challenges when it comes to financing affordable housing developments for similar reasons, as well as challenges with increased costs of development due to the remoteness of many tribal areas. The Native American Housing Block Grant (NAHBG) provides tribes with a flexible source of funding that can be used for a wide range of affordable housing activities, as well as associated infrastructure and services. Additionally, the Title VI Loan Guarantee program (Title VI) allows tribes that receive NAHBG funds to pledge future NAHBG amounts as collateral to leverage private financing to support their NAHBG projects.

NAHASDA was amended in 2000 to provide assistance to Native Hawaiians, who face similar challenges when it comes to affordable housing. This was in line with Congress’ recognition that it has a “unique trust responsibility to promote the welfare of the aboriginal, indigenous people of the State [of Hawaii],” who were displaced by European and American settlement, beginning in the colonial era through the annexation of Hawaii.¹ The 2000 amendment to NAHASDA provided for the authorization of the Native Hawaiian Housing Block Grant (NHHBG) program and the Section 184A Native Hawaiian Loan Guarantee program (Section 184A), which provide assistance to Native Hawaiians living on Hawaiian trust lands, similar to the assistance provided under NAHBG and Section 184.

A recent report from the Department of Housing and Urban Development’s (HUD’s) Office of Policy and Development Research (PD&R) found that these programs are achieving their intended goals, and that tribes have demonstrated that they have the capacity to effectively

¹ Hawaiian Homes commission Act of 1920

administer these funds.² For example, since its inception, NAHBG funding has been used to build or acquire about 38,570 affordable housing units, and rehabilitate about 83,079 affordable housing units; Title VI funding has been used to build, rehabilitate, or install infrastructure benefitting more than 3,100 families.³ Despite the success of the NAHASDA framework, underfunding has limited the reach of these programs. For example, the NAHBG program has been appropriated about the same level of funding every year since its inception, but as the HUD PD&R report states, “it is clear that the amount of federal housing assistance provided in Indian Country to this point has not been sufficient to meet the need” and that “the flow of IHBG funding is now trending down in relation to this need in real terms.”⁴

Further, Congress has failed to reauthorize NAHASDA programs in a timely manner. I have been a strong supporter of the reauthorization of NAHASDA programs, including robust funding for these programs. However, the bill that was introduced by Representative Steve Pearce in the 114th Congress – the “Native American Housing Assistance and Self-Determination Reauthorization Act of 2015” (H.R. 360) – includes harmful provisions that I cannot support. First, this bill would eliminate the requirement that households living in NAHBG-funded housing can only be charged a maximum of 30 percent of their adjusted income for rent. This requirement, often referred to as the “Brooke rule,” is a longstanding policy in federal housing programs and is widely considered the benchmark for housing affordability. The Brooke rule was enacted in 1969, and has been a requirement under NAHASDA since its inception. H.R. 360 would eliminate this key requirement that ensures affordability for low income residents, and it would do so without any limitations or hardship exemptions. This could have a devastating impact on low income Native residents, including children, families, and seniors. Eliminating the Brooke rule would seriously compromise one of the central goals of NAHASDA, which is to provide *affordable* housing for low income Native communities.

Second, H.R. 360 would fail to ensure that the Cherokee Freedmen remain beneficiaries of NAHASDA programs. The Cherokee Freedmen are the descendants of former African-American slaves of the Cherokees, or of free African-Americans who intermarried with Cherokees. In 1866, the Cherokee Nation signed a treaty with the U.S., promising to grant the Cherokee Freedmen with “all the rights” of native Cherokees. However, due to subsequent efforts by the Cherokee Nation to expel the Freedmen from its citizenry and deny them the rights thereof, a group of the Freedmen pursued litigation, which is currently ongoing. The Freedmen are currently protected by a temporary court order reinstating the Freedmen as citizens, but their fate could change based on the final outcome of this litigation. I believe that Congress has an obligation to ensure that the Freedmen are protected, which is why I have supported a provision that would make NAHASDA funding for the Cherokee Nation contingent upon their full compliance with the Treaty of 1866 and full recognition of the Freedmen as citizens of the Cherokee Nation.

² HUD PD&R, “Housing Needs of American Indians and Alaska Natives in Tribal Areas,” January 2017.

³ HUD, “Report to Congress: Native American Housing Assistance and Self-Determination Act,” Fiscal Year 2016

⁴ HUD PD&R, “Housing Needs of American Indians and Alaska Natives in Tribal Areas,” January 2017.

Lastly, it is unclear whether the version of this bill that may be introduced this Congress will include the reauthorization of the Native Hawaiian programs. I continue to believe that the Native Hawaiian programs are an important part of NAHASDA and must be included in a reauthorization bill moving forward. To do otherwise would be to forget and undermine the historical displacement and mistreatment of Native Hawaiians, as well as the challenges they continue to face as a result of this history, including the challenges they face when it comes to affordable housing.

For these reasons, I opposed H.R. 360 last Congress, and will continue to oppose the same or similar legislation reintroduced this Congress if key changes are not made to address these concerns.

**Written Testimony of Heidi Frechette
Deputy Assistant Secretary, Office of Native American Programs
Office of Public and Indian Housing
U.S. Department of Housing and Urban Development**



**Field Hearing before the United States House Committee on
Financial Services, Housing and Insurance Subcommittee**

“NAHASDA: 20 Years On”

Friday, July 21, 2017

Introduction

Thank you, Chairman Duffy, Ranking Member Cleaver, and Members of the Subcommittee, for this opportunity to discuss the programs administered by the Department of Housing and Urban Development, authorized by the Native American Housing Assistance and Self-Determination Act (NAHASDA).

As HUD's Deputy Assistant Secretary (DAS) for Native American Programs, I have had the opportunity to visit Native communities to learn first-hand about the issues and challenges the tribes face, and to hear directly from tribal leaders on what we need to do to strengthen and improve HUD's policies and programs for Native Americans. Far too many Native American communities struggle with severely overcrowded housing, affordable housing shortages, substandard living conditions, and significant barriers to economic opportunity.

Today, one out of every four Native Americans lives in poverty – including more than one-third of all Native American children. Far too many families live in unacceptable circumstances and face a future that lacks educational and economic opportunity. In the last 15 years (2003-2017), the number of low-income families in the Indian Housing Block Grant (IHBG) formula areas grew by 46 percent and now exceeds 327,000 families. The number of overcrowded households, or households without adequate kitchens or plumbing, grew by 24 percent to over 113,000 families. Finally, the number of families with severe housing costs grew by 60 percent to over 67,000 families.

To put these numbers in greater perspective, American Indian and Alaska Native people living in tribal areas in 2006-2010 had a poverty rate and an unemployment rate that were approximately twice as high as those rates for non-Indians nationally. American Indian and Alaska Native people in large tribal areas were more than 8 times as likely to live in housing that was overcrowded, and more than 6 times as likely to live in housing that did not have adequate plumbing facilities than the national average.

HUD Native American Programs

In my capacity as DAS, I oversee four federal programs that support Native American communities: the Indian Community Development Block Grant (ICDBG) program, the Indian Housing Loan Guarantee (Section 184) program, the Indian Housing Block Grant (IHBG) program and the Tribal Housing Activities Loan Guarantee (Title VI) program.

ICDBG Program. In 1977, the Housing and Community Development Act of 1974 was amended to set aside competitively awarded funding for American Indian tribes within the Community Development Block Grants (CDBG) program. The statutory Indian CDBG, or ICDBG, is a set-aside within the annual funding for the CDBG program.

In FY 2016, the ICDBG program funded the construction of 13 community buildings, including a Head Start Center for the Cheyenne-Arapaho Tribe in Oklahoma; the rehabilitation of 315 affordable housing units, and created 30 jobs as reported by grantees. In the last 5 years (2012-2016) ICDBG has funded the construction of 159 community buildings, the substantial rehabilitation of almost 3,800 affordable housing units, and the creation of 922 jobs.

Tribes across Wisconsin have used ICDBG funds to support their communities including: garnering much needed utility savings by developing and retrofitting affordable units with renewable energy infrastructure; developing community facilities that target support and care for tribal elders and tribal youth; and ensuring the health and safety of their communities with improvements like potable water infrastructure.

Section 184 Program. The Section 184 program was authorized by the Housing and Community Development Act of 1992, as amended. Since its inception, the program has guaranteed more than 38,000 mortgage loans, with loan guarantee authority of more than \$6 billion. The program is the primary vehicle to access mortgage capital in Indian communities by providing access to market-rate, private mortgage capital to qualified Native American families. In addition to individual home loans, tribes and tribally designated housing entities (TDHE) are eligible borrowers. As borrowers, tribes and TDHEs can finance and develop new rental housing or create homeownership opportunities for tribal members through lease purchase programs.

As of June 30, 2017, the program had guaranteed a cumulative total of 38,565 loans with a principal balance of more than \$6.4 billion. In January 2017, as part of the congressionally mandated Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs, HUD published, *Mortgage Lending on Tribal Land: A Report from the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs*. The report found that the Section 184 program successfully eliminates the functional market barrier to private lending presented by tribal trust land.

NAHASDA Programs. The Native American Housing Assistance and Self-Determination Act (NAHASDA) is the statute that authorizes the Indian Housing Block Grant (IHBG) program and the Title VI loan guarantee program.

NAHASDA supports the government-to-government relationship between the Federal Government and tribal governments, established by long-standing treaties, court decisions, statutes, Executive Orders and the United States Constitution. NAHASDA recognizes the importance of tribal sovereignty and is designed to provide flexibility and local control, so that each tribe can decide how best to address its unique housing needs and economic priorities.

The IHBG program is the single largest source of federal funding for housing in Indian Country. IHBG funds are distributed annually, by formula, to eligible American Indian tribes or their tribally designated housing entities (TDHEs), to provide a range of affordable housing activities that primarily benefit low-income Indian families living on Indian reservations or in other Indian areas.

In fiscal year 2016, tribes built or acquired 563 affordable housing units using IHBG funds, and about 5,400 units were substantially rehabilitated. In addition, tribes operated, maintained, and renovated about 43,000 units of housing developed under the U.S. Housing Act of 1937. Since the program's first year of funding in 1998, through fiscal year 2016, recipients built or acquired more than 38,000 units of affordable housing, and rehabilitated about 85,000 units. These outputs represent some of the most important and consistent uses of program funds,

but they do not reflect the entire scope of program activity. For example, since 2013, tribes have used IHBG funds to purchase almost 1,300 acres of land to develop affordable housing, and have provided down payment or closing cost assistance to more than 3,200 families.

The Title VI Loan Guarantee Program, or Title VI program, promotes affordable housing opportunities by leveraging private capital with IHBG funds. Under Title VI, a tribe or TDHE can use IHBG funds to leverage private financing to fund affordable housing activities, so that it can undertake larger affordable housing projects. HUD guarantees 95 percent of the principal and interest on the loan, and tribes pledge a portion of their annual IHBG grant as payment and security for the loan. Title VI projects often use multiple sources of funding, span several years, and include infrastructure development. From the inception of the Title VI program in 2000 through June 30, 2017, HUD has guaranteed a total of 98 loans, for a total of \$238.5 million. Approximately 3,244 affordable units are associated with these loans.

The recently published *Housing Needs of American Indians and Alaska Natives in Tribal Areas*, the product of a congressionally mandated, multi-year study of housing needs and conditions in Indian Country concluded, "...tribes have demonstrated the capacity to construct and rehabilitate housing for low-income families at substantial levels under the NAHASDA framework." Since 1998, under NAHASDA, tribes have not only produced more housing units per year, but they have produced better housing—housing that is tailored for local conditions, customs, and climates. Tribes also use the flexible block grant in many different and innovative ways to address unique local needs, such as assisting college students with housing, counseling prospective homeowners, providing self-sufficiency training to residents, and maintaining critical community infrastructure.

HUD oversight and accountability

In managing its Native American programs, HUD implements a risk-based oversight model. This model focuses the Department's monitoring resources on the review of tribes and TDHEs that are at greatest risk of failing to accomplish program goals and providing affordable housing. Every year, HUD conducts a risk assessment that takes into account the size of a tribe or TDHE's grant(s), level of recent monitoring and overall performance, including compliance with regulatory and statutory requirements. Tribes are ranked according to risk, and then the Department – based on available staffing and travel resources – develops a plan to conduct site visits to as many tribes and TDHEs as possible, with the highest risk tribes/TDHEs being a priority.

In 2016 HUD conducted on-site monitoring of 62 grants to tribes and TDHEs. On-site monitoring of grantees has decreased in recent years due to lower ONAP staffing levels. After each monitoring review, HUD produces a report identifying any program weaknesses or violations. The Department then works with the grantee to resolve any violations and provides technical assistance, if available, to strengthen program weaknesses. If necessary, HUD takes action to pursue a three-part enforcement process to resolve program violations. Fortunately, when the Department has identified an issue with program compliance, tribes and TDHEs are typically very responsive, and most agree to voluntarily implement a plan to comply with program requirements rather than be placed into the enforcement process.

In the case of the ICDBG program, grantee progress on completion of specific, previously funded projects, such as disaster mitigation, affordable housing infrastructure, or community facility construction, is also monitored through the Department's review of required annual status reports and audits, in addition to on-site monitoring consistent with HUD's annual risk-based monitoring plan.

NAHASDA Reauthorization

Tribes have made great strides under the self-determination framework established by NAHASDA and HUD looks forward to working with Congress on reauthorization of the legislation. It is clear that the Native American Housing Assistance and Self-Determination Reauthorization Act of 2015 (H.R. 360) was developed in the spirit of continued support for streamlined program rules and regulations that allow for ease of administration, more local control, and program flexibility—without Federal Government involvement in day-to-day activities.

The major elements of the bill include 1) streamlining the environmental review process, 2) removal of Section 3 employment requirements, 3) amending maximum rent requirements, 4) allowing coordination of multi-agency funding, 5) establishing parameters for timely expenditure of IHBG funding, 6) permanently authorizing the Tribal HUD-Department of Veterans Affairs Supportive Housing (Tribal HUD-VASH) demonstration program, 7) authorizing an appropriations and loan limitation for the Section 184 program through 2019, and 8) creating a demonstration program designed to allow tribes to partner with private investors and pledge their annual block grants to attract private capital. In 2015, concerns were raised on some provisions of H.R. 360, and we look forward to working with the Congress to address those concerns.

Streamlining the Environmental Review Process

H.R. 360 allows for consolidation of the environmental review requirements for projects that have multiple Federal funding sources. Since 2014, HUD has led a workgroup of several Federal agencies to develop a coordinated environmental review process for housing and housing-related infrastructure in Indian Country, as directed by the Senate Appropriations Committee. After robust tribal consultation on environmental streamlining, HUD issued a Final Report on the workgroup's activities in December 2015. The Final Report made several recommendations, including measures that could be taken to coordinate Federal agencies' environmental review processes within existing frameworks and processes. We look forward to working with Congress to strengthen the coordination provisions in H.R. 360. The workgroup continues to meet to implement the recommendations of the Final Report. HUD is committed to streamlining environmental review requirements and looks forward to working with Congress to ensure any statutory changes consider the findings of the working group and the extensive tribal input received regarding environmental streamlining.

Removal of Section 3 Employment Requirements

H.R. 360 amends NAHASDA to remove the obligation for tribes and tribally designated housing entities (THDEs) to comply with Section 3 of the Housing and Urban Development Act of 1968. Section 3 requires employment of low-income residents in connection with projects and activities in their neighborhoods. HUD does not support the elimination of Section 3 requirements as it supports employment opportunities for low-income individuals.

Amending Maximum Rent Requirements

H. R. 360 amends the maximum rent requirements for families residing in NAHASDA-assisted housing. Currently, NAHASDA provides that the rent or homebuyer payment for any low-income family residing in a NAHASDA assisted unit cannot exceed 30 percent of the family's monthly adjusted income. The bill provides that tribes that adopt their own written policies governing maximum rents and homebuyer payments may be exempt from this requirement. HUD acknowledges there may be some instances where the maximum rent requirements may be revised and looks forward to working with Congress on this important provision.

Coordination of Multi-Agency Funding

Multiple Federal agencies provide funding for water and sewer infrastructure for Indian homes and communities, which requires significant coordination with Indian tribes and makes it particularly challenging for tribes to leverage Federal and other resources to develop affordable housing for Native American families. H.R. 360 would lift a prohibition in current law on combining Indian Health Service funding for water and sanitation infrastructure with IHBG funds for construction and rehabilitation of low income housing. HUD would like to work with Congress and other Federal agencies to find the best way to address this issue.

Timely Expenditure of IHBG Funding

H.R. 360 adds a new provision to NAHASDA that decreases the annual IHBG funding for tribes with a large unexpended IHBG funds balance. This provision of H.R. 360 is no longer necessary because HUD recently revised its program regulations to include a requirement that is substantially similar to this provision. In December 2016, following three years of extensive negotiated rulemaking with Indian tribes, HUD published a final rule that provided that any tribe receiving \$5 million or more in annual IHBG funding, and that has more than three years' worth of unexpended IHBG funding, will experience a reduction in its IHBG grant in that fiscal year. This regulation will take effect in fiscal year 2018. In the meantime, appropriations bills for fiscal years 2016 and 2017 have included similar provisions. In those years, no tribes were subject to a grant reduction, which is an indicator that tribes have been spending their funds timely and not accumulating large balances. Given that this issue has been addressed through regulatory means, and the annual appropriations acts have included this type of provision in recent years, a statutory change to NAHASDA is not warranted at this time. If Congress would like to pursue a statutory change, HUD recommends language that would codify the final rule.

Tribal HUD-VASH Demonstration program

H.R. 360 would establish the Tribal HUD-VASH demonstration program as a permanent program. As of July 19, 2017, the Tribal HUD-VASH demonstration program had housed and is providing case management to 126 veterans in tribal areas who were homeless or at-risk of becoming homeless. An additional 96 Native American veterans are in case management with VA and may soon receive housing assistance under this program. Tribal HUD-VASH is an offshoot of the standard HUD-VASH program, which has been successful in many communities across the country but was unable to reach eligible Native American veterans living on tribal lands, largely because tribes and TDHEs were not eligible to administer the program. HUD is

committed to serving this population and looks forward to working with Congress to ensure the program considers the successes and challenges of the demonstration program.

Setting Loan Limitation for Section 184 Program

H.R. 360 authorizes an annual loan limitation of \$976,000,000. Loan commitments under this program fluctuate based on borrower demand and other factors, which necessitates an annual reevaluation of the loan limitation. Therefore, the Department recommends retaining the existing statutory language, which ties the authorized loan limitation to the amount provided in appropriations acts.

Privatization Demonstration Program

H.R. 360 creates a demonstration program that significantly alters the manner in which NAHASDA funds may be used. The bill allows for these funds to be pledged to a private investor as a guarantee for the investor's development of tribal housing. The purpose of the demonstration program appears to allow for more private sector participation and attract more private capital to Indian housing development. HUD is concerned about implementing this concept as it is currently proposed in H.R. 360. HUD looks forward to working with Congress to develop ways to attract private capital for Indian housing while protecting housing affordability and housing resources for Native American communities.

In conclusion, HUD's Indian Housing programs are all successful examples of federal programs that provide local choice, under streamlined governmental requirements, and leverage private market investment while respecting tribal self-governance. Thank you again for this opportunity to appear before you today. I would be happy to answer any questions you may have.

**Prepared Statement of Rosalie Gokee, Council Member
Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin
to the
U.S. House Financial Services Committee, Housing and Insurance Subcommittee
Field Hearing on “NAHASDA: 20 years On”**

July 21, 2017

Boozhoo everyone. My name is Rosalie Gokee, and I am a Council Member on the Governing Board of the Lac Courte Oreilles Band of Lake Superior Chippewa Indians of Wisconsin. I would like to say miigwech to Chairman Duffy and committee members for coming to Lac Courte Oreilles to hold this hearing in regards to NAHASDA.

**Background on the Lac Courte Oreilles Band
of Lake Superior Chippewa Indians of Wisconsin**

The Lac Courte Oreilles Reservation was established by the 1854 Treaty with the Chippewa, an agreement between the United States and the Mississippi and Lake Superior Bands of the Ojibwe Tribe, 10 Stat. 1109, Sept. 30, 1854. On March 1, 1873, the Secretary of the Department of the Interior transmitted the selections of land for the Lac Courte Oreilles Reservation in fulfillment of the 1854 Treaty. Currently the Tribe is composed of approximately 8000 members of which 2,425 reside within the reservation boundaries.

The Lac Courte Oreilles Band of Lake Superior Chippewa Indians is organized pursuant to the Indian Reorganization Act of 1934 (“IRA”), 25 U.S.C. 461 *et. seq.* The Lac Courte Oreilles Tribal Governing Board is the governing body of the Tribe pursuant to Article III, §1 of the Tribe’s Constitution. The Tribe’s seven-member council is elected by popular vote of the membership. The chief officer, the Tribal Chairman, is selected from among the council members pursuant to Article III, § 3 of the Lac Courte Oreilles Constitution.

The Tribe was organized pursuant to the IRA / Lac Courte Oreilles Constitution in 1966 for the express purpose to conserve tribal property, develop its human and natural resources, enjoy the rights of self-government and improve the general quality of life for its membership. The Lac Courte Oreilles Tribal Government functions similarly to the U.S. Government in both range of services and obligation to its citizens:

- Elected Government Leadership
- Administrative Infrastructure
- Law, Judiciary Process, Enforcement
- Fiscal Management – Financial Controls
- Housing, Land Use, Development
- Public Utilities – Roads, Water, Sewer
- Health Care
- Education
- Economic Development

- Retirement, Pension and Insurance Administration
- Social Services
- Environmental Protection
- Culture and Art
- Public Safety Services - Law Enforcement, Conservation Wardens, Fire Department
- Intergovernmental Agreements

The Tribe operates a tribally-designated housing entity which has a Director, and a Housing Board of Commissioners that act in an advisory capacity. The mission of the Lac Courte Oreilles Housing Authority is to shelter and protect their people, and help their community prosper.

Treaty and Trust Responsibility for Adequate Housing

In the Treaties of 1825, 1826, 1837, 1842, 1847 and 1854, the tribes reserved inherent rights including, the right to engage in traditional customs and practices, the right to self-government, the right to hunt, fish and gather in the areas ceded to the United States (ceded territories), and the right for adequate housing. These rights are not concepts that can be given or bestowed upon a people at the whims of policy. The Creator bestowed cultural distinctiveness or the concept of sovereignty upon the Ojibwe people, and the people have held this notion since antiquity. This is embedded within its Treaties with the federal government. (See: *Treaty with the Chippewa*, 7 Stat. 591 (1842), Article II: The Indians stipulate for the right of hunting on the ceded territory, with the other usual privileges of occupancy. The usual privileges of occupancy have been defined as – aboriginal rights, Indian rights, customary rights, usufructuary rights, or permissive occupancy and have uniformly been found to include all inherent rights including the right to adequate housing. *Lac Courte Oreilles v. Voigt (LCO I)*, 700 F. 2d 341 (7th Cir. 1983); *Mille Lacs Band v. State of Minnesota (Mille Lacs II)*, 861 F. Supp. 784, 840 (D. Minn. 1994); *Shoshone v. United States*, 299 U.S. 476, 496 (1937); *United States v. Minnesota*, 466 F. Supp. 1382, 1385 (D. Minn. 1977); *White Mountain Apache Tribe of Arizona v. U.S.*, 26 Cl. Ct. 446, 464 (July 14, 1992) (holding that under a fair and honorable dealings analysis the treaty gives rise to a federal obligation to provide food, clothing, housing, health care, and education)).

In the Treaty of 1854, the federal government established the Lac Courte Oreilles Indian Reservation, and induced the various Bands to forego their existing homes in the ceded territories by the promise of assistance in building new ones on the reservation. Despite the pivotal role of housing promises in the negotiations for the 1854 Treaty, the federal government has never successfully provided housing assistance to the Ojibwe Bands. Many Ojibwe people have lived in substandard housing since the establishment of the reservations in the 1854 Treaty. For over one hundred years, the federal government has recognized that housing conditions in Indian Country threaten Indian peoples' health and their ability to educate their children. The federal government, however, has failed to adhere to its treaty promises by not providing adequate housing to the Ojibwe Bands.

Safe, decent, and adequate housing in the form of funds for building, repairs, renovations, and related infrastructure is a treaty right, and forms part of the federal trust and fiduciary responsibility of the federal government as established in its Treaties. This principle is expressly

recognized in 25 U.S.C. § 4101 in which Congress found that: (1) the Federal Government has a responsibility to promote the general welfare of the Nation; (a) by using Federal resources to aid families and individuals seeking affordable homes in safe and healthy environments and, in particular, assisting responsible, deserving citizens who cannot provide fully for themselves because of temporary circumstances or factors beyond their control, (b) by working to ensure a thriving national economy and a strong private housing market, and (c) by developing effective partnerships among the Federal Government, State, tribal, and local governments, and private entities that allow government to accept responsibility for fostering the development of a healthy marketplace and allow families to prosper without government involvement in their day-to-day activities; (2) there exists a unique relationship between the Government of the United States and the governments of Indian tribes and a unique Federal responsibility to Indian people; (3) the Constitution of the United States invests the Congress with plenary power over the field of Indian affairs, and through treaties, statutes, and historical relations with Indian tribes, the United States has undertaken a unique trust responsibility to protect and support Indian tribes and Indian people; (4) the Congress, through treaties, statutes, and the general course of dealing with Indian tribes, has assumed a trust responsibility for the protection and preservation of Indian tribes and for working with tribes and their members to improve their housing conditions and socioeconomic status so that they are able to take greater responsibility for their own economic condition; (5) providing affordable homes in safe and healthy 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 socioeconomic status; (6) the need for affordable homes in safe and healthy environments on Indian reservations, in Indian communities, and in Native Alaskan villages is acute and the Federal Government shall work not only to provide housing assistance, but also, to the extent practicable, to assist in the development of private housing finance mechanisms on Indian lands to achieve the goals of economic self-sufficiency and self-determination for tribes and their members; and (7) Federal assistance to meet these responsibilities shall 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 Public Law 93-638 (25 U.S.C. 450 et seq.).

Historical records reveal a persistent but ultimately ineffective effort on the part of the federal government to improve housing conditions for tribes. These same records suggest that Congress's willingness to dedicate resources to Indian housing has been, at best, insufficient and haphazard. As Congress continues to address the ongoing housing crisis experienced by many tribes, policymakers must consider the complete history of the federal Indian housing obligation. See: *A Discovery of Sorts: Reexamining the Origins of the Federal Indian Housing Obligation*, 18 Harv. BlackLetter L.J. 211, 211-12 (2002).

Profile of Indian Country

There are 567 federally-recognized Indian tribes in the United States. Despite progress over the last few decades, many tribal communities continue to suffer from some of the highest unemployment and poverty rates in the United States. Historically, Native Americans in the United States have experienced higher rates of substandard housing and overcrowded homes than other demographics.

The U.S. Census Bureau reported in the 2015 American Community Survey that American Indians and Alaska Natives were almost twice as likely to live in poverty as the rest of the population—26.6 percent compared with 14.7 percent. The median income for an American Indian Alaska Native household is 31% less than the national average (\$38,530 versus \$55,775)

In addition, overcrowding, substandard housing, and homelessness are far more common in Native American communities. In January of this year, the Department of Housing and Urban Development (HUD) published an updated housing needs assessment. According to the assessment, 5.6 percent of homes on Native American lands lacked complete plumbing and 6.6 percent lacked complete kitchens. These are nearly four times than the national average, which saw rates of 1.3 percent and 1.7 percent, respectively. The assessment found that 12 percent of tribal homes lacked sufficient heating.

The assessment also highlighted the issue of overcrowded homes in Indian Country, finding that 15.9 percent of tribal homes were overcrowded, compared to only 2.2 percent of homes nationally. The assessment concluded that to alleviate the substandard and overcrowded homes in Indian Country, 68,000 new units need to be built.

Since NAHASDA was enacted, tribes have built over 37,000 new units according to HUD. However, as the IHBG appropriations have remained level for a number of years, inflation has diminished the purchasing power of those dollars, and new unit construction has diminished as tribes focus their efforts on unit rehabilitation. While averaging over 2,400 new unit construction between FY2007 and 2010, new unit construction has dropped in recent years with only 2,000 new units between 2011 and 2014, and HUD estimating less than 1,000 new units in future years as tribes maintain existing housing stock.

NAHASDA Reauthorization Efforts

The last NAHASDA reauthorization was enacted in 2008, and that authorization expired at the end of fiscal year 2013. This is the fourth year now that the program has been left unauthorized, and our membership continues to grow more concerned as discussions in Washington, D.C. focus on cutting spending and eliminating unauthorized programs.

While NAHASDA may be currently unauthorized, the United States' trust and treaty responsibilities towards Native peoples remain and will not go away. The members of this Committee know these commitments well and Lac Courte Oreilles is very appreciative of all your efforts in supporting tribal housing programs and tribal self-determination.

We recognize the leadership that the House and the Financial Services Committee has shown by passing a NAHASDA reauthorization in both the 113th and 114th Congress. We look forward to working with you this year to again work towards finalizing a reauthorization that can be signed into law.

H.R. 360 – 114th Congress (2015-2016)

The Lac Courte Oreilles Tribe strongly supports the re-authorization of NAHASDA, and we supported H.R. 360 – 114th Congress (2015-2016), with only one primary concern. We understand the rules of the House of Representatives normally require authorizations to include a specific total amount, rather than “such sums as necessary” language. Accordingly, H.R. 360 would cap the authorization of NAHASDA at \$650 million dollars per year. Since NAHASDA was enacted 20 years ago, tribal programs have received between \$600 and \$650 million annually. However, when factoring for inflation, funding of \$650 million only provides tribal housing programs about 2/3 in the purchasing power they received 20 years ago. In addition to this the Lac Courte Oreilles Tribe would ask that tribes be allowed to increase their FCAS to the true number of housing stock they own and operate as low income housing rental units. We also encourage Congress to ask HUD to provide a report that would accurately state the real operation and maintenance costs so that a starting appropriations number could be identified.

The Lac Courte Oreilles Tribe would request language that allows for inflationary and fixed costs increases over the authorization time period. We believe the increase in authority and appropriations is justified as Indian Country continues to see rates of substandard housing and overcrowded homes well in excess of the national average. A HUD needs assessment published in January of this year inaccurately indicated that 68,000 new units are needed in Indian Country but actually that number is closer to a published HUD ONAP shortage number of 290,000 units. As the ability of tribes to develop new housing units has diminished in the last few years due to inflation, the problem cannot be solved by limiting funding to current levels.

Despite that primary concern, H.R. 360 largely improved and built upon existing NAHASDA provisions. Title I of the bill placed deadlines on HUD to act upon waiver requests, and included language that would greatly simplify NEPA reviews for tribal projects. Because tribal projects routinely combine multiple federal sources of funding, compliance with multiple environmental review processes wastes time and resources, so any effort to reduce those burdens, while still complying with the spirit of NEPA is appreciated in Indian Country. Title I also required a study to streamline Indian Housing Plans, and allow for multi-year housing plans. This provision builds upon self-determination policies and is in line with other successful self-governance policies used by the Bureau of Indian Affairs and Indian Health Service.

Title II of H.R. 360 included multiple provisions that provided flexibility to tribal housing programs. This includes providing tribes a greater ability to use Native-owned companies in construction, which helps spur job creation in these communities as well. Another provision allowed tribes more flexibility in determining minimum rent requirements, recognizing tribes’ rights to self-governance. Title II also provided greater flexibility for converting a tribal family from renter to a homebuyer, and other helpful leasing provisions. Finally, Title II provided tribal housing programs access to sanitation facilities funding from the Indian Health Service.

Title III contains the 5-year reauthorization and incorporated the 3x language developed through negotiated rulemaking into the NAHASDA statute. The Lac Courte Oreilles Tribe does not believe that is necessary, as negotiated rulemaking allows for periodic updates to the rules as needed to address new circumstances. While Lac Courte Oreilles Tribe does not believe it is needed, we do appreciate Congress simply adopting the current policy as decided through negotiated rulemaking with tribes.

Title IV streamlined the audit process by ensuring that HUD is timely in its communications with tribes who are working to correct insufficiencies found in their programs.

Title V included language making the tribal HUD-VASH program permanent, which the LCOHA supports. A bipartisan bill in the Senate, S. 1333 115th Congress (2017 – 2018); Tribal-HUD VASH Act of 2017, includes some additional language that would address a few of the problems identified in the demonstration phase of tribal HUD-VASH implementation. Title V also included a reauthorization of the 184 loan guarantee program.

Title VII of H.R. 360 would establish a demonstration project providing Tribes a new method of leveraging their NAHASDA funding with private investment. We believe any efforts to expand access to capital and getting new private investments in Indian Country is worth looking into and tribes who are willing to utilize the demonstration program should have that option.

Additionally, the Lac Courte Oreilles Tribe would encourage Congress to further amend NAHASDA to allow for Tribal Housing programs to have full access to all of the services provided by Federal Supply Sources, which is not the case with the current language, similar to other Tribal programs. The Lac Courte Oreilles Tribe would also ask that any provisions related to compliance with Davis Bacon labor standards be waived for expenditures related to NAHASDA funds.

Concerns with the Administration's FY 2018 Budget Proposal

While the signing statement could be dismissed as not fully understanding the background of federal Indian law, the Administration's FY 2018 funding proposals is much more concerning. In short, the Lac Courte Oreilles Tribe believes that the budget, if enacted, would devastate tribal housing programs across the country.

The budget provides substantial cuts or completely eliminates the Community Development Block Grant at HUD, the CDFI Fund at Treasury, and Rural Development programs at the USDA.

The proposed budget would also cut the Indian Housing Block Grant to \$600 million, which is essentially the same level of funding tribal housing programs received in 1996. However adjusting for inflation, the proposal represents a cut of about one-third compared to 1996 funding levels.

The HUD tribal housing needs assessment released in January showed that tribes have rates of substandard housing and overcrowded homes well in excess of the national average. The report indicated that 68,000 new units are needed in Indian Country. As the ability of tribes to develop new housing units has diminished in the last few years due to inflation, the problem cannot be compounded by the severe program funding cuts proposed in the Administration's FY 2018 budget.

The Lac Courte Oreilles Tribe asks that members of this Committee, particularly those who also sit on the Appropriations Committee, support adequate funding of the Indian Housing Block Grant and other tribal housing programs. Funding the IHBG at \$900 million would provide tribes relatively the same purchasing power it had in 1996 and the Lac Courte Oreilles Tribe requests no less than \$700 million for FY 2018. Congress should also reject the proposed cuts to the other programs listed above, as they provide tribes additional resources for their housing programs. Funding tribal housing programs not only fulfills Congressional trust and treaty responsibilities, but does so in a way that spurs economic development, creates jobs and builds credit in tribal communities.

①

Dr. HARVEY MALCOM

- ① College - Dartmouth College, graduated 6/1981
- ② Medical School - Temple Univ School of Medicine, graduated 5/1988
- ③ Active Duty in the US Air Force as a Family Practice Doctor
- a) 1988 - 1991 Travis AFB, TX
 - b) 1991 - 1995 Kadena AFB, Okinawa (Japan)
- < served as base Allergist 1992-1995
post training at Wilford Hall Med Center
in San Antonio, Texas in 1991 >
- ④ Family Practice Physician at HARVEY ABEA MEMORIAL HOSPITAL
& at Duluth Clinic / Essentia Clinic HARVEY from
1996 to the present time. Full scope practice to
include obstetrics, pediatrics, adult medicine & geriatric
medicine. See & care few patients in the clinic, ER,
hospital & NH (nursing home).
- ⑤ Misc Duties - Sawyer County Hospice Medical Advisor
- Water's Edge Nursing Home Medical Advisor
- Preceptor at The Univ of MN Medical School's
Family Practice training program in Duluth, MN.

①

(I) ROLE OF FUNGAL (mold) IN HUMAN DISEASE. (INDOOR MOLD EXPOSURE) (2)

- ① Proven health issues include infections, hypersensitivity disorders, toxic/irritant effects from their by products
- ② Possible medical issues include fatigue, nausea and immune system dysfunction
- ③ To proliferate, mold spores need 3 basic things
 - i) Relative humidity >65 percent
 - ii) Temp 50-90° F
 - iii) Organic matter as a nutrient base upon which to grow.
(wood, paper, carpet, soil, plants, fabrics)
(usually grow where there is water damage or constant high humidity)

(II) INFECTIONS

- a) Most Fungi (molds) are NOT pathogenic to immunocompetent humans.
Exceptions include dermatophytes, Histoplasma, Blastomyces, Cryptococcus, & Coccidioides.
- b) IMMUNOCOMPROMISED individuals (HIV pts, cancer patients, patients on immunosuppressive medications to treat their medical condition, patients with poorly controlled diabetes, people with substantial alcohol use, newborns) are at risk for opportunistic infections with fungi.
(can infect nearly any organ system or can become disseminated and lead to fungal sepsis)

(5)

⑤ HYPERSENSITIVITY Disorders

Exposure causes patient to generate an abnormal immune response, resulting in inflammation & symptoms.

1) Asthma

2) Allergic Rhinitis

3) Hypersensitivity Pneumonitis (HP)

Diffuse inflammation of lungs in response to inhalation of antigen that patient is previously sensitized to.

4) Allergic Bronchopulmonary Aspergillosis (ABPA)

Hypersensitivity reaction to *Aspergillus* in the lower airways.

Recurrent episodes of cough, fever, malaise.

Can cough up brownish or even bloody mucous plugs.

Usually occurs in individuals w/ underlying asthma or cystic fibrosis.

5) Allergic Fungal Rhinosinusitis (AFRS)

Chronic sinus symptoms w/ nasal polyps

Treat w/ glucocorticoids & surgery to remove allergic mucous

⑥
II

What medical issues potentially related to mold exposure that I have seen at our local clinic and hospital over the last 21⁺ years.

⑦

PREPARED STATEMENT OF

MARK F. MONTANO

**EXECUTIVE DIRECTOR, LAC COURTE OREILLES HOUSING AUTHORITY
LAC COURTE OREILLES BAND OF LAKE SUPERIOR CHIPPEWA
HAYWARD, WI**

**TO THE UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON FINANCIAL SERVICES
SUBCOMMITTEE ON HOUSING AND INSURANCE**

JULY 21, 2017

FIELD HEARING: NAHASDA: 20 Years On

Introduction

Good morning Chairman Duffy, Committee members and other Congressional leadership. My name is Mark Montano and I have been the Executive Director of the Lac Courte Oreilles Housing Authority for nearly 4 years. I am an enrolled citizen of the Red Cliff Band of Lake Superior Chippewa. It is an honor to be invited to provide testimony in regards to the reauthorization of the Native American Housing Assistance and Self-Determination Act (NAHASDA). I am optimistically enthused about the possibilities of NAHASDA being reauthorized and will offer some suggestions to improve the delivery of housing services to Tribal Members.

Background on the Lac Courte Oreilles Housing Authority

The LCOHA was established in January 1967 shortly after the establishment of an effort to address housing in Indian Country. The Lac Courte Oreilles Housing Authority (LCOHA) is a Tribally Designated Housing Entity and by virtue of this designation receives direct NAHASDA funding from the Department of Housing and Urban Development and is required to comply with all rules and requirements of the program. After the establishment of the LCOHA the Tribe, through the Housing Authority, began to construct homes utilizing funding provided by HUD. From 1971 to the current time the LCOHA has constructed a total of 554 homes. Approximately 160 homes were built utilizing the discontinued mutual help program which assisted families to become homeowners of which to date all but 3 homes have been conveyed. The LCOHA currently receives NAHASDA formula funding for 343 homes which leaves a shortfall of 54 homes that have been built with no annual appropriations to operate and maintain. This shortfall means that the LCOHA has had to utilize its NAHASDA formula funding to operate and maintain all of its housing stock thus creating a further shortage of adequate funding.

The LCOHA currently receives an annual average appropriation for its Formula Current Assisted Stock of \$2.7 million which has been relatively stagnant since the passage of NAHASDA. This issue alone causes the LCOHA difficulty due to the previous mentioned FCAS versus total actual

housing stock. I will address this issue in greater detail later in my testimony when addressing specifically H.R. 360.

Over the past 20 years the LCOHA has made great strides with leveraging its NAHASDA dollars to address housing issues and in fact has been very successful in utilizing the Low Income Housing Tax Credit (LIHTC) program with the IRS. The following projects were a direct result of those LIHTC efforts;

- **LCO LIHTC #1**
Project consisted of the rehabilitation of 24 existing homes scattered throughout the reservation.
- **LCO LIHTC #2**
Project consisted of the construction of 24 new rent to own homes in a newly created subdivision which included all of the infrastructure needed to support the development.
- **LCO LIHTC #3**
Project consisted of the rehabilitation of 24 homes in the K-Town and Schoolhouse areas.

Conditions of Housing in Indian Country

Numerous reports have been written and provided to Congress in regards to the deplorable conditions of housing in Indian Country and the challenges that have been faced by Tribes to address this issue. The following reports, along with others, have been provided to Congress and I have taken excerpts from those reports that directly relate to the subject matter of my testimony;

- **July 2003 US Commission on Civil Rights A Quiet Crisis, Federal Funding and Unmet Needs in Indian Country**

 “This study reveals that federal funding directed to Native Americans through programs at these agencies has not been sufficient to address the basic and very urgent needs of indigenous peoples. Among the myriad unmet needs are: health care, education, public safety, housing, and rural development. The Commission finds that significant disparities in federal funding exist between Native Americans and other groups in our nation, as well as the general population. Among immediate requirements for increased funding are: infrastructure development, without which tribal governments cannot properly deliver services; tribal courts, which preserve order in tribal communities, provide for restitution of wrongs, and lend strength and validity to other tribal institutions; and tribal priority allocations, which permit tribes to pursue their own priorities and allow tribal governments to respond to the needs of their citizens. The Commission recommends that all federal agencies administering Native American programs identify and regularly assess unmet needs based on their authority. The federal government, through laws, treaties, and policies established over hundreds of years, is obligated to ensure that funding is adequate to meet these needs. Moreover, the government must work diligently to elevate the standard of living among Native Americans to that of other Americans by ensuring that federal agencies create attainable resource-driven goals toward this end.”

“The federal government has a long-established special relationship with Native Americans characterized by their status as governmentally independent entities, dependent on the United States for support and protection. In exchange for land and in compensation for forced removal from their original homelands, the government promised through laws, treaties, and pledges to support and protect Native Americans. However, funding for programs associated with those promises has fallen short, and Native peoples continue to suffer the consequences of a discriminatory history. Federal efforts to raise Native American living conditions to the standards of others have long been in motion, but Native Americans still suffer higher rates of poverty, poor educational achievement, substandard housing, and higher rates of disease and illness. Native Americans continue to rank at or near the bottom of nearly every social, health, and economic indicator. Small in numbers and relatively poor, Native Americans often have had a difficult time ensuring fair and equal treatment on their own. Unfortunately, relying on the goodwill of the nation to honor its obligation to Native Americans clearly has not resulted in desired outcomes. Its small size and geographic apartness from the rest of American society induces some to designate the Native American population the “invisible minority.” To many, the government’s promises to Native Americans go largely unfulfilled. Thus, the U.S. Commission on Civil Rights, through this report, gives voice to a quiet crisis.”

- **January 19, 2017; Housing Needs of American Indians and Alaska Natives in Tribal Areas: A Report From the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs**

“The centerpiece of the assessment of American Indian and Alaska Native (AIAN) housing conditions is the first ever national survey of American Indian and Alaska Native households in tribal areas. This survey sampled 1,340 AIAN households from 38 tribal areas and achieved a response rate of 60 percent. The survey offers information not available in existing census data sources, including estimates of electrical and heating problems, physical conditions problems, and the extent of “doubling up” among AIAN households in tribal areas. The report contextualizes data from the household survey with information on demographic, social, and economic conditions and regional and historical comparisons based on the 2000 and 2010 decennial censuses and the 2006-10 American Community Survey (ACS). Analyses show that housing conditions are substantially worse among AIAN households than among all U.S. households, with overcrowding in tribal areas being especially severe. Findings from a survey of 110 tribally designated housing entities, site visits to 22 tribal areas, and data on housing production before and after enactment of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) show that tribes have produced and maintained low-income housing much more effectively since the passage of NAHASDA. Nominal dollars for the Indian Housing Block Grant have not been increased since 1996, however, leading to a substantial decrease in buying power. Limited funding is a key constraint for many tribes who could increase their rate of housing production if they had more funding.”

The above referenced passages from reports is a clear indication that there is a lot of work that needs to be done in Indian Country regarding improving the living conditions but most particularly as it relates to housing conditions and the mechanisms used to provide funding.

Comments on H.R. 360 – 114th Congress (2015 – 2016)

The LCOHA supports the re-authorization of NAHASDA, and we previously supported H.R. 360 114th Congress (2015 – 2016), with only one primary concern. We understand the rules of the House of Representatives normally require authorizations to include a specific total amount, rather than “such sums as necessary” language. Accordingly, H.R. 360 would cap the authorization of NAHASDA at \$650 million dollars per year. Since NAHASDA was enacted 20 years ago, tribal programs have received between \$600 and \$650 million annually. However, when factoring for inflation, funding of \$650 million only provides tribal housing programs about 2/3 in the purchasing power they received 20 years ago. In addition to this the LCOHA would ask that tribes be allowed to increase their FCAS to the true number of housing stock they own and operate as low income housing rental units. We also encourage Congress to ask HUD to provide a report that would accurately state the real operation and maintenance costs so that a starting appropriations number could be identified.

The LCOHA would request language that allows for inflationary and fixed costs increases over the authorization time period. We believe the increase in authority and appropriations is justified as Indian Country continues to see rates of substandard housing and overcrowded homes well in excess of the national average. A HUD needs assessment published in January of this year inaccurately indicated that 68,000 new units are needed in Indian Country but actually that number is closer to a published HUD ONAP shortage number of 290,000 units. As the ability of tribes to develop new housing units has diminished in the last few years due to inflation, the problem cannot be solved by limiting funding to current levels.

Despite that primary concern, H.R. 360 largely improved and built upon existing NAHASDA provisions. Title I of the bill placed deadlines on HUD to act upon waiver requests, and included language that would greatly simplify NEPA reviews for tribal projects. Because tribal projects routinely combine multiple federal sources of funding, compliance with multiple environmental review processes wastes time and resources, so any effort to reduce those burdens, while still complying with the spirit of NEPA is appreciated in Indian Country. Title I also required a study to streamline Indian Housing Plans, and allow for multi-year housing plans. This provision builds upon self-determination policies and is in line with other successful self-governance policies used by the Bureau of Indian Affairs and Indian Health Service.

Title II of H.R. 360 included multiple provisions that provided flexibility to tribal housing programs. This includes providing tribes a greater ability to use Native-owned companies in construction, which helps spur job creation in these communities as well. Another provision allowed tribes more flexibility in determining minimum rent requirements, recognizing tribes’ rights to self-governance. Title II also provided greater flexibility for converting a tribal family from renter to a homebuyer, and other helpful leasing provisions. Finally, Title II provided tribal housing programs access to sanitation facilities funding from the Indian Health Service.

Title III contains the 5-year reauthorization and incorporated the 3x language developed through negotiated rulemaking into the NAHASDA statute. The LCOHA does not believe that is necessary, as negotiated rulemaking allows for periodic updates to the rules as needed to address new circumstances. While LCOHA does not believe it is needed, we do appreciate Congress simply adopting the current policy as decided through negotiated rulemaking with tribes.

Title IV streamlined the audit process by ensuring that HUD is timely in its communications with tribes who are working to correct insufficiencies found in their programs.

Title V included language making the tribal HUD-VASH program permanent, which the LCOHA supports. A bipartisan bill in the Senate, S. 1333 115th Congress (2017 – 2018); Tribal-HUD VASH Act of 2017, includes some additional language that would address a few of the problems identified in the demonstration phase of tribal HUD-VASH implementation. Title V also included a reauthorization of the 184 loan guarantee program.

Title VII of H.R. 360 would establish a demonstration project providing Tribes a new method of leveraging their NAHASDA funding with private investment. We believe any efforts to expand access to capital and getting new private investments in Indian Country is worth looking into and tribes who are willing to utilize the demonstration program should have that option.

Additionally, the LCOHA would encourage Congress to further amend NAHASDA to allow for Tribal Housing programs to have full access to all of the services provided by Federal Supply Sources, which is not the case with the current language, similar to other Tribal programs. The LCOHA would also ask that any provisions related to compliance with Davis Bacon labor standards be waived for expenditures related to NAHASDA funds.

Other Recommendations

The LCOHA additionally offers the following recommendations and observations;

- There should be a study done immediately that determines the actual financial need of Tribal housing.
- Direct allocations from the IRS of Low Income Housing Tax Credits instead of Tribes having to go through the state for competitive applications.
- Tribes should be able to have full access to all HUD programs and services similar to States, Public Housing agencies and other entities.
- Tribal Housing Authorities should have access to all financial information data clearing houses related to applicants and current tenants for the purpose of properly calculating rent.
- Tribes are faced with a serious methamphetamine epidemic and there needs to be federal intervention. This issue is costing the LCOHA in excess of \$100,000 annually for cleanup and testing. Currently the State of Wisconsin has no regulations in regards to this including cleanup standards and by such the people of Wisconsin are going into homes not knowing the history and potentially becoming contaminated by this drug. Further, I would also ask that provisions be included in NAHASDA that results in immediate eviction of those causing the contamination and tie existing law about

exclusion in federally assisted housing for convictions. In addition it may be advisable to restrict those that are found to contribute to the contamination of the houses from federally assisted housing.

- Training and credentialing of staff for the inspection of houses and possibly a central repository of that information for Tribal housing.

Conclusion

I applaud the Committee for scheduling this hearing and would further encourage the committee to have other hearings throughout Indian Country. We certainly have many more suggestions that would or could improve the housing conditions and the ability to deliver services however the information contained in this testimony will certainly begin addressing the issues we face. In addition, I firmly believe that we can collectively address the needs of Indian Country by being proactive and not by "kicking the can down the road" or closing our eyes to a crisis that exists but more importantly not blaming each other and agree to cooperatively work to improve the lives of the First Americans of this land. Tribes have been the invisible people for far too long and if anything should come out of this hearing it is due time that the reports are done being written to Congress and a resolution is found to address this one important issue once and for all. I personally stand ready to assist my native brothers and sisters anyway possible and also commit to assisting Congress with this endeavor. Mii iw and Miigwech

**Testimony of Floyd Tortalita, Executive Director
Pueblo of Acoma Housing Authority, Pueblo of Acoma
Field Hearing on “NAHASDA: 20 Years On”
Before the U.S. House of Representatives Committee on Finance Services
Subcommittee on Housing and Insurance
July 21, 2017**

Introduction

Good morning members of the Subcommittee on Housing and Insurance. Thank you for inviting me to testify on federal housing programs that impact families in Native American communities and reservations. I am the Executive Director of the Pueblo of Acoma Housing Authority (PAHA). PAHA serves as the Tribally Designated Housing Entity (TDHE) of the Pueblo of Acoma. Under the Native American Housing Assistance and Self-Determination Act of 1996, as amended (NAHASDA), tribes can designate TDHEs to receive and administer Indian Housing Block Grant (IHBG) funds under NAHASDA.

There are 22 tribes in New Mexico – the 19 Pueblos, the Navajo Nation, the Mescalero Apache Tribe, and the Jicarilla Apache Tribe. The majority of our lands, and all of our housing development, are on tribal trust lands. This means that the federal government holds legal title to our lands for the benefit of each of our tribes. As you might guess, development on tribal trust lands looks somewhat different than development on private lands. If you are in New Mexico, if you are wondering why there are no stores or fast food places or banks in a certain area, it might be because you are traveling through an Indian reservation.

Beneficial Contribution of Federal Housing Programs to Tribal Economic Development

I would like to start my testimony by highlighting the impact that federal housing programs have had on Indian lands with a quote from the HUD Housing Needs Study published in January 2017, which I encourage each of you to read: “*The most important driver of economic well-being (and the ability to improve housing conditions) in any area is the state of the local economy.*”¹

Federal housing programs contribute to the local economy of Native communities. They enable tribes to develop a strong tribal infrastructure that fosters job growth, community investment, equity for homebuyers, and the diversification of local economic opportunities. Access to reliable affordable housing also provides financial benefits to individuals and families by enabling homeowners to focus their financial resources on essential needs like education, food, and healthcare, as well as on investments in their community through an increased purchasing power. In Acoma Pueblo, these programs have contributed to the construction of 81 homes for low income families, and we are in the process of developing an additional 30 single-family homes for our low

¹ Office of Policy Development Research, *Housing Needs of American Indians and Alaska Natives in Tribal Areas: A Report from the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs*, U.S. Department of Housing and Urban Development at 39 (January 2017).

income families. Moreover, statewide, over 100 homes have been built for Native families under the Section 184 Home Loan Program.

Indian tribes rely heavily on federal funding to meet their housing development needs. Critical programs include the Indian Housing Block Grant (IHBG), Indian Community Development Block Grant (ICDBG), Housing Improvement Program (HIP) in the Bureau of Indian Affairs, Section 502 and 504 loans and grants in the USDA, and wastewater and water infrastructure development programs at the Indian Health Service (IHS) and Environmental Protection Agency. Both USDA and Veterans Affairs are starting to get aggressive in entering into Memorandums of Agreements with Indian Tribes. We welcome this opportunity to obtain home loans to build homes under USDA low income programs and the Veterans Affairs Native American Direct Loan Program. More and more tribes, including Acoma, are utilizing Low Income Housing Tax Credits (LIHTC) to develop housing. These funds are leveraged with other funding sources. PAHA, like the majority of TDHES that rely on annual IHBG and other federal funds for housing development, is an expert in leveraging funds to build housing and the required infrastructure that housing development requires.

The importance of federal funding for housing and economic development cannot be overstated, even for tribal communities that are able to offer gaming as a source of additional revenue. Of the 22 tribes in New Mexico, 15 of them are gaming tribes, ranging from small to large scale gaming. All New Mexico tribes use gaming funds towards tribal government operations, community development and economic development. However, only two or three tribes have enough gaming revenue left over to contribute towards housing development, and only one tribe is able to provide regular per capita distributions to its tribal members. This is consistent with a study conducted by the Harvard Project on American Indian Economic Development that found a disproportionately large share of casino revenue in Indian country accrued to tribes representing a small share of the Indian population and that gaming had only a limited effect on the economic fortunes of households among large tribes remote from customer markets.² I include this discussion in my testimony to address any misconceptions that may exist regarding the wealth of Indian tribes.

Every tribe and TDHE's goal is to bring about economic development. We know this starts with housing development: it promotes job growth, an infusion of dollars into the local economy, and greater financial security for our people, which in turn leads to greater family stability, positive health outcomes, and investment in the community. There will always be a need for housing on Native American reservations. Unlike mainstream America, the majority of Native Americans do not desire to live anywhere else. The tribes in New Mexico maintain centuries old traditions, and the ties we have to our lands and our way of life means we consistently strive to find the balance between living our way of life and bringing economic prosperity to our tribes. The spiritual connection we have to our lands ensures that even those of us that leave to go to school or to join the armed forces or to work, eventually come home.

The following is a snapshot of housing conditions and housing development on the Pueblo of Acoma. You will see this similar type of snapshot on most Indian Reservations. Every tribes'

² The Harvard Project on American Indian Economic Development, *The State of the Native Nations: Conditions under U.S. Policies of Self-Determination* at 148 (2007).

snapshot includes the use of federal funds. The majority of my generation grew up in HUD-assisted homes. These homes were the first homes on our reservations that had electricity and running water.

A Snapshot of Acoma Pueblo

Traditional Name - Ako-me, meaning “People of the White Rock”.

Language spoken – Keres³

Tribal Enrollment - 4,819.⁴

American Indian/Alaska Native population - 4,762.⁵

Location - sixty miles west of Albuquerque in Cibola County.

Land base - 595 square miles, the majority in tribal trust status. Approximately 300 acres are allotted lands held individually by Acoma Indians.

Government - Tribal Council made up of past Governors and a Governor. The Governor is appointed annually by traditional leaders of the Pueblo.

Economic base - Pueblo government, including its various entities, is the largest employer on the Pueblo. Over the last 18 years, the Sky City Casino and Hotel, has contributed to community development. There is one gas station, one fast food restaurant, and one small grocery store. Residents go into nearby Grants, approximately 10 miles away, or 60 miles into Albuquerque to do their grocery and other shopping.

Housing Conditions in Acoma Pueblo

Acoma has approximately 803 occupied housing units.⁶ 247 households reside in overcrowded conditions.⁷ 399 or 49% of Acoma’s households are low-income, with 16% falling below 30% of the national median income.⁸ Twenty-seven percent (27%) of Acoma children live in poverty.⁹ Acoma’s housing shortage of 317 units does not include families above 80% of the median income. The biggest challenge to housing development in Acoma Pueblo is the lack of water and water sewer infrastructure. We know we are not unique in this challenge.

³ A dialect spoken by the Pueblos of Acoma, Laguna, Zia, Cochiti, Santo Domingo, Santa Ana and San Felipe.

⁴ HUD FY2017 IHBG Estimate Allocation data.

⁵ HUD FY2017 IHBG Estimate Allocation data.

⁶ 2010 U.S. Census.

⁷ HUD FY2017 IHBG Estimate Allocation data.

⁸ Id.

⁹ Native American KIDS COUNT 2012 Special Report. Snapshots from the American Community Survey and other data sources.

Funding for Acoma's Housing Needs

The primary source of funding for housing development on the Acoma Pueblo is IHBG funding under NAHASDA. PAHA administers the IHBG funding. PAHA maintains 81 homeownership and rental units, all built with IHBG and other HUD administered funding. The following table shows Acoma's housing need and IHBG funding in the last five years:

Native Population in IHBG formula area	4,762
Low-income families (<80% median income)	399
Housing shortage (<i>low-income families only</i>)	317
Estimated IHBG 2017	\$1,161,049
IHBG 2016	\$1,114,159
IHBG 2015	\$1,089,503
IHBG 2014	\$1,085,051
IHBG 2013	\$1,026,888

The cost of constructing new homes is very expensive at present in Acoma. This is due, in part, to the remoteness of our Pueblo and the lack of an adequate utilities infrastructure to support housing development. As a result, PAHA is currently focusing on the rehabilitation of existing housing units as the most effective way to use our limited IHBG funds.

From 2012 to 2016, PAHA completed 67 rehabilitation projects by leveraging its IHBG funds with other federal and state resources, including ICDBG funds and New Mexico Mortgage Finance Authority (MFA) funds. Even then, PAHA's waiting list for homes in need of rehabilitation is 50 homes. In 2012 -2014, PAHA used ICDBG funds to rehabilitate 21 homes for low- and moderate-income elderly and disabled tribal members and their families. The Pueblo received ICDBG funding in FY 2015 for four (4) new housing units.

On November 22, 2016, HUD revised the IHBG funding formula in negotiations with Indian tribes to address the timely expenditure of IHBG funds. Tribes agreed to the internal recapture of funds received by tribes whose annual allocation is \$5 million or more and has unexpended funds greater than the sum of the prior 3 years allocations, and allowing for redistribution of the funds to other tribes. This will ensure that IHBG funds are timely expended for affordable housing. This new rule is found at 24 CFR Part 1000.342.

While tribes primarily rely on IHBG funding for housing development, Title VI of NAHASDA also provides an important source loan guarantees for tribes and their TDHEs. The Title VI Program guarantees repayment of 95% of unpaid principal and interest due on tribal/TDHE obligations. Title VI allows tribes and TDHEs that are in need of additional funds to borrow funds for eligible affordable housing activities. Recipients can use the funds to leverage their IHBG funds by pledging future IHBGs to HUD for a guarantee on notes and other obligations. Title VI is an excellent funding source for infrastructure development that would otherwise take several years to complete.

Acoma also utilizes housing resources at other federal agencies beyond HUD to serve the needs of our community. For example, to address the lack of water and wastewater systems, in FYs 2012

and 2013, Acoma built a water and wastewater system with \$1,034,895 of IHS Facilities Construction funds. In 2015 PAHA used its IHBG funds to construct a sewer main extension to serve housing needs. PAHA plans to use its FY 2017 allocation of \$1.1 million to rehabilitate 15 dilapidated homes. Acoma also plans to utilize USDA preservation grant programs to restore traditional homes in need of rehabilitation and restoration and is developing 30 homes under the LIHTC program.

NAHASDA NEEDS TO BE REAUTHORIZED

The United States has a federal trust responsibility to protect the interests of its 567 federally-recognized tribes, including our interest in providing tribal members with access to shelter and security through affordable, safe housing opportunities. NAHASDA was enacted in 1997 and reauthorization in 2008 (through FY 2013) to help fulfill this goal and address the housing crisis plaguing many Native communities. It has since made tremendous strides in addressing the housing crisis that plagues many Native communities; however, there is much work that remains to be done. NAHASDA reauthorization has failed in the last two Congressional session, despite widespread support, due to an inability to bring the bill to a floor vote in the Senate. Consequently, housing-related issues such as overcrowding, homelessness, incomplete plumbing and kitchen facilities, and a myriad of associated negative health outcomes continue to impact the quality of life of countless Native families and communities across the country.

PAHA and the 19 Pueblos in New Mexico would support a reauthorization bill like the former H.R. 360, introduced by Congressman Steve Pearce (R-NM) and its Senate companion bill, S. 710, introduced by Senator John Barrasso (R-WY) during the 114th Congress. Congressman Pearce worked closely with the NM tribes in introducing H.R. 360. Importantly, H.R. 360 included language that would have expedited required federal approvals, authorize tribes to blend IHBG funds with IHS sanitation facilities funding, launched a demonstration program for alternative private housing development, and encouraged the timely expenditure of IHBG funds. These are critical provisions for NAHASDA reauthorization because they would provide tribes with the flexibility to effectively respond to the unique housing needs of their communities. We recommend that similar provisions be included in any future NAHASDA reauthorization.

We would also like to make the following recommendations for this Subcommittee and Congress to consider in making NAHASDA more workable for tribes going forward:

1. Remove barriers to building on floodplains by allowing the use of NAHASDA funds on floodplains without requiring a tribe to be a member of the National Flood Insurance Program (NFIP). NAHASDA should have language providing that if a tribe has a tribal flood management program or law, that law should be applied in lieu of complying with the federal Flood Protection Act, which requires a federal funding recipient to be a NFIP participant. Some state funding, including Community Development Block Grant funds and HOME funds, are exempt from this requirement. Tribes should have a similar exemption.
2. Allow tribes to access other HUD programs such as the Drug Elimination Program and Section 8 Program. NAHASDA combined many HUD programs into one funding source

without increasing funding. As a result tribes can't access programs they used to be able to access prior to NAHASDA.

3. Authorize the Department of Justice to go into tribal court for foreclosures and evictions on tribal trust lands under the Section 184 Home Loan Program. As a result of DOJ's position that it does not have the authority to, or is not required to, file a foreclosure action in tribal court, HUD has halted the approval of tribes' participation in the Section 184 Home Loan Program until such time that DOJ arrives at a solution. This issue remains unaddressed for over one year. In the meantime, tribes' applications for approval to participate in the Section 184 Program sit at the HUD Loan Guarantee Office.
4. Incorporate similar provisions as those set forth in former H.R. 360, introduced by Congressman Pearce during the 114th Congress and discussed immediately above.

National Housing Study on American Indians/Alaska Natives (AIAN) in Tribal Areas

In January 2017, HUD conducted a congressionally-mandated survey of the housing conditions and needs of American Indian/Alaska Native (AIAN) households in tribal communities.¹⁰ HUD concluded that the housing needs of AIAN remain desperate. Key findings of the survey included the following alarming statistics and observations:

- 23% of all AIANs live in housing with a physical condition problem compared with 5% of all U.S. households.
- Between 42,000 – 85,000 AIAN persons are homeless, as represented by overcrowded families. This represents 16% of all AIAN compared with 2% of all U.S. households.
- Tribes have produced housing more quickly with IHBG funding under NAHASDA than prior to, despite the fact that the buying power of IHBG money has been eroded by inflation since 1998, when NAHASDA was introduced.¹¹
- IHBG funding is the central vehicle for providing housing assistance, and yet it is inadequate. Tribes recognize that there is a need to leverage IHBG funding.
 - From 1998 – 2014, an average of \$667 million annually has been appropriated.
 - Inflation has eroded the dollar value. \$637 million in 2014 represented only \$440 million in 1998 purchasing power.
- More funding under NAHASDA is needed to foster economic development and housing improvement.

The HUD survey also included a detailed assessment of the housing conditions and needs of AIAN individuals and families residing on tribal lands. HUD found that the physical condition of homes in tribal areas is more severe than that of all U.S. households, with 34% of AIAN households had

¹⁰ Office of Policy Development Research, *Housing Needs of American Indians and Alaska Natives in Tribal Areas: A Report from the Assessment of American Indian, Alaska Native, and Native Hawaiian Housing Needs*. U.S. Department of Housing and Urban Development at 39 (January 2017), available at www.huduser.gov/portal/publications/HNAIHousingNeeds.html.

¹¹ Public Law 104-330, as amended. The law is codified at 25 U.S.C. 4101 et seq. Its implementing regulations are found at 24 C.F.R. Part 1000.

one or more physical problems compared with 7% of US households. HUD also found that among the 213 largest tribal areas, more than 18% of AIANs reside in the poorest regions – i.e., the Great Plains, Arizona, New Mexico, and Alaska, which are also plagued by more serious deficiencies in housing infrastructure than other parts of the country. However, HUD concluded that there is a general lack of adequate infrastructure across Indian Country.

Data from HUD’s Congressional Justification for Fiscal Year (FY) 2017 Funding for Public and Indian Housing Native American Housing Block Grants:

The above findings are supported by HUD data. In its FY 2017 Congressional Justification, HUD stated that “[t]he lack of housing and infrastructure in Indian Country is severe and widespread, and far exceeds the funding currently provided to tribes. Access to financing and credit to develop affordable housing in Indian Country is traditionally difficult to obtain.”

HUD also reported that AIAN people living in tribal areas in 2006 - 2010 had a poverty rate and an unemployment rate that was at least twice as high as non-Indians nationally. AIAN households in larger tribal areas are 3 times more likely to live in an overcrowded home and more than 11 times more likely to living in housing without adequate plumbing facilities, compared to the national average. Overcrowding has negative effects on a family’s health, and is more likely to exacerbate domestic violence, truancy, and poor school performance.

From 2011 to 2014, 563 tribes used IHBG funding to build 2000 new units annually and rehabilitate 4,800 units annually.

Support for Federal Housing Programs Serving Indian Tribes

A. Study on Mortgage Lending on Tribal Lands

HUD also published its assessment of mortgage lending on tribal lands, the *Mortgage Lending on Tribal Land (January 2017)*.¹² The study concluded that there are many daunting barriers to lending on tribal lands, primarily the lengthy leasing process, the inability to save enough for a down payment, low credit score, no credit history, inability to afford mortgage payments, and lack of mortgage lenders. Other barriers cited were no regular source of income and unfamiliarity with loan application processes and lending terms.

Of the 28,840 Section 184 loans provided between 1994 and May 2015, only 3,460 or 12% were on tribal trust lands. Lending on tribal lands is time consuming because of the process involved in securing appropriate land leases, title status reports, and environmental clearances. Lenders report that Section 184 Program loans can take up to 6 to 8 months to process and close; in some cases, it can take even longer. The study concluded that:

1. Mortgage lending on tribal trust lands remains a time-consuming process and reduces the appeal of lending on tribal trust land, even with a federal guarantee.

¹² The Study can be accessed at www.hud.gov or www.huduser.gov/portal/publications/NAHSC-Lending.html.

2. A stronger focus is needed on economic development on tribal lands, such as grants aimed at economic development.

B. IHBG Appropriations

Support IHBG funding for FY 2018 of at least \$700 million, equal to the FY 2010 funding level. HUD, in its Congressional Justification, estimated that this amount of funding would build a total of 5,065 housing units in Indian country.¹³ The \$2 million in loan guarantees will support up to \$17.9 million in loans.

Congress has appropriated IHBG funding at only \$650 million for each of FYs 2011-2016. HUD data shows that there is a housing shortage for low income families in IHBG funding areas of 278,199.¹⁴ Additionally, HUD data shows that 111,180 AIAN households are living in overcrowded conditions, which translates to homelessness.¹⁵

C. Section 184 Indian Loan Guarantee Program

FY 2018 funding for the HUD Section 184 Loan Program be returned to the FY 2009 funding level of \$9 million. The below table highlights how funding for this vital program has decreased.

FY	Appropriation
2017	\$5.5 million estimated
2016	\$7.5 million
2015 - 2012	\$6 million
2011	\$7 million
2010	\$7 million
2009	\$9 million

As a result of continuing barriers to lending on tribal trust lands, only 12% of Section 184 loans have originated on tribal trust lands. One of the barriers is a recent issue that has arisen regarding court jurisdiction of foreclosures. The Department of Justice has informed HUD that it will not submit to tribal court jurisdiction. As a result, HUD has stopped approving tribal mortgage codes for the Section 184 Program until it finds a solution to this dilemma. The effect of this is that tribes who are not yet approved to implement the Section 184 Program are unable to do so until HUD finds a solution. We ask for your support in requesting HUD to provide a solution or to accept tribe's proposed options to this issue.

D. Indian Community Development Block Grant (ICDBG)

¹³ HUD's Public and Indian Housing Native American Housing Block Grants 2017 Summary Statement and Initiatives (11-6)

¹⁴ HUD FY 2017 IHBG Estimate Allocation

¹⁵ *id.*

Support funding for ICDBG at \$80 million for FY 2018. Tribes rely on ICDBG funding for infrastructure development, a necessary component of housing development. The below table shows funding appropriations for the most recent three FYs for this important Program.

FY	Appropriation
2017 estimated	\$80 million
2016	\$60 million
2015	\$66 million

E. Indian Health Service (IHS) Sanitation Facilities

Support funding for IHS Sanitation Facilities Construction of \$103 million, the amount requested by IHS in FY 2017, for FYs 2017 and 2018.¹⁶ The below table shows funding appropriations for the last 5 years.

FY	Appropriation
2017 President's Budget	\$103 million
2016	\$99.4 million
2015	\$79.4 million
2014	\$79.4 million
2013	\$75.4 million

IHS appropriations for Sanitation Facilities Construction remain inadequate to meet essential infrastructure needs in Indian country, much of which consists of rural areas. IHS states that adequate water supply and waste disposal facilities are lacking in approximately 13% of American Indian and Alaska Native homes, compared to less than 1% of homes for the U.S. general population.¹⁷ In 2014, IHS reported a backlog of over 3,600 (an increase in 200 from 2013) needed sanitation facilities construction projects and estimated the cost to provide all AIAN with safe drinking water and adequate sewerage systems in their homes at \$3.1 billion.

Allow the use of IHS funds for sanitation facilities construction in NAHASDA-assisted and IHBG-assisted homes. There is a significant need for adequate sanitation infrastructure for homes funded by HUD programs.¹⁸ Yet, each year, including FY 2016, Congressional appropriations bills prevent the use of IHS sanitation facilities construction funds in connection with new housing units funded with IHBG funds. Allowing the use of IHS funds on NAHASDA-assisted units would allow tribes to build more housing and rehabilitate existing infrastructure.

F. BIA Housing Improvement Program (HIP) and Indian Guaranteed Loan Program

¹⁶ See Department of Health and Human Services FY2017 Justification of Estimates for Appropriations Committees (page 14).

¹⁷ Indian Health Service Report on Safe Water, January 2014.

¹⁸ Government Accountability Office February 2010 Report to Congressional Committees on Native American Housing, the ("GAO").

Support funding for the HIP program at \$23 million for FY 2018. The BIA HIP provides funding to Indian tribes for very low income families for home construction, rehabilitation, renovation, and repair. This program was recently revised to allow younger families to compete for housing, provide down payment assistance on affordable mortgages and allow tribes the flexibility to address the housing needs of the very poor.

Funding for this Program has dwindled even though it assists families who were the poorest of the poor. See the below table. Funding was reinstated at \$8 million in FYs 2015 – 2017, even though BIA requested \$9.7 million in 2017. Funding should be returned to the FY 2005 level of \$23 million to maximize opportunities for families to become self-sufficient through private homeownership.

Fiscal Year	Appropriations
2015-2017	\$8 million
2013- 2014	\$0
2010 - 2012	\$12.6 million
2009	\$14 million + \$20 million ARRA
2006 - 2007	\$19 million
2005	\$23 million

Support funding for the Indian Guaranteed Loan Program. Support the President’s budget request of \$8 million for this Program in FYs 2017 and 2018. The BIA Indian Guaranteed Loan Program is an initiative created in 2015 to provide loan guarantees to support Indian economic development. It was funded at \$7.7 million in 2015 and 2016. This Program is vital to jump starting economic development in tribal areas.

G. USDA Rural Housing Programs

Support funding for Section 502 loans to at least the FY 2010 level of \$1.121 billion for FY 2018. USDA housing loan and preservation grant programs serve rural areas, including the 19 Pueblos in New Mexico. Section 502, the Single Family Housing Program, provides loans to low-income¹⁹ and very low-income²⁰ households in rural areas to purchase, construct, or renovate a home. The table below illustrates how funding for Section 502 has decreased annually.

FY	Appropriation
2017 President’s Budget	\$900 million
2012 - 2016	\$900 million
2009 - 2011	\$1.121 billion

Support funding for the Section 504 program at \$26 million for direct loans and \$29 million for grants for FYs 2017 and 2018. Section 504, Very Low Income Repair Loans and Grants, provides

¹⁹ Households whose income is less than or at 80% of the area median income (AMI).

²⁰ Households whose income is less than or at 50% of the AMI.

funding for the repair of homes to very low-income families in rural areas. The table below shows the funding history for Section 504.

FY	Direct Loans	Grants
2017 President's Budget	\$26 million	\$29 million
2016	\$26 million	\$29 million
2015	\$26 million	\$29 million

H. Veterans Affairs (VA) Native American Direct Loan Program (NADL)

Support funding for this program for FYs 2017 and 2018 in an amount of \$1.1 million. The President's FY 2017 budget requests \$1.1 million for this Program. The table below illustrates funding for the Program in the last 5 years.

FY	Appropriation
2017 President's Budget	\$1 million
2016 - 2015	\$1.1 million
2014 - 2013	\$1 million

The NADL provides direct loans to Native American veterans to purchase, construct, refinance, or improve a home on Indian trust lands. This program is vital to Native American veterans because it has no down payment requirement, requires minimum closing costs and has a low interest rate. This Program is underutilized due to the challenges with this Program of inadequate staff resource to provide outreach, technical assistance, and originate loans to qualified Native American Programs. To increase the use of this Program, we ask that you support the following:

- Authorization of the Secretary of the VA to designate a portion of the proceeds from the VA guaranty funding fee to compensate third parties such as TDHEs, Native Community Development Financial Institutions (CDFIs), and Tribal Veteran Service Offices to provide outreach, homebuyer education training, housing counseling, loan packaging services, and other technical assistance to Native American veterans seeking to be homeowners through mortgage financing. Loan packaging services could be paid through an origination fee calculated at 1% of the loan principal.
- Allow TDHEs and Native CDFIs to be eligible borrowers, who would in return enter into lease to purchase agreements with eligible Native American veterans.

The above would allow the VA to follow the practice of other federal direct loan programs to partner with third parties to increase the opportunities for access to this program.

I. Native CDFIs

Support funding for the Native Initiatives component of the CDFI Fund at \$16 million for FY 18. The Native Initiatives Program administered by the U.S. Treasury Department provides funding to tribes and TDHEs to create community based financial institutions to further economic development, affordable housing, and financial services on or near Indian reservations. This Fund is vital to bringing banks and financial services to Indian communities and to promote businesses and economic development. The CDFI Fund's Native Initiatives has so far resulted in five Native CDFIs in New Mexico. The table below illustrates funding for the Program in the last 5 years.

FY	Appropriation
2017 President's Budget	\$15.5 million
2016	\$15.5 million
2014 and 2015	\$15 million
2013	\$11.3 million

While the funding is available on a competitive basis, this funding is vital to economic development initiatives in Indian areas. Native CDFIs in New Mexico provide home loans, construction loan funds, and business loans to spur economic development in tribal communities.

J. Funding for Implementation of the Helping Expedite and Advance Responsible Tribal Homeownership (HEARTH) Act

Sponsor appropriations for implementation of the HEARTH Act in the amount of \$20 million. While this law allows a tribe to approve residential leasing for housing development on tribal lands without further federal approval, funding is required to allow tribes to take on responsibilities currently performed by BIA – land surveys, reviewing leases, and conducting environmental reviews. Without funding for its implementation, this law is cost prohibitive for many tribes and the reason for few tribes having taken advantage of enacting their own leasing regulations. Providing funding to implement the HEARTH Act would contribute to removing the barriers to mortgage financing on Indian lands.

Thank you for allowing me to testify on the housing needs of Native American communities. Any questions regarding this testimony may be submitted to me.

Respectfully Submitted,
THE PUEBLO OF ACOMA HOUSING AUTHORITY
 Floyd Tortalita, Executive Director
 ftortalita@acomahousing.org.

July 15, 2017

Dear Subcommittee on Housing and Insurance

My name is Jeff Tribble Sr. I am a member of the Lac Courte Oreilles Band of Ojibwe people. I have been involved with addressing Housing issues for over 12 years as a concerned tenant of one of the H.U.D. homes here on our reserve. I have talked with many people who have concerns about the way LCO Housing has been treating tenants and how they are addressing mold issues inside their homes. There has been mold growth in my home as well as everyone else I have talked to in my community. There have been many attempts by individuals to address this health issue that doesn't have a satisfactory solution. There have been questions on how LCO Housing and some members of the Tribal Governing Board have been spending the funds that are given for H.U.D homes for any and all projects. I have questioned numerous people who I felt could contribute to obtaining information on why we are not receiving any remedies or the funding needed to address Housing issues, especially the mold. There are some people who claim they have a lot of information and evidence on how the funds were misappropriated into other projects. Because of their non-disclosure agreement with the Tribe, these people cannot however give any information to me or anyone else unless they are subpoenaed or requested to testify by a review committee. I have spoken to many people who live in the mold infested homes and asked about their health concerns. Everyone I talked with had mentioned that there has been a lot of respiratory illnesses, especially with the elders and children living in the home.

Sincerely,

Jeff Tribble
13003W Water Tower Ln.
Hayward, Wi 54843
(715) 699-2289



**Prepared Statement of Tony Walters, Executive Director
National American Indian Housing Council
to the
U.S. House Financial Services Committee, Housing and Insurance Subcommittee
Field Hearing on “NAHASDA: 20 years On”**

July 21, 2017

Good Afternoon. My name is Tony Walters, and I am the Executive Director of the National American Indian Housing Council. I am a member of the Cherokee Nation of Oklahoma. I would like to thank Chairman Duffy and committee members for having this hearing today and for staying engaged on tribal housing issues.

Background on the National American Indian Housing Council

The NAIHC was founded in 1974 and for over four decades has provided invaluable Training and Technical Assistance (T&TA) to all tribes and tribal housing entities; provided information to Congress regarding the issues and challenges that tribes face in their housing, infrastructure, and community development efforts; and worked with key federal agencies to ensure their effectiveness in native communities. Overall, NAIHC’s primary mission is to support tribal housing entities in their efforts to provide safe, decent, affordable, and culturally appropriate housing for Native people.

The membership of NAIHC is comprised of 255 members representing 478¹ tribes and tribal housing organizations. NAIHC’s membership includes tribes and groups throughout the United States, including Alaska and Hawaii. Our members are deeply appreciative of the consistent leadership this Committee provides in Congress related to issues affecting tribal housing programs.

¹ There are 567 federally recognized Indian tribes and Alaska Native villages in the United States, all of which are eligible for membership in NAIHC. Other NAIHC members include state-recognized tribes eligible for housing assistance under the 1937 Housing Act and that were subsequently grandfathered in under the Native American Housing Assistance and Self-Determination Act of 1996, and the Department of Hawaiian Home Lands, the state agency that administers the Native Hawaiian Housing Block Grant program under Title VIII of NAHASDA.

Profile of Indian Country

There are 567 federally-recognized Indian tribes in the United States. Despite progress over the last few decades, many tribal communities continue to suffer from some of the highest unemployment and poverty rates in the United States. Historically, Native Americans in the United States have experienced higher rates of substandard housing and overcrowded homes than other demographics.

The U.S. Census Bureau reported in the 2015 American Community Survey that American Indians and Alaska Natives were almost twice as likely to live in poverty as the rest of the population—26.6 percent compared with 14.7 percent. The median income for an American Indian Alaska Native household is 31% less than the national average (\$38,530 versus \$55,775)

In addition, overcrowding, substandard housing, and homelessness are far more common in Native American communities. In January of this year, the Department of Housing and Urban Development (HUD) published an updated housing needs assessment. According to the assessment, 5.6 percent of homes on Native American lands lacked complete plumbing and 6.6 percent lacked complete kitchens. These are nearly four times than the national average, which saw rates of 1.3 percent and 1.7 percent, respectively. The assessment found that 12 percent of tribal homes lacked sufficient heating.

The assessment also highlighted the issue of overcrowded homes in Indian Country, finding that 15.9 percent of tribal homes were overcrowded, compared to only 2.2 percent of homes nationally. The assessment concluded that to alleviate the substandard and overcrowded homes in Indian Country, 68,000 new units need to be built.

Since NAHASDA was enacted, tribes have built over 37,000 new units according to HUD. However, as the IHBG appropriations have remained level for a number of years, inflation has diminished the purchasing power of those dollars, and new unit construction has diminished as tribes focus their efforts on unit rehabilitation. While averaging over 2,400 new unit construction between FY2007 and 2010, new unit construction has dropped in recent years with only 2,000 new units between 2011 and 2014, and HUD estimating less than 1,000 new units in future years as tribes maintain existing housing stock.

NAHASDA Reauthorization Efforts

The last NAHASDA reauthorization was enacted in 2008, and that authorization expired at the end of fiscal year 2013. This is the fourth year now that the program has been left unauthorized, and our membership continues to grow more concerned as discussions in Washington, DC focus on cutting spending and eliminating unauthorized programs.

While NAHASDA may be currently unauthorized, the United States' trust and treaty responsibilities towards Native peoples remain and will not go away. The members of this Committee know these commitments well and NAIHC is very appreciative of all your efforts in supporting tribal housing programs and tribal self-determination.

We recognize the leadership that the House and the Financial Services Committee has shown by passing a NAHASDA reauthorization in both the 113th and 114th Congress. We look forward to working with you this year to again work towards finalizing a reauthorization that can be signed into law.

H.R. 360

NAIHC strongly supports the re-authorization of NAHASDA, and we supported H.R. 360, with only one primary concern. We understand the rules of the House of Representatives normally require authorizations to include a specific total amount, rather than “such sums as necessary” language. Accordingly, H.R. 360 would cap the authorization of NAHASDA at \$650 million dollars per year. Since NAHASDA was enacted 20 years ago, tribal programs have received between 600 and 650 million annually. However, when factoring for inflation, funding of \$650 million only provides tribal housing programs about 2/3 in the purchasing power they received 20 years ago.

NAIHC would request language that at a minimum allows for the authorization to grow with inflation over the authorization time period, or a higher cap that appropriators can build to over time. We believe the increase in authority and appropriations is justified as Indian Country continues to see rates of substandard housing and overcrowded homes well in excess of the national average. A HUD needs assessment published in January of this year indicated that 68,000 new units are needed in Indian Country. As the ability of tribes to develop new housing units has diminished in the last few years due to inflation, the problem cannot be solved by limiting funding to current levels.

Despite that primary concern, H.R. 360 largely improves and builds upon existing NAHASDA provisions. Title I of the bill would place deadlines on HUD to act upon waiver requests, and include language that would greatly simplify NEPA reviews for tribal projects. Because tribal projects routinely combine multiple federal sources of funding, compliance with multiple environmental review processes wastes time and resources, so any effort to reduce those burdens, while still complying with the spirit of NEPA is appreciated in Indian Country. Title I would also require a study to streamline Indian Housing Plans, and allow for multi-year housing plans. This provision builds upon self-determination policies and is in line with other successful self-governance policies used by the Bureau of Indian Affairs and Indian Health Service.

Title II of H.R. 360 includes multiple provisions that provide flexibility to tribal housing programs. This includes providing tribes a greater ability to use Native-owned companies in construction, which helps spur job creation in these communities as well. Another provision allows tribes more flexibility in determining minimum rent requirements, recognizing tribes' rights to self-governance. Title II also provides greater flexibility for converting a tribal family from renter to a homebuyer, and other helpful leasing provisions. Finally, Title II provides tribal housing programs access to sanitation facilities funding from the Indian Health Service.

Title III contains the 5-year reauthorization and would also place incorporate the 3x language affecting undisbursed funds developed through negotiated rulemaking into the

NAHASDA statute. NAIHC does not believe that language is necessary, as negotiated rulemaking allows for periodic updates to the rules as needed to address changing circumstances. While NAIHC does not believe it is needed, we do appreciate that H.R. 360 simply adopted the current policy as decided through negotiated rulemaking with tribes.

Title IV would streamline the audit process by ensuring that HUD is timely in its communications with tribes who are working to correct insufficiencies found in their programs.

Title V includes making the tribal HUD-VASH program permanent, which NAIHC support. A bipartisan bill in the Senate, S. 1333, includes some additional language that would address a few of the problems identified in the demonstration phase of tribal HUD-VASH implementation. Title V also includes a reauthorization of the 184 loan guarantee program.

Title VII of H.R. 360 would establish a demonstration project providing a tribes a new method of leveraging their NAHASDA funding with private investment. We believe any efforts to expand access to capital and getting new private investments in Indian Country is worth looking into and tribes who are willing to utilize the demonstration program should have that option.

Finally, NAIHC supports reauthorization of the Title VIII programs for Native Hawaiians, and support its inclusion in any NAHASDA reauthorization bill.

With all of the improvements contained in H.R. 360, NAIHC would strongly support its re-introduction this Congress, and looks forward to working with the bill sponsors and leadership of this Committee to finally enact a NAHASDA reauthorization.

Concerns with the Administration's FY 2017 Omnibus Signing Statement

On May 5, when President Trump signed into law the FY 2017 omnibus spending bill, the President issued a signing statement that characterized the "Native American Housing Block Grants" as quote "a program that allocated benefits on the basis of race."

All of the members of this Committee know full well that tribal programs are not based on race, but on the political relationship that have existed between Native peoples and the United States for over two hundred years.

The relationship is grounded in the United States Constitution and treaties, Congressional statutes and numerous Supreme Court decisions. So we ask that members of Congress work with the new Administration to ensure it knows the history and importance of tribal programs.

There are numerous Supreme Court cases that can be cited upholding this principle of federal Indian Law and countless legal articles that chronicle this background. NAIHC is happy to provide documentation to the Committee if necessary, but believes the question is well settled and did not see the need to include such information here.

Concerns with the Administration's FY 2018 Budget Proposal

While the signing statement could be dismissed as not fully understanding the background of federal Indian law, the Administration's FY 2018 funding proposals is much more concerning. In short, NAIHC believes that the budget, if enacted, would devastate tribal housing programs across the country.

The budget provides substantial cuts or completely eliminates the Community Development Block Grant at HUD, the CDFI Fund at Treasury, and Rural Development programs at the USDA.

The proposed budget would also cut the Indian Housing Block Grant to \$600 million, which is essentially the same level of funding tribal housing programs received in 1996. However adjusting for inflation, the proposal represents a cut of about one-third compared to 1996 funding levels.

The HUD tribal housing needs assessment released in January showed that tribes have rates of substandard housing and overcrowded homes well in excess of the national average. The report indicated that 68,000 new units are needed in Indian Country. As the ability of tribes to develop new housing units has diminished in the last few years due to inflation, the problem cannot be compounded by the severe program funding cuts proposed in the Administration's FY 2018 budget.

NAIHC asks that members of this Committee work with their colleagues who sit on the Appropriations Committee to support adequate funding of the Indian Housing Block Grant and other tribal housing programs. Funding the IHBG at \$900 million would provide tribes relatively the same purchasing power it had in 1996 and NAIHC requests no less than \$700 million for FY 2018. Congress should also reject the proposed cuts to the other programs listed above, as they provide tribes additional resources for their housing programs. Funding tribal housing programs not only fulfills Congressional trust and treaty responsibilities, but does so in a way that spurs economic development, creates jobs and builds credit in tribal communities.



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Office of the Chief

Bill John Baker
Principal Chief
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S. Joe Crittenden
Deputy Principal Chief
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July 27, 2017

The Honorable Sean Duffy
 Chairman
 House Subcommittee on Housing and Insurance
 2330 Rayburn House Office Building
 Washington, DC 20515

The Honorable Emanuel Cleaver
 Ranking Member
 House Subcommittee on Housing and Insurance
 2335 Rayburn House Office Building
 Washington, DC 20515

Chairman Duffy, Ranking Member Cleaver, and members of the Subcommittee:

Osiyo. I am Bill John Baker, Principal Chief of the Cherokee Nation. Our tribe is the largest federally recognized tribe in the United States, with more than 350,000 citizens, and a jurisdiction that spans more than 7,000 square miles in all or part of 14 counties in northeast Oklahoma. I am submitting this letter as part of the record for the House Financial Services Committee Housing and Insurance Subcommittee's recent field hearing entitled "NAHASDA: 20 Years On" on July 21, 2017.

Congress passed the Native American Housing Assistance and Self Determination Act (NAHASDA) in response to a growing housing crisis in Indian Country. This was a complete reorganization of housing assistance programs and replaced with a block grant type programs.

NAHASDA has demonstrated that when tribal governments are able to exercise their sovereign self-determination on how to best utilize their federal funding, those dollars are employed more effectively and can be tailored to specific, local needs. The Housing Authority of Cherokee Nation administers programs to address the housing needs of our citizens, including low-income rental assistance, new home construction, repairs and upgrades to outdated units, and other services that ensure that our citizens have safe, affordable homes for their families. Cherokee Nation assists over 7,000 families every month in northeast Oklahoma, and the Housing Authority of Cherokee Nation relies on NAHASDA to fund these core services.

The last NAHASDA authorization expired in 2013, leaving this program unauthorized for the previous four years. Allowing this critical program to remain unauthorized creates uncertainty and insecurity that is troublesome for all of Indian Country. A NAHASDA reauthorization measure (H.R. 360) was passed by the House of Representatives in the 114th Congress, but did not receive a vote in the Senate.

The Cherokee Nation believes H.R. 360 was a promising bill that merits review and reintroduction in the 115th Congress. It had bipartisan support and we believe a similar NAHASDA Reauthorization measure should be reintroduced and include improvements to better recognize tribal sovereignty and self-determination. The improvements Cherokee Nation request include: allowing tribes to consolidate environmental review requirements in multi-grant funded projects; allowing individual tribes to determine maximum rents; and allowing tribes the discretion to use other funding sources for projects funded under NAHASDA.

Additionally, any language that is negotiated and adopted by the NAHASDA Formula Negotiated Rulemaking Committee regarding undisbursed funds should be included in the bill. There continue to be set aside funding for Native American Veterans under the HUD-VASH program included in the bill. We hope that any Reauthorization measures would include reauthorization for the Loan Guarantee (Section 184) program, which gives Native Americans the opportunity to become homeowners. Finally, it is our opinion that any NAHASDA Reauthorization measure should not include any limitation on use of funds for Cherokee Nation.

As discussions in Congress have focused on reducing spending and eliminating unauthorized programs, I want to clearly state that eliminating NAHASDA would have devastating consequences for families not just in the Cherokee Nation, but also across Indian Country. The dollars help some of our most vulnerable citizens survive. While some progress has been made in improving access to safe, sanitary and affordable housing options for Native communities since the introduction of NAHASDA, there remains an urgency for further improvements and funding allocations to fully address the dire housing needs that persist within our tribal communities.

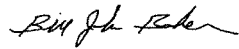
Furthermore, Cherokee Nation is concerned with the proposed funding allocations for FY2018, as it relates to Native housing programs. The proposed budget reduces funding for the Indian Housing Block Grant to \$600 million, which essentially leaves this program at the same funding level it was in 1996. Increased costs and inflation have reduced the purchasing power of our dollars, and in the long-term that means reduced abilities to service our people. In January of this year, the Department of Housing and Urban Development (HUD) issued a housing need assessment for Indian Country. This document outlines a number of concerning statistics that demonstrate how severe the housing shortage in Indian Country really is. The report says 68,000 new units are needed to meet

basic housing needs. Reduced funding levels will further exacerbate this problem, leaving vulnerable tribal citizens without their most basic needs.

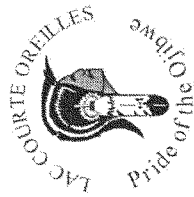
Cherokee Nation joins the National Indian Housing Council's request that IHBG be funded at no less than \$700 million for FY18. Further, we oppose elimination and funding cuts to the Community Development Block Grant at HUD, the CDFI fund at Treasury, and Rural Development programs at USDA. These programs are critical to Indian Country and key to fulfilling the Federal Government's trust responsibility.

If you have any questions or require further information, please contact our Director of Government Relations, Kimberly Teehee at Kim-Teehee@cherokee.org or (202) 615-9505.

Sincerely,

A handwritten signature in black ink, appearing to read "Bill John Baker". The signature is fluid and cursive, with a long horizontal stroke at the end.

Bill John Baker,
Cherokee Nation Principal Chief



Lac Courte Oreilles ICDBG Mold Remediation Project

85

Completed Homes Photo Album

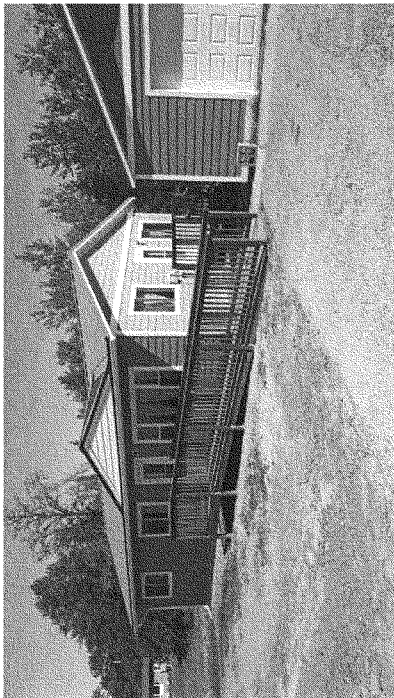
Here are a few representative examples of completed homes. You will note that the root cause of mold in LCO Housing Units is from condensation within the home due to poorly insulated walls and failing building envelopes. In accordance with the language in the HUD mold grant, mold remediation repairs were "long-term" fixes. Additionally, these upgrades should be more resilient to tenant housekeeping practices which include a large amount of furniture against the walls, blankets on windows, and a trend if closed windows which retains humidity.

Typical Home Repairs, of which, the HUD Mold Grant will cover up to 35K per home. The actual list of completed items will vary by home based on site specific conditions.

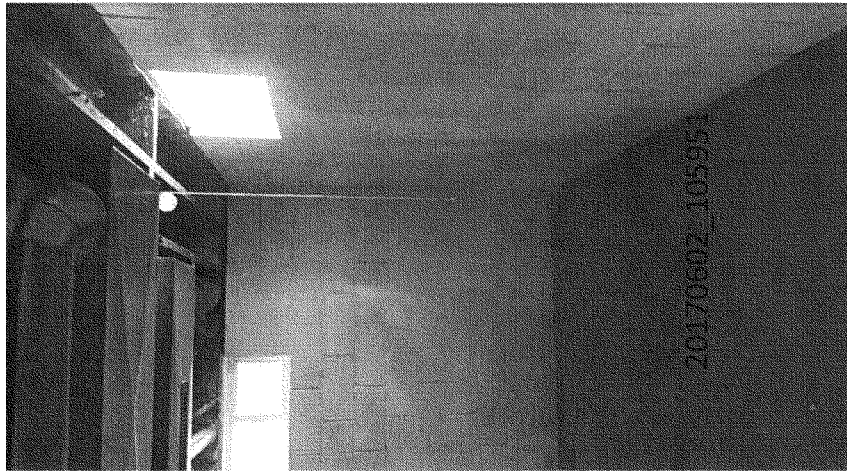
	Item
<input checked="" type="checkbox"/>	Tear off of asphalt shingle roof and rotten roof decking materials
<input checked="" type="checkbox"/>	Removal of unnecessary roof penetrations (chimney, vents, etc.)
<input checked="" type="checkbox"/>	Closure of former roof penetrations
<input checked="" type="checkbox"/>	Removal of siding and building envelope
<input checked="" type="checkbox"/>	Removal of dry wall and wall insulation
<input checked="" type="checkbox"/>	Removal windows and doors
<input checked="" type="checkbox"/>	Removal of inefficient furnace and all ducts
<input checked="" type="checkbox"/>	Removal of sidewalk if it impedes surface drainage away from home
<input checked="" type="checkbox"/>	Removal of wood and concrete steps to permit grading
<input checked="" type="checkbox"/>	Wood chute is replaced with window in basement
<input checked="" type="checkbox"/>	Regrade exterior to direct water away from home
<input checked="" type="checkbox"/>	High pressure wash concrete walls and floor to remove mold
<input checked="" type="checkbox"/>	Seal the basement walls with concrete waterproofing product
<input checked="" type="checkbox"/>	Scrub and clean moldy wood framing that is structurally sound
<input checked="" type="checkbox"/>	Install new steel roof, soffit and fascia
<input checked="" type="checkbox"/>	Reconstruct framing in the corners of the home to permit additional insulation
<input checked="" type="checkbox"/>	Install new building envelope using Zip System
<input checked="" type="checkbox"/>	Install new siding
<input checked="" type="checkbox"/>	Install new windows
<input checked="" type="checkbox"/>	Install air exchanger
<input checked="" type="checkbox"/>	Install new exhaust vents that vent to exterior of building envelope (not to soffits)
<input checked="" type="checkbox"/>	Insulate the exterior upper four feet of basement walls
<input checked="" type="checkbox"/>	Insulate the inside of the exterior walls with 4 inches of closed cell insulation
<input checked="" type="checkbox"/>	Insulate around the attic/soffit vents with close cell insulation
<input checked="" type="checkbox"/>	Insulate the attic with blown in insulation to an R50 depth (14 inches)
<input checked="" type="checkbox"/>	Install a new perimeter drain tile system with two additional sump pumps
<input checked="" type="checkbox"/>	Seal the exterior surface of basement block and foundation with a high-density foam covered with Tuff N Dry.

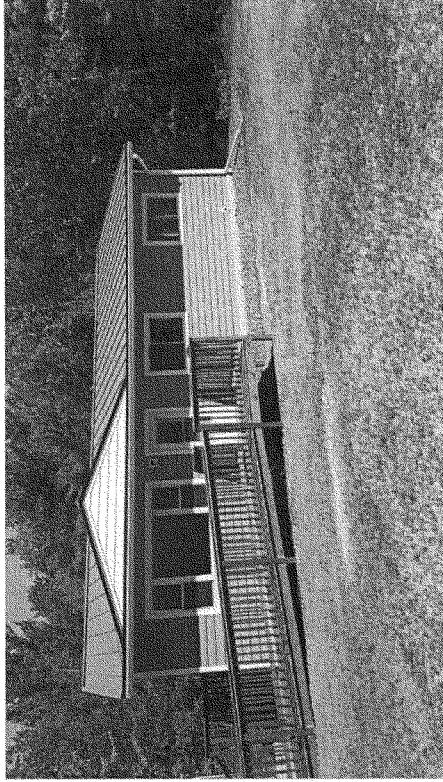


Phase I Home

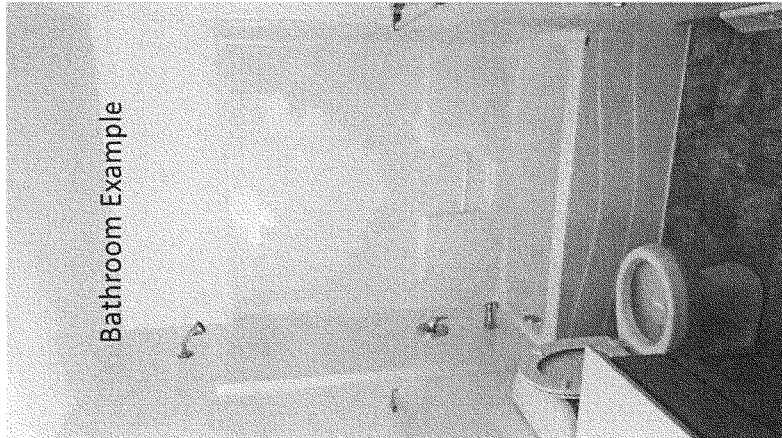


Phase I Home

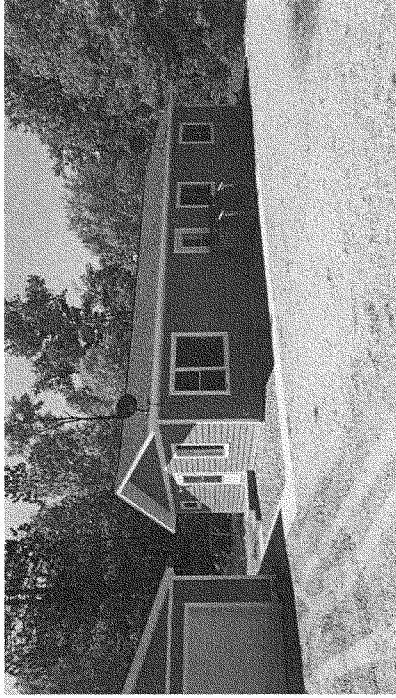




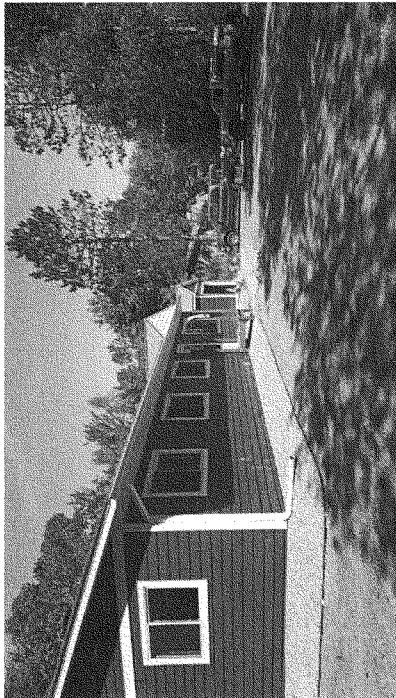
Phase I Home



Bathroom Example



Phase II Home



Phase II Home



Phase II Home



Phase II Home


Housing Assistance Council

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Testimony of Moises Loza
Executive Director, Housing Assistance Council
Submitted to the U.S. House of Representatives
Financial Services Committee, Housing and Insurance Subcommittee
July 21, 2017

NAHASDA: 20 Years On

Thank you, Chairman Duffy and Ranking Member Cleaver, for the opportunity to share the input of the Housing Assistance Council (HAC) as the House Financial Services Committee's Housing and Insurance Subcommittee examines federal housing programs that affect Native American communities and reservations. HAC has long held that policymakers' personal understanding of rural and tribal housing conditions is essential. Thus, HAC commends the Subcommittee's field hearing location in a tribal community as it brings attention to tribal housing issues.

For 46 years, HAC has improved housing conditions for the rural poor with an emphasis on the poorest of the poor in the most rural places. HAC's "Worst in the Nation" report on Indian housing conditions in the 1970s set a foundation at HAC for ongoing research projects, training and technical assistance engagements, and lending in tribal communities. HAC's governance has long included tribal representation. HAC's comments are rooted in HAC's experience working with tribal organizations, but HAC notes the distinct nature and sovereignty of such communities. HAC welcomes further opportunities to share regional or local-specific information with the Subcommittee upon request.

In carrying out its work in Native American communities since 1971, HAC has heralded the extraordinary resilience of Native American communities. Such resilience coupled with adequate and sustained federal resources toward housing in Native American communities can be transformative.

Native American Housing Assistance and Self-Determination Act (NAHASDA)

As a long-time advocate for improved tribal housing conditions, HAC acknowledges the need to revisit and make improvements to NAHASDA. When discussing NAHASDA, including the 2015 NAHASDA Reauthorization Act (H.R. 360), two points are salient for HAC and our Native American partners:

1. Funding is paramount. HAC partners have noted NAHASDA's superiority to its predecessor programs, which were cumbersome and inadequately oriented toward tribal self-determination. However, HAC has long advocated (including in [2013 testimony](#) before the Senate Committee on Indian Affairs) that congressional appropriations for NAHASDA are not adequate to meet the needs on tribal lands. In short, for NAHASDA to work, funding is essential. And recent funding levels are wholly inadequate.
2. In Native American communities, as in others, improved housing conditions are a precursor for improved health outcomes, educational outcomes, and community stability.

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HAC is an equal opportunity lender.

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 NAHASDA
 Page 2

Tribal stakeholders often remind HAC that vast overcrowding and substandard conditions in Native American housing (e.g., lack of plumbing, makeshift roofing, black mold) hold back all ages, but especially children, from thriving. Failure to address such conditions carries a deep human toll and social costs.

Last year, horrific housing conditions in Indian Country were uncovered by the Great Falls Tribune, which noted a housing shortage that “has lingered on U.S. Indian reservations for nearly a century.” Such reports are frustrating, because HAC and our Native American partners know what works: sustained funding of federal housing programs that meet the unique needs of sovereign Indian nations.

But currently, just maintaining baseline funding levels is a challenge. The first and most important step to addressing such conditions, whether in Blackfeet Nation, Turtle Mountain, Navajo Country, or elsewhere, starts with Congress. NAHASDA reduced regulations and allowed Indian tribes to determine the best use of block grants, an important recognition of Indian self-determination and tribal self-governance. But NAHASDA’s authorization expired in 2013; each year since, the program has continued, but with funding ill-matched for growing needs. Reauthorization by Congress would bring stability, when coupled with adequate resources.

Reauthorization of NAHASDA without adequate funding would be hollow. Federal funds for Indian housing have been virtually frozen for the past 20 years. Adjusted for inflation, NAHASDA has essentially been cut by 33 percent, despite a steady stream of reports including one from HUD in 2017 quantifying deep poverty and a corresponding lack of plumbing, heating, and functional electricity as all too typical for American Indians. The Administration’s proposed budget would cut block grants for Native American housing by approximately \$50 million. Fortunately, the House Appropriations Committee has rejected that reduction. Such a cut, when combined with proposed deep cuts to programs in the United States Department of Agriculture (USDA) and elsewhere that help to bring basic services to rural and tribal areas, would not only lead to more years of substandard conditions. The cuts would also thwart economic development and increased self-sufficiency.

Estimates vary for Native Americans’ needs for new and rehabilitated housing but, over the past decade-and-a-half, surveys have agreed that the challenge is severe. In a conservative estimate, the HUD report found that roughly 68,000 new housing units are needed to reduce overcrowding and replace severely deteriorated housing in tribal areas. Further demonstrating the inadequacy of existing housing stock, the National American Indian Housing Council and the U.S. Commission on Civil Rights have both reported that waiting lists from the Indian housing authorities have totaled at least 200,000 since the beginning of the last decade.

Other Federal Programs

HAC lauds increased attention to tribal housing and infrastructure in recent years from Congress and within the USDA Rural Development agencies, including the Rural Housing Service. But much work remains. At a 2016 hearing before the Senate’s Committee on Indian Affairs, tribal representatives reported a range of experiences in working with USDA Rural Development. Such comments align with experiences of HAC and our partners.

Without question, though, the amount of USDA Rural Development resources directed toward Native American communities and reservations is troubling. At the hearing, several Senators along with other officials lamented that about 1 percent of Rural Housing Service funding goes toward

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Native American communities. Improving access to these programs requires political will from agency leaders coupled with sustained oversight from Congress.

In HAC's experience with such issues, it is important that Congress and federal agencies work with tribes to identify and address administrative barriers that thwart the delivery of federal resources to tribal communities. Examples exist of committed USDA Rural Development state directors (and others within the agency) taking actions to address tribal concerns and direct resources toward the needs of Native American communities and reservations. Similar examples come from the Veterans Administration. But such actions, in order to become the norm, must be ingrained in an agency's way of doing business. Congress can encourage such actions by calling attention to the need for them, especially during transitions in Administrations and as agency officials discuss their funding needs with Congress.

Need for Capacity Building and Technical Assistance

HAC has long advocated for sustained capacity building and technical assistance funding directed toward poor rural communities; such funding is particularly important for Native American communities, too many of which lack resources and capital to take on local housing needs. For HAC, capacity building means building long-term relationships and trust between HAC staff and tribal partners. It means providing low or no-cost access to trainings, information, and peer exchanges to build skills and share ideas as our local partners navigate an increasingly complex route to create affordable homes.

Unfortunately, federal funding has stagnated for rural-focused capacity building and technical assistance, including HUD's Rural Capacity Building program, USDA's Rural Community Development Initiative, and the capacity building provided through NAHASDA, thus impacting the ability of HAC and other national organizations to provide services that our Native American partners have repeatedly reported as essential. Such capacity building not only is necessary to improve housing conditions, but also is often a precursor to social entrepreneurship (e.g., Native-led Community Development Financial Institutions) in tribal communities.

Finally, increased capacity of Native American housing entities will result in better and more efficient utilization of federal and private sources of housing funding. For example, the 50-year-old self-help housing program has shown some promise in a tribal setting, tapping USDA and other resources to assist families building their own homes via contributions of "sweat equity." Unlocking such resources—often via public-private partnerships—is dependent on the sustained capacity of locally rooted organizations.

Thank you again to the Subcommittee for its attention to Native American housing and related issues. Adequate and decent housing for all Native Americans is a moral imperative. By listening to Native American stakeholders, the Subcommittee is taking an important step.

