



MEMORANDUM

November 8, 2019

To: Housing Clients

From: HOBBS, STRAUS, DEAN & WALKER, LLP

Re: *NAIHC Legislative Committee Meeting; Availability of Interim Indian Housing Block Grant Funding*

This memo reports on the monthly NAIHC Legislative Committee meeting, which was held on November 7, 2019 (by teleconference) and presided over by NAIHC Executive Director Mr. Tony Walters. Also included is information on the potential need for interim funding, should there be another federal government shutdown.

1. NAIHC Legislative Committee Meeting

a. FY 2020 Appropriations

Mr. Walters began with a discussion of the FY 2020 appropriations cycle, which is well under way. There is a Continuing Resolution in place until November 21. Negotiations continue between the parties, but there is no indication as yet whether there will be another stopgap CR or a full-year CR. There is also some talk of a potential government shutdown over border wall funding. NAIHC will be keeping close track of developments.

The Senate has passed a “minibus” FY 2020 spending bill that includes Transportation-HUD funding. It keeps most tribal programs, including housing, at current level funding – except for the Tribal HUD-VASH, where a significant cut is proposed (\$4 million to \$1 million). The stated rationale for the cut is that there is a substantial amount of unexpended Tribal HUD-VASH funds from the last couple of years. The tribal position is that the slow implementation of Tribal HUD-VASH, which has resulted in the buildup of unexpended funds, is based on issues beyond the control of the tribes (namely federal inefficiencies in translating the program to Indian Country). There was some discussion on the call about reaching out to the various Tribal HUD-VASH programs to get numbers on how many Native Veterans have been served, to show the beneficial effects of the program and to get a more accurate accounting.

Both the House and the Senate T-HUD bills contain the \$100 million in competitive IHBG funding. There is strong bi-partisan support for continuing this funding, and no one is clamoring to pull those funds back. These funds will likely remain in the T-HUD appropriations for the next several cycles.

b. Indian Housing Bills

Mr. Walters began this discussion with an update on the Tribal HUD-VASH bill, which passed out of the Senate in late June. NAIHC is continuing to work with key staff at the House Financial Services Committee, which has two versions of the bill in front of it – the Senate bill and a slightly different House version. The concerns among House Democrats is that the Senate Bill appears to give too much “discretion” to the Administration in carrying out this program, and they do not trust the current administration. NAIHC feels that the discretionary aspects are a benefit to tribes, and will continue to push for moving the bill out of Committee. NAIHC will likely be sending out a “call to action” from its new platform.

Mr. Walters went on to a discussion of the Continuum of Care bill, which has been introduced in both the House and the Senate. The CoC bill will allow tribes to once again include tribes on the list of entities eligible for homelessness funding and would encourage other entities to coordinate provision of services with tribes. The bill has passed out of the House Financial Services Committee, but has not yet been scheduled for a floor vote. While there has been some discussion of including this provision in a NAHASDA reauthorization bill, NAIHC is going to continue to push for this bill to proceed as standalone legislation.

A bill to fix one of the hold-ups in the Section 184 process (S. 2725) has been introduced in the Senate. Section 184 is a statutory loan guaranty program, through which HUD provides a guaranty of loans originating from private lenders to purchase a home (a tribal member or tribal housing program can get such a guaranty). Right now, under the Section 184 loan guaranty program, before HUD will issue the certificate of loan guaranty, they need a final Title Status Report (TSR) from BIA showing that the leasehold mortgage securing the loan has been recorded. BIA takes an inordinate amount of time to issue the TSRs, which delays these loans and on various occasions torpedoes them because it just takes too long for the lender. S. 2725 removes the requirement of having the final TSR prior to HUD issuing the certificate of loan guaranty, with certain indemnification requirements imposed on the originating lender. NAIHC supports this bill and will continue to track its progress. It appears to have bi-partisan support.

There has also been discussion of legislation to elevate the ONAP Deputy Assistant Secretary position to full Assistant Secretary status, which would make it a political appointment and pull ONAP out from within Office of Public and Indian Housing to its own office. The Administration supports this approach, and it has been included in prior NAHASDA reauthorization bills. Because of the Administration’s support, there may be a standalone bill to get this done as well. That bill is expected to drop in the next couple of weeks.

Mr. Walters then went on to provide a brief update on NAHASDA reauthorization itself. NAIHC is continuing to work with the House Financial Services Committee and House Representative Heck (D-WA) to see the bill passed. Representative Heck is also active on other Indian bills and is actively supporting the NAHASDA reauthorization. The new bill includes the base provisions of old versions of NAHASDA, but also includes new housing resources that would be folded into the reauthorization. The new bill still has the authorization cap from the older draft of NAHASDA, but NAIHC is providing comments to the bill to encourage congressmen to use newer versions of the draft. NAIHC has received good comments from its members and is feeding those comments to the Committee. With regard to NAHASDA, the Senate is currently waiting for the House to take the lead on the bill. There are two issues under negotiation with Financial Services Chair Maxine Waters (D-CA): a provision to address the Cherokee Freedmen issue and the 30% maximum rent rule.

Finally, Mr. Walters discussed Senator Cantwell's ongoing efforts to amend the Low Income Housing Tax Credit (LIHTC) program. Her proposed amendments have been a broad approach to expand the availability and use of the program. She has also included provisions that would provide more favorable treatment for tribal LIHTC applications. She has also discussed including provisions that would authorize Tribal use of Section 8 vouchers in LIHTC programs. She has not yet introduced a bill.

c. NAIHC using new advocacy software (Phone 2 Action)

Mr. Walters next discussed NAIHC's new advocacy software, the Phone 2 Action. As mentioned in previous memos, the Phone 2 Action platform allows individual to send letters to congressmen with a few taps of their phones. NAIHC sent out campaigns in July and August, and will likely be sending out one on the tribal HUD-VASH and the FY 2020 appropriations soon. Mr. Walters asked that individuals let NAIHC know about any thoughts they have on the platform. It currently works and is generating a response from people on the Hill, and NAIHC is intent on increasing the use and efficacy of the platform. NAIHC will next be focusing on updating its advocacy page.

d. Announcements

1. *FY 2018/19 Grant Announcements*

Mr. Walters briefly discussed grant announcements. The IHBG Competitive Grant applications were due August 8. HUD is currently reviewing those and has not released a timeframe as to when awards will be given. However, Mr. Walters noted that past experience indicates that the awards will be given soon. Regarding the 2019 ICDBG grants, HUD is trying to get those out soon and be more timely with the awards. NAIHC will provide updates moving forward on any deadlines or training material.

2. *NAIHC Legal Symposium, December 9-10, Bally's, Las Vegas, NV*

The dates of the NAIHC Legal Symposium have been changed. The Symposium will take place on December 9-10, 2019, at Bally's in Las Vegas, Nevada. The next Legislative Committee meeting will be in person at the NAIHC Legal Symposium, on Monday, December 9, 2019. The time for the Legislative Committee meeting has not yet been set.

3. *ONAP – Crime Prevention Summit*

ONAP, in collaboration with NAIHC, is holding its inaugural Crime Prevention Summit in Denver, CO, February 4-6, 2020. The Crime Prevention Summit will offer a forum for tribal leaders and federal agencies to discuss methamphetamine prevalence, opioid addiction, violence against women, and gang violence. Discussion of these topics will aid tribal leaders to come up with unified efforts for their community to combat these crimes. Participants will learn about how these topics affect housing and the greater tribal community. Information on available funding sources and ideas for implementing policies to prevent and address these crimes will be shared. Tribal leaders, housing department executives, housing authority leaders, and interested tribal community members will be encouraged to participate in this event. The location is the Westin Denver Downtown Marriott. You can make hotel reservations online at <https://book.passkey.com/e/49988013>, or by phone at 1-888-627-8435 (main Marriott Reservations). There is a conference rate; mention that you are with NAIHC National Crime Prevention Conference at the Westin Denver Downtown. The conference rate is \$175 plus tax. The cut-off date for the reserved block of rooms is January 6, 2020

2. **Appropriations Uncertainty and the Potential for Interim IHBG Funding**

HUD ONAP has begun circulating announcements regarding the potential for a government shutdown, and the potential for tribes and TDHEs to obtain interim IHBG funding to help carry tribal housing programs through such an event. The announcement read:

Once again, we enter a period with budget uncertainty. Currently, the U.S. Budget is under a Continuing Resolution or "CR". If your IHBG program is low on funding you may request an advance on your estimated formula amount for FY 2020. There are some stipulations, including the requirement that you have an approved Indian Housing Plan (IHP) in place, as well as no other funds available in reserve or in LOCCS. Please review the attached notice which provides Tribes and Tribally Designated Housing Entities information on the process for requesting an advance on IHBG funds and the related eligibility criteria. ***We are currently accepting requests for Interim Funding.*** Any amounts received via the interim funding will be offset in the final 2020 IHBG award once those amounts are determined. We do not have an estimate of when the final 2020 funding will become available.

The announcements go on to advise that you contact your regional ONAP office to request funds.

If you have any questions about the items in this memorandum, please do not hesitate to contact Edmund Clay Goodman at egoodman@hobbsstrauss.com or by phone at (503) 242-1745.