

215 SW Washington Street, Suite 200
Portland, OR 97204


T 503.242.1745
F 503.242.1072

HOBBSSTRAUS.COM

MEMORANDUM

September 17, 2021

TO: TRIBAL HOUSING CLIENTS

FROM: 
Edmund C. Goodman
HOBBS, STRAUS, DEAN & WALKER, LLP

RE: ***COVID-19 Housing Relief Programs and Legislative Update***

This memorandum provides a synthesis of information presented during a virtual meeting with the U.S. Department of Housing and Urban Development (HUD) Office of Native American Programs (ONAP) staff and Treasury staff, along with some legislative developments affecting Indian tribal housing. The Department of Treasury presentation is attached to this memo.

I. HUD Programs

The HUD Northwest Indian Housing's Office of Native American Programs (NwONAP) Administrator Tom Carney and other NwONAP staff joined the Northwest Indian Housing Association (NWIHA) call to provide an update on Office of Native American Programs (ONAP), HUD programs, and the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) Reauthorization.

a. ONAP Updates

On October 7, 2021, HUD will be hosting a second Tribal Consultation addressing coordination of environmental reviews. Coordination of environmental reviews between different agencies that provide funding to a single tribal housing project continues to be a problem. The consultation will provide an opportunity for tribal leaders to provide their own feedback on this problem and how it can be addressed.

On October 26, 2021, HUD will be hosting a 25th anniversary event for the Native American Housing Assistance and Self-Determination Act of 1996. HUD will release additional information this month. ONAP staff requested that tribes and Tribally Designated Housing Entities (TDHEs) send in their stories, photos, and short videos to NAHASDA25@hud.gov so that ONAP can highlight the stories leading up to and at the October 26th event.

During September and October 2021, HUD will also be holding regional tribal leader meetings to discuss tribal housing. HUD will send invitations out soon. The goal is for HUD to receive tribal leaders' input on tribal housing to assess the current housing situation and future tribal housing needs.

b. HUD Programs Applications and IHPs

The American Rescue Plan (ARP) Act of 2021 (Public Law 117-2) provides \$450 million (\$450,000,000) for the Indian Housing Block Grant (IHBG) program (IHBG-ARP), \$280 million (\$280,000,000) for the Indian Community Development Block Grant program (ICDBG) program (ICDBG-ARP), \$5 million (\$5,000,000) for the Native Hawaiian Housing Block Grant program (NHHBG-ARP), and \$10 million (\$10,000,000) for related technical assistance resources.

ONAP is currently accepting Indian Housing Plans (IHP) for the IHBG-ARP. NwONAP has only received submissions from fifty percent (50%) of the Northwest tribes. Mr. Carney recommended that all tribes or TDHEs submit their IHPs soon. If any tribes are having trouble submitting their plans, they can contact NWIHA or ONAP for assistance.

ICDBG-ARP grants are available to prevent, prepare for, or respond to COVID-19—the same purpose as the ICDBG funds provided under the Coronavirus Aid, Relief, and Economic Security (CARES) Act (ICDBG-CARES) funds. On July 20, 2021, HUD published an Implementation Notice for the ICDBG-ARP funding, which can be found [here](#). ICDBG-ARP applications are ONAP's main priority right now, and Mr. Carney anticipates that awards will be made in October 2021. The ICDBG-ARP grants will be awarded in three phases. Under Phase I, HUD is prioritizing ICDBG-CARES applications that were not funded due to limited appropriations.

Under Phase II, HUD will continue accepting Phase II, ICDBG-ARP grant applications beginning October 18, 2021, at 6:00 P.M. Eastern Daylight Time (EDT). All Phase Two applications will be sorted into two (2) tiers:

- **First Tier:** Applications from grantees that did not receive an award under the ICDBG-CARES program and are not listed in the Phase I Priority List (or are listed but failed to timely apply under Phase I).
- **Second Tier:** Applications from grantees that did receive a fully funded award under the ICDBG-CARES program. This does not include grantees that were partially funded under ICDBG-CARES, which are included under Phase I.

Applications for Phase II of the ICDBG-ARP (Phase II) applications are open now through October 18, 2021. Phase II applications will be first screened at the main HUD headquarters and then will be sent to regional ONAP offices for further processing. There is still funding available for Phase II of the ICDBG-ARP. All tribes are encouraged to apply, if they have not already.

Once the Phase II application window closes on October 18, 2021, HUD will be accepting applications for Phase III. Under Phase III, any applications received after the Phase II applications deadline will be considered on a first come, first-served basis. ONAP will send out a notification on Phase III in the coming weeks. It is likely that funding will still be available for Phase III. As this Phase III funding will be available to all tribes and TDHEs, tribes are encouraged to consider this funding for any projects for which additional funding may be helpful.

Ten (10) tribes were eligible for Phase I funding. All ten (10) have submitted their applications and HUD anticipates reaching a decision by October, 2021.

There are a number of grants for which ONAP has or soon will publish a Notice of Funding Availability (NOFA). Applications are due soon for the following grants:

- Resident Opportunity and Self Sufficiency (ROSS): Applications due **September 17, 2021**.
- HUD Healthy Homes Demonstration Grant Program: Applications due **September 21, 2021**.
- HUD Lead Hazard Reduction grant program: Applications due **September 27, 2021**.

Regarding other HUD grants, the regular ICDBG grant applications are due October 25, 2021. ONAP has scheduled trainings for the ICDBG grants and will publish dates for the trainings on Codetalk in the coming weeks. Additionally, applications for the IHBG Competitive grants are due December 1, 2021. \$100 million (\$100,000,000) is available nationally for the IHBG Competitive grants, and he encouraged all tribes to apply. Any tribe or TDHE interested should reach out to NwONAP for more information. ONAP staff noted that because they will soon be entering a new fiscal year, there may be a four (4) week delay in processing any grants submitted to ONAP after September 23, 2021.

On September 29, 2021 from 9:30 A.M.–12:30 P.M. EDT, Northwest ONAP will be offering a refresher training on the IHBG Energy and Performance Information Center (EPIC) system through which tribes and TDHEs electronically submit their IHPs, IHP Amendments, IHP Waivers, and Tribal Certifications. Other regional offices should also be offering similar trainings. More details on the training will be posted on the ONAP Codetalk website located [here](#).

HUD Continuum of Care Program. Implementation of the program is in process and as of this year, tribes are eligible for funding under the program. The program is focused on addressing homelessness and is funded through local Continuum of Care grantees (CoCs). It will take some time for both HUD and tribes to navigate this new process.

c. Training and Technical Assistance

Funding for individual training and technical assistance (TTA) is still available, and a substantial amount of funding for TTA will be available for the next fiscal year. Tribes and TDHEs are encouraged to contact their Grants Management Specialist.

ONAP will also be reaching out to tribes and TDHEs to obtain feedback on ideas for TTAs in the new fiscal year. Anyone interested may also fill out the ONAP Training Survey: <https://www.surveymonkey.com/r/L3Z6HK9>.

ONAP will also be holding the following virtual trainings.

| Upcoming Virtual Trainings | |
|--|---|
| September 14–16, 2021 October 12–14, 2021 November 16–18, 2021 | Development Training (3 parts) |
| September 29–30, 2021 | Board of Commissioners & Executive Director |
| September 20–24, 2021 | NAHASDA Intermediate |
| October 5–7, 2021 | Admissions & Occupancy |
| September 28–20, 2021 | Housing Policy |
| December 7–9, 2021 | NAHASDA Intermediate |

On September 16, 2021 at 2:00 P.M. EDT, ONAP partnered with the U.S. Department of Veterans Affairs (VA) and held a webinar on the VA's Native Direct Loan Product. The webinar was an introduction to the Native American Direct Loan Product for Native American Veterans (NADL). The VA's NADL program allows eligible Native American Veterans to buy, build, or improve a home on federal trust land. NADL may also be used to refinance an existing loan to reduce the interest rate. Interested tribes and tribal members can learn from NADL specialists and a NADL recipient to see how to qualify and apply.

d. HUD Program Reporting

ONAP staff moved on to discuss reporting requirements for HUD programs. ONAP staff noted the following reporting period due dates:

| Reporting Period Due Date | |
|---------------------------|------------|
| 7/1/2021 – 9/30/2021 | 10/31/2021 |
| 10/1/2021 – 12/31/2021 | 1/30/2022 |
| 1/1/2021 – 3/31/2022 | 4/30/2022 |
| 4/1/2022 – 6/30/2022 | 7/30/2022 |

IHBG SF-425 reports can now be voluntarily submitted through the EPIC platform. SF-425 Reports for all other grants (ICDBG Imminent Threat; ICDBG-CARES; ROSS; Tribal HUD VA Supportive Housing (THUD VASH)) should still be submitted to the tribe or TDHE's regular Grants Management or Grants Evaluation Specialists for acceptance and processing. Final SF-425s are due 90 days following the end of the program year or closeout.

ONAP staff are currently processing Annual Performance Reports (APRs) for CARES Act grants. On October 19, 2021, ONAP will hold Annual Status and Evaluation Report (ASER) Training for regular ICDBG and ICDBG-CARES grants. ASERs are due by November 14, 2021.

Additional ONAP resources and details on various HUD programs are available on the ONAP Codetalk website, located [here](#).

II. Reconciliation Bill, NAHASDA Reauthorization, and Other Legislation

a. Reconciliation Bill

Congress continues its efforts to draft the \$3.5 trillion (\$3,500,000,000,000) budget reconciliation package, which is a process by which Congress can pass bills without having to meet the Senate's 60 vote supermajority (required to end filibusters). The Democrats' deadline for finishing all committee work on the reconciliation package is Friday, September 17, 2021.

Regarding the Fiscal Year (FY) 2022 Appropriations, the federal government will run out of funding on September 30, 2021. It is unclear if Congress will be able to pass a short-term continuing resolution (CR) to keep the government funded until early December.

b. NAHASDA

On September 14, 2021, the House Financial Services Committee, led by Chairwoman Maxine Waters (D-CA) passed a bill to reauthorize NAHASDA. The bill would provide a five (5) year reauthorization of the Native American and Native Hawaiian housing programs.

The House version of the NAHASDA reauthorization bill contains language designating ONAP as a separate entity from HUD and providing that ONAP would have its own assistant secretary. The bill also contains language providing for a student subsidy.

However, the House bill also contains a concerning provision that targets the five (5) tribes ("Five Tribes") in Oklahoma (Cherokee Nation, Seminole Nation, Muscogee Nation, Chickasaw Nation, and Choctaw Nation), withholding NAHASDA funding from the Five Tribes unless they provide housing assistance to Freedman descendants. The exact language in the draft bill is as follows:

"SEC. 604. COMPLIANCE WITH TREATY OBLIGATIONS.

The Secretary of Housing and Urban Development shall withhold all or partial funds to a tribe or tribal entity under this Act if, after consultation with the Secretary of the Interior and the tribe, the Secretary determines prior to disbursement that the tribe is not in compliance with obligations under its 1866 treaty with the United States as it relates to the inclusion of persons who are lineal descendants of Freedmen as having the rights of the citizens of such tribes, unless a federal court has issued a final order that determines the treaty obligations with respect to including Freedmen as citizens. For purposes of this subparagraph, a court order is not considered final if time remains for an appeal or application for discretionary review with respect to the order."

The National American Indian Housing Council (NAIHC) had previously sent in a letter to the Committee opposing the inclusion of this language. However, it remained in the bill that was passed out of Committee.

The full bill text and other information is [here](#).

c. Emergency Rental Assistance (ERA) Program Bill

As we have noted in our prior memorandums, on December 27, 2020, as part of the Consolidated Appropriations Act, 2021 (the “Act”) (Pub. L. No. 116-260, Division N § 501, Dec. 27, 2020), Congress passed, and the President signed, an updated COVID-19 relief package that included \$25 billion (\$25,000,000,000) for the Emergency Rental Assistance program (“ERA Program”). Tribes received an \$800 million (\$800,000,000) set-aside from this fund to assist eligible households who are facing eviction due to unpaid rents and utilities, or the inability to pay prospective rents and utilities. While the allocation of Tribal funding was determined by the annual IHBG formula operated by HUD, the ERA Program itself is overseen by the U.S. Department of Treasury (“Treasury”).

The House Financial Services Committee recently passed a bill (H.R. 5196, “Expediting Assistance to Renters and Landlords Act of 2021,”) that would expedite the delivery of federal emergency rental assistance provided through previous pandemic relief bills. The bill, introduced by Representative Maxine Waters (D-CA), “would remove barriers preventing tenants from receiving assistance and allow landlords to directly apply for rental arrears after meeting certain requirements.” The bill also requires grantees that have obligated less than 25 percent (25%) of their ERA Program funds to develop a performance improvement plan that explains how they “will expedite the delivery of assistance to renters and landlords.” Finally, the bill also directs the Secretary of Treasury to provide technical assistance and information technology (IT) solutions to support grantees’ delivery of emergency rental assistance to eligible households. The bill must now be passed by the full House to move forward.

III. ERA Program and Homeowner Assistance Fund (HAF) Program Discussion

Noel Poyo, Deputy Assistant Secretary (DAS) for Community Economic Development, and other Treasury staff are meeting with regional housing associations to provide questions and answers regarding the ERA Program and HAF Program. This memo reports on one such call that took place on September 15, 2021, NWIHA.

DAS Poyo leads Treasury’s emergency housing team. He remarked that Treasury has received useful feedback from tribal leaders and housing authorities through both formal consultations and informal meetings, and Treasury will continue to incorporate that feedback into its policies on the emergency housing programs.

d. Emergency Rental Assistance Program

1. ERA Program Deadlines and Qualified Expenses

DAS Poyo commented that Treasury is still learning how best to communicate with tribes compared to states and local governments. Treasury recognizes that tribes know their communities best and that many were not previously operating emergency housing programs. DAS Poyo noted he appreciates the challenges involved with establishing and implementing a new emergency housing program on a short timeline and that Treasury has therefore tried to understand how best to support tribes in this effort. Treasury has done this, first, by writing a policy that gives tribes more flexibility in running their programs, and second, by developing training and technical assistance to help tribes implement their programs. Treasury hopes to schedule further training sessions covering the ERA Program soon.

Treasury has also released sets of frequently asked questions (FAQs) specific to tribes. If tribes have missed any information or would like additional information, DAS Poyo encouraged tribes to contact Treasury. He commented that Treasury has made an effort to not place unreasonable expectations on tribes. To that end, Treasury has not required tribes to submit monthly reporting and also did not require tribes to submit reporting for the first quarter of 2021.

Treasury staff then discussed the statutory ERA Program provision that directs Treasury to recapture “excess” funds and reallocate those funds to ERA Program grantees that have obligated sixty-five percent (65%) of their funding beginning on September 30, 2021. The provision authorizes Treasury to determine what funds are deemed to be “excess.” One participant on the NWIHA call asked how Treasury will release information on its process of determining what it deems to be “excess funds.” The caller noted that many tribes are concerned that Treasury will take back all of their unobligated funds. *DAS Poyo responded that Treasury will release guidance on this process and how it affects tribes specifically before September 30, 2021.* DAS Poyo stated that he did not want to preempt the guidance by stating what is likely to be in it, but he did want to make certain points about the September 30, 2021 deadline:

- A. Treasury is not required to and will not be recapturing funds on September 30, 2021 from programs that have not expended 65 percent (65%) of their ERA Program funding;
- B. The programs that Treasury will focus on recapturing funds from will be the larger programs, and Tribes/TDHEs are among the smaller programs. So Tribes/TDHEs will not be the first targets in any recapture reallocation;
- C. In making any determination to recapture and reallocate funds, Treasury is going to consider whether there is any other entity in the area that would serve the same population. DAS Poyo noted that Tribes/TDHEs are often, if not always, the only program that is serving the Tribal population in a particular area; and
- D. No Tribe/TDHE is going to wake up on October 1, 2021 to see their ERA Program accounts swept.

Another participant asked about the two (2) statutory deadlines for ERA Program funds. DAS Poyo commented that the Act that created the ERA Program made funds available through the end of 2021. The ARP Act extended this deadline to September 30, 2022, unless Treasury

makes a reallocation and the grantee requests and receives an extension of up to 90 days. Tribes therefore have until September 30, 2022, to *fully expend* their ERA Program funding.

In contrast, the September 30, 2021 deadline relates to Treasury's mandate to reallocate "excess" funds to ERA Program grantees that have *obligated* 65 percent (65%) of their funding. DAS Poyo emphasized that the Secretary's decision to recapture excess funds will not be a "gotcha" game. The Secretary has no interest in surprising tribes by sweeping away funds from tribes and TDHEs. Instead, Treasury is concerned with allocating the maximum amount of funding to grantees who can best distribute it to low-income tenants in need. DAS Poyo emphasized that recapturing funds from tribes and TDHEs does not align with Treasury's intent to help low-income tenants. He commented that in developing the structure of the recapture and reallocation, Treasury is strongly considering the fact that, for many communities, there is no entity that can serve the tribal members better than the tribes themselves. DAS Poyo noted that Treasury would not be serving tribal members if they recapture funds from the very entity that can best serve the tribal members. DAS Poyo further remarked that Treasury is very clear on the substantial challenges that tribes face that are distinct from what a state or local entity would face.

DAS Poyo also remarked that the reallocation process will *not* be a one-time event that happens immediately on September 30, 2021. The Act simply directs the Secretary to begin the recapture and reallocation process then. Particularly given the fact that this involves matters of tribal sovereignty, Treasury will engage in consultation with tribes concerning the recapture and reallocation of excess funds.

One participant commented that her tribe received an amendment to its ERA Program contract that extended the contract date from December 31, 2021 to September 30, 2022. She asked how the Secretary could recapture excess funds from the tribe if the contract amendment extended the contract date. DAS Poyo responded that, based on the ERA Program statute, after September 30, 2021, the Secretary must publish a procedure that defines how Treasury will move ERA funding from where it is not being used to where it will be used. The ultimate goal is to move the funding to the grantee that can best serve that particular population. DAS Poyo emphasized that, in the case of a tribe, the tribe is the best entity to serve that population. He remarked that he does not want to get ahead of Treasury's formal guidance that it will release, but Treasury staff has been considering the fact that the reallocation process will be different for tribes than it will be for states. He also noted that the September 30, 2021 deadline is *not* a deadline by which grantees must expend 65 percent (65%) of their funding. The Act does not say that if a grantee has not obligated 65 percent (65%), the Secretary will automatically recapture that grantee's funds. Instead, for a grantee to receive any reallocated funding, they must at a minimum have obligated 65 percent (65%). Additionally, the Act does not define "excess funds". Treasury will define what it considers to be excess funds in its future guidance.

I commented that tribes are looking for specific guidance on what kind of recapture of funds will occur on September 30, 2021, what conditions will trigger that recapture, and how tribes will be able to anticipate whether their funds will be recaptured. Multiple tribes have questioned whether they should just give back the ERA Program funding because they will be unable to spend

65 percent (65%) of their funding by the September 30, 2021 deadline. DAS Poyo responded that the language in the Act on the 65 percent (65%) is not a benchmark for recapturing money; it instead determines which grantees will receive reallocated funding. Treasury will release guidance addressing this by the end of September, 2021.

One participant noted that her tribe is short-staffed in implementing the ERA Program, and that she is therefore concerned with what the requirements are for the monthly reporting. DAS Poyo responded that Treasury staff will follow up with her directly. Reporting guidance can be found on Treasury's ERA Program webpage. He also commented that tribes are not required to submit monthly reporting and are instead only required to submit quarterly reporting.

Another participant commented that in landlord attestations, some landlords are only writing one sentence minimally stating that the tenant is low income. The participant asked whether the family must be low income to receive ERA Program assistance, and whether the tribe is required to verify that the family is low income. DAS Poyo responded that households must be low income to receive ERA Program assistance and the households themselves must attest that they are low income. A landlord claiming that a household is eligible is not sufficient. There are three (3) elements that must be verified for a household to participate in the ERA Program:

- A. **Housing instability:** Verification is met if the landlord states that the household is behind on rent;
- B. **Income:** Households can verify that they are low income through self-attestations; and
- C. **Financial hardship:** Households can verify that they are experiencing financial hardship through self-attestations. Tribes can use a single self-attestation form that covers both income and financial hardship.

While the landlord can help verify that the tenant is behind on rent, the household *must* be involved with the verification process, particularly with regard to their income and financial hardship. *The landlord cannot, alone, attest to these items on behalf of the tenant.* The Treasury's ERA Program website contains self-attestation form templates that tribes may use, which can be found [here](#).

One participant asked whether the tribe can use ERA funds to pay the space rental for families living in a mobile home in a park while the family looks for a rental unit. DAS Poyo responded that he is confident in saying the definition of a "manufactured home" encompasses mobile homes (including RVs). Treasury FAQ #28 in fact states that the parcel of land a manufactured home occupies is eligible for financial assistance under ERA Programs, and in the FAQ #28 title it includes "mobile homes". DAS Poyo commented that as long as the tribe's procedure states that it will use funds consistent with the Treasury FAQs, then paying for the rental space for mobile homes is an eligible expense. More broadly, if a tenant is renting the space in which they live, whether it be a manufactured home, house, or boat, the tribe can use ERA Program

funds to assist with qualified expenses. DAS Poyo further noted that if the household owns their manufactured home, they may be eligible for assistance under the HAF Program.

The Act states that ERA assistance can be provided for “a period not to exceed 12 months except that grantees may provide assistance for an additional 3 months only if necessary to ensure housing stability for a household”. I raised a question of whether a household that received fifteen (15) months of rental assistance could then subsequently receive an additional fifteen (15) months of utility costs assistance, or whether the fifteen (15) months is a hard cap for all types of assistance combined. Treasury responded that a month of assistance is defined as any month in which a household has received *any* type of assistance. A month in which only utilities were paid and a month in which both rent and utilities are paid each count as one month. If the tribe pays fifteen (15) months of utilities and fifteen (15) months of rent, and those months do not overlap, the tribe would have then paid thirty (30) months of assistance, which is not permitted.

2. ERA Reporting Requirements

Treasury staff John Comeau and James Gatz then commented on the ERA reporting requirements. Treasury has published several reporting documents available at www.treasury.gov/ERA. These include Reporting Guidance and User Guidance. Treasury will continue to update the ERA Program site with helpful content, such as webinars showing live walkthroughs of the ERA Program portal. Treasury staff encouraged tribes to send them feedback with any additional information they would like to see on the website.

Treasury staff provided an overview of the reporting elements for the ERA Program.

A. **Recipient Profile**

- This information will be pre-populated with data from the tribe’s ERA application and from other sources.

B. **Participant Counts and Demographic Data**

- Will include details on the number of participants served, including the number of applications received and accepted, amounts of ERA funds paid for rent, rent arrears, utility/home energy costs and arrears, housing stability services, administrative costs, etc.

C. **Financial information**

- Information such as amounts of ERA Program funds obligated and expended, including when funds were disbursed, who received the funds, and other key information.

D. **Federal financial reporting SF-425**

- Standard financial reporting form, available at <https://grants.gov/forms/post-award-reporting-forms.html>.

The next quarterly report deadline for tribes and TDHEs is October 15, 2021.

| Cycle | Calendar Quarter/Year | Reporting Period | Submission Deadline |
|-------|-----------------------|------------------------------|---------------------|
| 1 | Q1 2021 | Award Date – Mar. 30, 2021 | Oct. 15, 2021 |
| 2 | Q2 2021 | Apr. 1, 2021 – Jun. 30, 2021 | Oct. 15, 2021 |
| 3 | Q3 2021 | Jul. 1, 2021 – Sep. 30, 2021 | Oct. 15, 2021 |
| 4 | Q4 2021 | Oct. 1, 2021 – Dec. 31, 2021 | Jan. 17, 2022 |
| 5 | Q1 2022 | Jun. 1, 2022 – Mar. 31, 2022 | Apr. 15, 2022 |
| 6 | Q2 2022 | Apr. 1, 2022 – Jun. 30, 2022 | Jul. 15, 2022 |
| 7 | Q3 2022 | Jul. 1, 2022 – Sep. 30, 2022 | Oct. 17, 2022 |
| 8 | Final Report | Jan. 31, 2023 | |

Treasury will be releasing guidance and materials on the quarterly reporting requirements shortly. One participant commented that she thought her tribe had already submitted reports for quarters one and two, and whether that meant that more detailed information would be required for the next quarterly reporting. Treasury staff responded that the reports for the first two quarters were only partial reports, as Treasury did not want to burden grantees by requiring too much information early on. The next report will require more detailed information, as required by the Act. The Reporting Guidance found on the Treasury ERA website does include detailed information on what data will be required for the reports. In addition, Tribes and TDHEs are required to submit only a portion of the information that states and other grantees are required to submit.

One participant commented that she reached out to Treasury through the ERA Program email (emergencyrentalassistance@treasury.gov) and did not receive a response for four (4) days. Further, the email did not respond to the question asked and instead simply directed the tribe to look at the FAQs. The participant asked whether there is a specific Treasury staff member that tribes can contact so as to receive a more informative and timely response. Treasury staff responded that the best way to reach Treasury is still to use the email emergencyrentalassistance@treasury.gov. DAS Poyo also commented that Treasury is understaffed but is trying to ramp up responses to emails. He encouraged tribes to reach out with questions again and to highlight that it is regarding the ERA Program to make sure that it goes to the right person at Treasury.

e. Treasury's Homeowner Assistance Fund

As we have reported in prior memoranda, the ARP Act provides approximately \$498 million (\$498,000,000) in funding to Tribes for the Homeowner Assistance Fund ("HAF

Program”). The HAF Program provides mortgage assistance to homeowners to prevent the foreclosure or post-foreclosure eviction of a homeowner due to the COVID-19 pandemic.

Funding for the HAF Program is allocated through the Treasury for distribution. Allocations will be based on the IHBG formula for FY 2021. Tribes or TDHEs that want to receive HAF funding must submit a *Notice of Funds Request* for HAF funding. A copy of that form is available here: <https://home.treasury.gov/system/files/136/HAF-Notice-of-Funds-Request.pdf>. The deadline for Tribes or TDHEs to submit that Notice is **September 30, 2021**. Treasury also requires that the Tribe or TDHE, as a condition of receiving the funds, sign a *Financial Assistance Agreement*: https://home.treasury.gov/system/files/136/HAF-Financial-Assist-Agmt_0.pdf. That *Financial Assistance Agreement* must also be submitted by **September 30, 2021**.

Treasury will make initial payments to Tribes or TDHEs in the amount of ten percent (10%) of the allocated HAF funds. In order to receive the remaining 90 percent (90%) of HAF funds, the Tribe or TDHE must submit a plan for its use of the HAF Program funds. Treasury has published the templates for HAF participants to use in developing their *HAF plans*, which can be found [here](#). The HAF plan for tribes and TDHEs that receive less than \$5 million (\$5,000,000) in HAF funds will be a streamlined version of the plan for those that receive more than \$5 million (\$5,000,000). Tribes must go to a Treasury portal to submit the completed plan and claim their allocation of HAF Program funds. The portal website link can be found in the portal instruction manual (“Instruction Manual”) that Treasury issued. *There is no deadline yet established for Tribes/TDHEs to submit their HAF Plans.*

DAS Poyo acknowledged that communications to tribes concerning the HAF Program could be better. Tribes should expect to receive an email in the next few days for filling out the Notice of Funds Request forms so that tribes can claim their HAF funding. Future Treasury guidance will address tribal allocations. However, first, Treasury wants to make sure that tribes are able to enter the portal and fill out the Notice of Funds Request. DAS Poyo remarked that Treasury’s intent is to make the HAF Program a partnership with room for tribes to implement it in a way that best fits their communities.

One participant noted that her tribe has already spent ten percent (10%) of the tribe’s HAF funding and submitted the HAF plan in August. She asked what the turn-around time is for Treasury’s review of the HAF plan and when the tribe can expect to receive the balance of 90 percent (90%) of the HAF funds? DAS Poyo responded that Treasury opened the portal in August and is currently reviewing the HAF plans it has received to make sure there are no statutory challenges. Treasury’s expectation is that it will first approve plans under \$5 million (\$5,000,000) due to the fact that there will likely be more back and forth communication with tribes on the larger plans. Treasury is not expecting that it will take a long time to review the plans.

Another participant asked whether the HAF September 30, 2021 deadline is to log on to the portal and fill out the request for funds, and whether that must be done by tribal leadership or whether the tribe’s housing staff can fill out the request. The participant also asked at what stage does the tribe submit the plan for submission. DAS Poyo responded that to enter the Treasury portal, the individual who will be working in the portal on behalf of the tribe must go through an identification process to verify their identity. That may take time to work through. Once their

identification is verified, they can go into the portal and fill out the Notice of Funding Request form, sign the Financial Assistance Agreement, and take other necessary steps. The September deadline is for the Notice of Funding Request, which is a very simple request indicating the tribe's intent to receive HAF funds. It is not a legal grant agreement. Once the tribe signs the Financial Assistance Agreement and pulls the funding down, the tribe must then submit its HAF plan. Tribes will submit their HAF plans through a separate portal—tribes will receive a link to this separate portal via email. Once the tribe's HAF plan is approved, the tribe may draw down the remaining 90 percent (90%) of funding.

IV. Tribal Homes and Indoor Air Quality Resources

Erin McTigue, Tribal Air Specialist: Coordinator of Alaska Tribal Air Program & Tribal Indoor Environments Program for the U.S. Environmental Protection Agency (EPA) Region 10 and Gillian Mittelstaedt, contact for the Tulalip Tribes' Air Quality Program and Director of Tribal Healthy Homes Network, joined the NWIHA meeting to describe new resident education resources to improve indoor air quality.

Ms. McTigue and Ms. Mittelstaedt discussed the impact that COVID-19, wildfire smoke, and extreme heat events are having on indoor air quality in tribal homes. To help tribes and tribal members improve indoor air quality, Tribal Healthy Homes Network has developed AirMatters toolkits for resident education. The toolkits contain a hygrometer, a carbon monoxide detector, green cleaning kit, radon home test kit, N-95 mask, and other useful information to help inform residents of the safety of their homes. Tribes can adapt the toolkits to address their communities' needs. The toolkits are not intended to replace a professional inspection, but are instead intended to help encourage residents to become aware of hazards and encourage inspections, repairs, and mitigations.

Ms. McTigue and Ms. Mittelstaedt commented that the toolkits are useful for tribes that have limited staff time and resources with which to individually educate each tribal member. The toolkits are also intended to spark additional conversations around improving the air quality and safety of tribal homes. Tribes can order the toolkits by contacting Aileen Gagney at agagney@thhnw.org or at (800) 717-2118, Ext 3.

Tribal Healthy Homes Network and the EPA have also developed seasonal guides and posters that provide seasonal maintenance tips on how to improve the health and safety of tribal homes. Ms. McTigue and Ms. Mittelstaedt encouraged tribes to provide these guides and posters in tribal centers, schools, health centers, and other community buildings for residents to take if interested. Tribes can order the guides and posters by contacting Erin McTigue at mctigue.erin@epa.gov.

A third resource that Tribal Healthy Homes Network and the EPA have developed are "Smoke Ready" preparedness toolboxes. The tools provide information to residents on smoke safety during the wildfire season. The toolboxes also provide information on steps that residents can take to improve air quality during wildfire season, such as how to create their own box fan air

filter. Tribes can contact Erin McTigue at mctigue.erin@epa.gov or go to epa.gov/smoke-ready-toolbox-wildfires for more information. Information on wildfire smoke can be found at fire.airnow.gov.

Conclusion

If you have any questions regarding the information contained in this memorandum, please contact Ed Clay Goodman at (503) 242-1745 or egoodman@hobbsstrauss.com.