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MEMORANDUM

December 3, 2020

To: TRIBAL HOUSING CLIENTS

From: Ed Clay Goodman and Cari Baermann
HOBBS, STRAUS, DEAN & WALKER, LLP

Re: *NAIHC Legislative Committee Meeting – December 3, 2020*

On December 3rd, 2020, the National American Indian Housing Council (NAIHC) convened a Legislative Committee Call via Zoom. The meeting was presided over by NAIHC Executive Director Tony Walters. NAIHC will set the date for the next January legislative Committee Call in the coming weeks. The updates below are a synthesis of information provided during the call and other updates we have received.

I. Election Update

As many are aware, former Vice President Joe Biden has been elected as the next United States President. The NAIHC Board of Directors has already had a meeting with the transition team of President-Elect Biden to highlight issues important to Indian housing. Mr. Walters noted that NAIHC has maintained a good relationship with U.S. Department of Housing and Urban Development (HUD) throughout the Trump administration and looks forward to continuing that relationship during the next four years under the Biden administration.

II. Congressional Updates

a. FY 2021 Appropriations and the "Lame Duck" Session.

Congress is currently in what is known as a "lame duck session," the period of time after the elections but before January, when new Members of Congress (and/or a new Administration) are sworn in. Congress will attempt to finish their work by next week before most staff leave for the holidays. Congress will then return in January for a new session. The Continuing Resolution (CR) that the House of Representatives and the Senate passed (HR 8337) to provide funding to keep federal agencies running ends on December 11, 2020. As that deadline looms, the most pressing deadline for Congress during the lame duck session is passing a measure to keep the government open after December 11, 2020, either through passing full-year appropriations bills or through another CR. There has been some discussion on both sides of the aisle to get a full-year funding agreement finalized and adopted, but the prospects of doing so are still not clear, particularly with Congress' additional focus of passing another COVID-19 relief package. Given the short amount of time left this year, it is likely that funding for tribal housing will remain the same as it was for FY 2020. Any increases in funding for tribal housing would likely be seen through a COVID-19 relief bill.

With this 116th Congress ending, all tribal housing bills that are not passed before Congress adjourns for good would need to be re-introduced next session. NAIHC will continue its efforts to advocate that funding for tribal housing is increased for the next year, in addition to its efforts to advocate that other tribal housing bills are passed. NAIHC will send out emails through its list serve on any congressional updates that occur in the next week, and will also post the updates on the NAIHC website. Mr. Walters encouraged callers to reach to him or other NAIHC staff with any questions they may have regarding these congressional updates.

b. Coronavirus Relief.

The other main congressional focus right now is a new Phase 4 COVID-19 relief package. With the recent surge in COVID-19 cases, it appears that both congressional chambers have recognized a need for additional relief. Most recently there has been discussion of a \$900 billion COVID-19 relief bill proposed by a bi-partisan working group. It is significantly below the \$2.3 trillion contained in the House COVID-19 package (the HEROES Act bill), but higher than the Senate's "skinny" bill proposed earlier this fall (the HEALS Act bill). The specific text of the bi-partisan effort has not been released in full, but Mr. Walters noted it is likely that provisions providing for mortgage and rental relief would still be included in this bill, along with a tribal set-aside. As noted in our previous memo, the House HEROES Act provided for a \$1 billion tribal set aside, which included mortgage and rental assistance and funding for the Indian Housing Block Grants (IHBG) Program and Indian Community Development Block Grants (ICDBG) Program (see our memo of November 5, 2020). In contrast, the Senate HEALS Act did not include any tribal housing funding or tribal set aside. NAIHC will continue its efforts to make sure the new versions of the COVID-19 relief bill includes funding for tribal housing.

Congress is also working on providing for extensions of deadlines for use of CARES Act Coronavirus Relief Fund (CRF) funding for both states and Tribes, since the original and still current deadline is December 30, 2020. The CARES Act IHBG and ICDBG funding provided through HUD have a much longer deadline than the CRF funding (September 2024). NAIHC will determine what the deadlines are for various CARES Act funding and will provide an update in the coming weeks. One caller asked what the extended deadline for use of CRF funding would be if Congress did provide for an extension. Mr. Walters noted that he was not currently aware of when the extended deadline would be but that it may be set for September 2021, the end of the next fiscal year, or the end of the 2021 calendar year.

Mr. Walters also commented on the increase of tribal housing programs shutting down, reducing services, or working under limited capacity due to the recent surge in COVID-19 cases. He noted that the shutdowns and reductions in services has increased the need for funding relief for tribal housing. One caller asked if NAIHC was aware of exactly how many tribal housing authorities are currently shut down. Mr. Walters noted that he was not aware of the number, but will look for this information and release it in the coming weeks if available.

c. Indian Housing Legislation

The Native American Housing Assistance and Self Determination Act (NAHASDA) reauthorization bills in both the House and Senate have not moved forward since our last update. Mr.

Walters said that neither bills have gone through a committee review, so it is unlikely that a NAHASDA reauthorization bill will be passed during this Congress. The NAHASDA bills will then need to be reintroduced in 2021.

There has also been little progress on the Tribal HUD-VASH bill or the Continuum of Care bill. The Tribal HUD-VASH bill passed the Senate twice and is being considered in the House. NAIHC is continuing to push to have the Tribal HUD-VASH bill pass in the House as a standalone bill during the lame duck session. As part of that, NAIHC is working with NCAI to send a letter to Congress advocating for the Tribal HUD-VASH bill. Additionally, the Continuum of Care bill (HR 4029) has not progressed since February 2020. The bill passed the House and is still being considered by the Senate. The bill would make tribes eligible for the HUD Continuum of Care Program. NAIHC is continuing its advocacy efforts on both bills and will be reaching out to HUD to see what support NAIHC can provide to move the bills forward.

One caller asked whether NAIHC has data on whether the tribal HUD-VASH programs has had a positive impact on veterans participating in those tribal programs. Mr. Walters commented that the tribes that are a part of the program have been able to serve a significant number of veterans. However, there are significant numbers of veterans not being served across country in areas where no tribes are participating in the program.

Joanna Donohoe, one of the individuals on the call, commented that she is looking for tribes or Tribally Designated Housing Entities (TDHEs) with experience using the U.S. Department of Veterans Affairs' Native American Direct Loan to participate in a U.S. General Accounting Office study. Anyone interested should reach out to Mr. Walters, who will connect them with Ms. Donohoe.

d. Section 184 Program

Mr. Walters reported that the Section 184 bill is moving forward. 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). The Section 184 bill provides for tribal court jurisdiction for Section 184 foreclosures. NAIHC will continue to track the progress of this bill and provides updates as they become available.

III. HUD Grants and Requirements

a. HUD FY2020 NOFA for IHBG Competitive Grant Program

As we noted in our November update, on August 11, 2020, HUD published a Dear Tribal Leader Letter, announcing the fiscal year (FY) 2020 Notice of Funding Availability (NOFA) for the IHBG-Competitive Grant Program. The Letter stated that projects that will spur housing construction and rehabilitation will be prioritized. Because of the challenges arising from the ongoing COVID-19 pandemic, HUD is providing a longer application period than the application period in last year's competition to allow applicants additional time to develop and submit applications. Therefore, applicants will have until 11:59:59 EST on December 10, 2020, to submit applications via <https://www.grants.gov>. If applicants are unable to submit an electronic application, they may request a waiver in accordance with Section IV.A. of the NOFA <https://www.grants.gov/web/grants/view-opportunity.html?oppId=328626>. HUD issued an updated

Frequently Asked Questions for the IHBG Competitive Grant NOFA on November 27, 2020, which can be found on the HUD Codetalk website:

https://www.hud.gov/program_offices/public_indian_housing/ih.

b. CARES Act Reporting Requirements

On October 23, 2020, HUD released a Dear Tribal Leader Letter on CARES Act Reporting Requirements. The Dear Tribal Leader Letter outlines CARES Act reporting requirements for IHBG-CARES and ICDBG-CARES funding for recipients of funding that exceeds \$150,000 in aggregate. The CARES Act reporting is due 10 days after the quarter's end (i.e., July 10, October 10, January 10, and April 10). HUD Office of Native American Programs (ONAP) will be developing and providing training to tribes on new reporting systems and the reporting requirements. The Dear Tribal Leader Letter can be read in full at the link below:

<https://www.hud.gov/sites/dfiles/PIH/documents/Dear%20Tribal%20Leaders%20-%20CARES%20reporting%20-%20final.pdf>.

HUD issued a follow-up Dear Tribal Leader Letter with details about training on the CARES Act reporting requirements and to introduce the Federal Funding Accountability and Transparency Act (FFATA) referenced in the CARES Act. A recording of the first training, held on November 12, 2020, can be found on the HUD Codetalk website:

https://www.hud.gov/program_offices/public_indian_housing/ih.

c. HUD FY2020 Choice Neighborhoods Implementation Grant Program

On August 24, 2020, HUD posted information on the FY2020 Choice Neighborhoods Implementation Grant Program. Indian housing authorities are eligible to apply. The application deadline is 11:59:59 pm Eastern Standard time on December 16, 2020. The Choice Neighborhoods Implementation Grant Program provides funding for communities to implement plans to redevelop distressed public and/or assisted housing and neighborhoods. A public housing authority, local government or tribal entity must be the lead applicant. For more information, email ChoiceNeighborhoods@hud.gov or visit <https://www.grants.gov/web/grants/view-opportunity.html?oppId=328780>.

IV. Other Matters

a. NAIHC Legal Symposium.

The NAIHC Legal Symposium will be held on December 7, 8, and 9 of 2020. Due to the COVID-19 pandemic, the Symposium's sessions will be held virtually to allow greater (and safer) participation. Individuals wishing to attend can register on the NAIHC website. The Symposium will include content on reporting for CARES Act funding. Mr. Walters encouraged anyone who has recommendations on content to reach out to NAIHC. The Symposium will be four hour blocks each day presented through a main stream of live feed, with breakout sessions to cover a number of topics. NAIHC will make the content available afterwards on its website.

One caller asked what the anticipated attendance will be for the symposium. Mr. Walters stated that in normal years, around 400-500 individuals attend the symposiums. With the symposium being held virtually this year, NAIHC is hoping to have at least 200 individuals attend. There are currently 150 registrants.

Another caller noted that it may be difficult for some tribal housing staff to attend this year, due to needing to work on the HUD competitive grant application. Mr. Walters recognized the difficulty of the overlapping timelines, and responded by noting that NAIHC had set the date for the symposium before HUD issued the deadline for the grant application. However, because the symposium is structured in four hour blocks of presentations throughout the week, it should allow people to join individual presentations as they are able to.

NAIHC will also be holding a meeting next week to discuss how to improve these Legislative Committee calls and make them more useful to members. Mr. Walters encourages anyone with feedback, suggestions, or comments to reach out to him.

Brook Kristovich let the Committee know that Elena Bassett, a longtime tribal housing advocate in the Pacific Northwest, has passed away. He mentioned that over the years, Elena has served as the Executive Director of the Yakama, Siletz, and Colville housing programs, as well as serving on the Yakama Nation Housing Authority Board and on the Northwest Indian Housing Authority Executive committee. She was currently serving as Interim Executive Director at Yakama Nation Housing. The burial was held on Tuesday, December 1, 2020. Anyone wishing to share memories of Elena Bassett can share them by visiting <https://www.valleyhillsfh.com/obituaries/Elena-Bassett/>.

The next NAIHC Legislative Committee meeting will be held next week, Tuesday December 8, at 12:45 PM Pacific Standard Time, in conjunction with the Legal Symposium. There will also be a monthly meeting to be held sometime in January, 2021. NAIHC will provide an update on the scheduled date for the next Committee meeting in the coming weeks. NAIHC will continue to host the call via a Zoom platform.

Conclusion

If you have any questions about this memo, please contact Ed Clay Goodman at 503-242-1745 or at egoodman@hobbsstrauss.com.