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## MEMORANDUM

December 17, 2021

TO: TRIBAL HOUSING CLIENTS

FROM:  Ed Clay Goodman and Cari L. Baermann  
HOBBS, STRAUS, DEAN & WALKER, LLP

RE: *NAIHC Monthly Forum*

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On December 15, 2021, the National American Indian Housing Council (NAIHC) hosted its monthly Forum discussion, during which NAIHC provided detailed information and received feedback from tribes and Tribally Designated Housing Entities (TDHEs) on the U.S. Department of Housing and Urban Development (HUD) Continuum of Care Program (CoC Program). NAIHC Executive Director Tony Walters presided over the meeting. This memorandum provides a synthesis of information presented during the call. A copy of the slides presented during the call is attached to this memo.

### **I. Continuum of Care Overview**

The HUD CoC Program is one of the key national programs designed to address and mitigate homelessness in the United States through providing funding for efforts by nonprofit providers, states, tribal entities and designated tribal entities, and local governments to quickly rehouse homeless individuals, families, and others at risk. The CoC Programs is also designed to connect homeless individuals and families with other services to assist with other challenges those individuals and families are facing, and to coordinate those services under one umbrella to increase access to resources.

Funding for the CoC Program is appropriated annually with an average of \$2.5 billion provided each year. The CoC Program is guided by the McKinney Vento Homelessness Assistance Act, as amended by the Hearth Act; the CoC Program Interim Rule (24 CFR 578); a HUD Final Rule defining “Homelessness”; and the Annual Continuum of Care Competition Notice of Funding Opportunity (NOFO).

A Continuum of Care (CoC) is a regional or local planning body that coordinates housing and services funding for homeless families and individuals. The CoC Program is very structured, with numerous strict requirements governing how a CoC conducts outreach and the types of housing to be provided, among other aspects. Mr. Walters noted that it will be

important for tribes to convey to HUD on which aspects of this set structure will cause obstacles for tribes and TDHEs.

American Indian and Alaska Native (AI/AN) households are disproportionately affected by homelessness. AI/AN households comprise 1.3 percent (1.3%) of the total U.S. population, yet they comprise up to ten percent (10%) of persons experiencing homelessness in some areas. However, the extent of homelessness in tribal areas is less conspicuous, as it primarily takes the form of individuals living with family and friends in overcrowded homes. The mechanisms used to count AI/AN households has very limited coverage of tribal areas at this time, so there is much to learn about the extent of actual homelessness among the tribal populations.

Tribes and TDHEs only became eligible to join CoC in 2021, through the Consolidated Appropriations Act, 2021 (Public Law 116-260, Dec. 27, 2020). HUD subsequently engaged in Tribal Consultation on the CoC Program and held sessions on March 24 and May 25, 2021. Both sessions were recorded and can be found online [here](#). HUD states on its website that it received the following feedback from tribes:

- There is a need for technical assistance tailored specifically for Tribes and TDHEs to ensure that they are competitive as project applicants;
- Tribal leaders are concerned about Tribes and TDHEs being able to meet the distinct needs of Tribal members;
- HUD needs to help facilitate connections between Tribes, TDHEs, and CoCs; and
- Tribes are concerned about certain CoC Program requirements, such as the 25 percent (25%) match, Homeless Management Information System (HMIS) participation, and Coordinated Entry System participation.

Mr. Walters commented that NAIHC will continue to check in on the status of HUD's CoC Program Consultations.

There are currently three phrases of tribal participation in the CoC Program. In 2020, a tribe or TDHE could assume the role of a recipient or collaborative applicant for any existing recipient or collaborative applicant choosing to relinquish that role. As of 2021, CoCs can write in geography corresponding to a tribal area or reservation as part of their CoC coverage, which enabled Tribes and TDHEs to apply for projects as part of that CoC. In 2022, the formula establishing the preliminary pro rata need for each CoC will be recalculated to include tribal areas and reservations.

## **II. Tribal Experiences in the CoC Program**

Elizabeth Elliott, Executive Director, and Moriah McGill, Program Developer, of the Northern Circle Indian Housing Authority (NCIHA) then presented information about their

experience in joining the Northern California Region Continuum of Care. NCIHA serves seven tribes in northern California.

The presenters noted that many existing CoCs do not adequately represent or serve tribes and tribal members, and that it takes a significant amount of effort and communication to increase tribal representation in a CoC. They also noted that some of the CoC requirements do conflict with specific tribal cultures and practices, and infringe on tribal self-determination. Tribes and TDHEs interested in creating their own CoC or joining an existing one can use the attached Northern California Tribal Region CoC Governance Charter as guidance.

One participant asked about how the CoC NOFO process works. Ms. Elliott stated that NCIHA chose not to apply during the 2021 application process because HUD's guidance was not clear on how that participation would work. Instead, they plan to apply during 2022.

Another participant asked whether there are any tribes applying as a subrecipient. Mr. Walters commented that he was not aware of any tribe or TDHE that has applied thus far.

### **III. Future Monthly Forums**

Mr. Walters commented that future NAIHC Monthly Forums will generally be held the second Wednesday of each month. The next Forum will be on January 12, 2022, which will cover HUD Housing Counseling. The February 9, 2022 Forum will cover one of the Treasury COVID-19 relief housing programs (to be decided). NAIHC is open to other topics as well and is looking for volunteers to help lead the discussions. Tribes and TDHEs can contact NAIHC with any suggestions or questions.

### ***Conclusion***

We will continue to update you on tribal participation in the CoC Program. If you have any questions, please contact Ed Clay Goodman ([egoodman@hobbsstrauss.com](mailto:egoodman@hobbsstrauss.com)) or Cari Baermann ([cbaermann@hobbsstrauss.com](mailto:cbaermann@hobbsstrauss.com)), or at 503-242-1745.