

**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”

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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.