


**MEMORANDUM**

April 14, 2022

TO: TRIBAL HOUSING CLIENTS  
FROM:  Ed Clay Goodman & Cari L. Baermann  
HOBBS, STRAUS, DEAN & WALKER, LLP  
RE: ***NAIHC Legislative Committee Meeting***

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This memorandum provides a synthesis of information presented during the Native American Indian Housing Council (NAIHC) monthly Legislative Committee meeting held on April 14, 2022. NAIHC Executive Director Tony Walters presided over the Legislative Committee meeting.

**I. Congressional Updates**

*A. 117th Congress Fiscal Year 2022 Appropriations*

The 117<sup>th</sup> Congress is now in its second session. Any bills that were not passed from 2021 will carry over into 2022. However, those bills must be passed this year to become law. On March 10, 2022, Congress passed a \$1.5 trillion omnibus appropriations bill for FY 2022. President Biden signed it into law on March 15, 2022. The bill provides \$1,002,806,000 for Native American programs, to remain available until September 30, 2026. The bill represents a 21% increase in funding for Native American Housing Assistance and Self-Determination Act (NAHASDA) programs. It increases the formula-funded Indian Housing Block Grant (IHBG) to \$772 million for tribes, which is the first substantial increase in the base formula grant program in decades. Below is a breakdown of the amounts compared to prior years.

<b>Programs</b>	<b>FY 2021</b>	<b>FY2022</b>
IHBG	\$647 million	\$772 million
Competitive IHBG	\$100 million	\$150 million
Training and Technical Assistance Grants	\$7 million	\$7 million
Indian Community Development Block Grant (ICDBG)	\$70 million	\$72 million
Title VI Loan Guarantee	\$1 million	\$1 million
Section 184 Loan Guarantee	\$1.5 million	\$3 million
Native Hawaiian Housing Block Grant (NHHBG)	\$2 million	\$22 million

Tribal HUD Veterans Affairs Supportive Housing (HUD-VASH)	\$5 million	\$5 million
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The Biden Administration is continuing its work on the fiscal year (FY) 2023 budget. President Biden released his FY 2023 budget request on March 28, 2022. The budget requests \$1 billion for tribal housing, including \$772 million for IHBG grants, \$150 million for IHBG Competitive grants, \$70 million for ICDBG grants, \$7 million for training and technical assistance, and \$1 million for Title VI loan guarantees. The House and Senate appropriations committees will hold hearings on the budget in the next couple months. NAIHC is continuing to advocate that increased funding be allocated to tribal housing this year.

The President's budget is also requesting a new item for the USDA 502 single-family loan program ("USDA 502 Program") in the amount of \$27 million. The USDA 502 Program is a successful pilot program in South Dakota involving the USDA and two Native Community Development Financial Institutions (CDFIs) in South Dakota – Four Bands Community Fund on the Cheyenne River Indian Reservation and Mazaska Owecaso Otipi Financial on the Pine Ridge Indian Reservation. The USDA 502 Program provides home loan assistance to rural families with low or modest income to help Native American families obtain home ownership. The South Dakota tribes received \$2 million under this initial pilot program.

Mr. Walters commented that \$4 billion in funding that has been provided to Tribal housing in the last two years. Below is a breakdown of that amount.

- \$1.633 Billion through regular annual appropriations
  - \$1.293B in Indian Housing Block Grant (IHBG)
  - \$200M in IHBG competitive grants
  - \$140M in Indian Community Development Block Grant (ICDBG)
- \$650 Million in supplemental IHBG funds
  - \$200M from the CARES Act
  - \$450M from the American Rescue Plan Act (ARP)
- \$380 Million in supplemental ICDBG funds
  - \$100M from CARES
  - \$280M in ARP funds
- \$800M from Emergency Rental Assistance Program (ERAP)
- \$498M from the Homeowner Assistance Fund (HAF)

## II. Update on Other Tribal Housing Bills

### A. NAHASDA

As we reported in prior memos, both the House and Senate are working on versions of bills reauthorizing the NAHASDA. We have reported on the provisions of those two bills in prior reports. The Senate NAHASDA reauthorization bill (S. 2264) has nine bipartisan co-sponsors. On February 16, 2022, the Senate NAHASDA bill was reported out of the Senate Committee on Indian Affairs. The next step is a vote by the full Senate. The bill sponsors are continuing to attempt attach the NAHASDA bill to some other “must-pass” legislation. Mr. Walters commented that the next steps for NAIHC are to increase the number of sponsors for the two bills.

One participant asked about the NAHASDA provision that targets the five 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 participant asked whether that provision is still in the current NAHASDA bill. Mr. Walters remarked that that provision is still in the House bill, but tribal advocates are continuing to work to keep that provision out of any bills moving forward.

The American Housing and Economic Mobility Act (S. 1368, H.R. 2768) (AHM Act), if passed, would also reauthorize NAHASDA through 2031 and would provide \$2.5 billion for NAHASDA in the first year. The AHM Act would also allow tribes to access Section 8 housing vouchers, which provide additional housing assistance to eligible families. Tribes are not currently eligible to access Section 8 housing vouchers. However, Mr. Walters commented that it is not likely to pass in its current form.

### B. Tribal HUD-VASH

There has been some progress recently on the Tribal HUD-VASH legislation. As part of the Senate NAHASDA reauthorization bill, the Tribal HUD-VASH legislation was passed out of the Senate Committee on Indian Affairs and is now waiting to be considered by the full Senate. The Tribal HUD-VASH legislation is also included in the House NAHASDA reauthorization bill, as well as in standalone bills. The Tribal HUD-VASH bill would codify and make permanent the Tribal HUD-VASH program within the larger HUD-VASH program and ensure adequate funding for the program. The bill would also make all tribal nations and their tribal housing programs eligible for the Tribal HUD-VASH program. The funding structure and source of funding for a Tribal HUD-VASH is still up in the air. Tribal advocates want to ensure that the money does not come out of some other already-existing funding for tribal housing.

### C. Other Housing Bills

The Native American Rural Homeownership Improvement Act (NARHI Act) (S. 2092, H.R. 6331) are bipartisan bills being co-sponsored by eight U.S. Senators and three U.S.

Representatives, respectively. The NARHI Act would provide \$50 million from the USDA 502 Program to CDFIs to provide home loans in tribal communities. If passed, the funding would increase the amount of loan funding for tribal communities would bolster local Native CDFIs. To prioritize lending on trust land, it would also waive the 20% match requirement for loans on tribal land. In addition, it authorizes an operating grant for Native CDFIs who relend under this program and appropriates \$1 million annually for technical assistance to Native CDFIs. NAIHC continues to work with bill sponsors to advocate that this bill is passed.

One of the participants noted that the inclusion of funding for the USDA 502 Program in the President's budget is promising. There are also some recommendations being sent to the Congress appropriators to include a request for \$50 million in FY 2023 appropriations. Tribal housing advocates are still trying to find additional sponsors in both the House and Senate to support the NARHI.

As we have reported in prior memos, another bill that could benefit tribal housing is the "Tribal Trust Land Homeownership Act" (S. 3381). There are currently four bipartisan cosponsors for the bill: John Thune (R-SD), Tina Smith (D-MN), Mike Rounds (R-SD), and John Tester (D-MT). Congress is still drafting the bill, so the exact details have not been released. However, the Senate Committee on Indian Affairs considered the bill during a hearing on February 16, 2022. The bill would address issues with the Bureau of Indian Affairs' (BIA) processing title status reports for Section 184, 184A, and other lending programs. The bill would create deadlines for the BIA, which should speed up the process and decrease delays in approval of the title status reports. The bill would also create a position within the BIA that would oversee all of the mortgage processes. The position would report directly to the Secretary of Interior.

One of the participants on the call discussed a bill involving the U.S. Department of Veterans Affairs Native American Direct Loan (NADL) program that may be introduced in the coming months. Last year, Senator Rounds (R-SD) requested a study by the U.S. Government Accountability Office (GAO) on the effectiveness of the NADL program and this study should be released next week. Senator Rounds and other bill sponsors received preliminary GAO findings and they are currently working on draft legislation. Once the full GAO report is released, the Senate Veterans Affairs Committee will hold a hearing (likely in May 2022) and will introduction legislation shortly thereafter.

### **III. HUD Programs**

#### *A. HUD Grants*

NAIHC and other tribal housing advocates continue to advocate that additional funding be provided to tribal housing, particularly in order to help tribes address issues caused by the COVID-19 pandemic.

HUD is on track to award and allocate the ICDBG FY 21 and IHBG Competitive FY 21 grants, but has not yet awarded these grants. The ICDBG FY 21 grant (\$70 million) application

deadline was October 25, 2021. The IHBG Competitive FY 21 grant (\$95 million) deadline was January 4, 2022 (HUD extended the original deadline of December 1, 2021).

The Youth Homelessness Demonstration Program (YHDP) is another program that may benefit tribal communities. The Notice of Funding Opportunity (NOFO) for the FY2021 YHDP is now available [here](#). YHDP is an initiative designed to address systemic responses to youth homelessness and significantly reduce the number of youths experiencing homelessness. Through this NOFO, HUD will award approximately \$72 million in up to 25 participating communities, with a priority for communities with substantial rural populations in up to eight locations. HUD strongly encourages all communities to consider applying. Tribes are eligible to receive funding. The deadline to apply is June 28, 2022. Applications must be submitted through [grants.gov](#). Additional information can be found [here](#).

HUD has also worked to expand the Tribal HUD-VASH funding to tribes. The Notice of Funding Opportunity (NOFO) for the Tribal HUD-VASH closed on January 22, 2022. Webinars were held in early December, 2021, and are now available on the HUD website located [here](#).

#### *B. Other HUD Activities*

As we have reported in prior memos, on April 1, 2022, HUD published a notice alerting Tribal Leaders to the official establishment of the Tribal Intergovernmental Advisory Committee. In association, HUD published a note in the Federal Register outline the structure and purpose the committee, and the procedures for nominating members. Further details can be found in the attached memo.

### **IV. Treasury Programs**

#### *A. Emergency Rental Assistance Program*

As we have reported in prior memos, Tribes received an \$800 million set-aside from the Emergency Rental Assistance (ERA) Program fund to assist eligible households who are facing eviction due to unpaid rents and utilities, or the inability to pay prospective rents and utilities. The deadline to use the ERA Program funds is September 30, 2022. Under the Consolidated Appropriations Act, 2021, Treasury is required to identify “excess funds” for reallocation from amounts Grantees have “not obligated” from their initial ERA allocations. Specifically, the statute provides that beginning on September 30, 2021, Treasury must recapture excess funds, as determined by the Secretary, not obligated by a grantee for eligible ERA11 purposes, and Treasury must reallocate those funds to Grantees that, at the time of the reallocation, have obligated at least 65% of their initial ERA1 allocation. Treasury engaged in consultation with tribes on how to set up a process and standards for such recapture and reallocation for Indian Country, and committed that it would not recapture any funds allocated to tribes or TDHEs before April 2022. On March 30, 2022, Treasury published a notice identifying new ERA Program funds recapture and reallocation guidelines. **We have reported on the reallocation guidelines in a prior memo, which is attached to this memo.**

Tribes can work with nearby ERA Program grantees to receive voluntary reallocations (28 tribes have received reallocations). Mr. Walters stated that Treasury is trying to base some of its decisions after the June reporting timeline. However, that does not give tribes much time to act before the September 30, 2022 expenditure deadline.

One participant asked about the metric Treasury will use to decide how much to recapture from tribes. Another participant commented that for purposes of determining how much of the funds have been obligated, Treasury will look at the quarter in which each tribe was able to expend the most and then will assume tribes can duplicate the expenditure levels of that quarter in the coming months. He noted that Treasury is trying to take as little funds as possible back from tribes.

#### *B. Treasury's Homeowner Assistance Fund*

As we have reported in prior memos, the American Rescue Plan Act (ARPA) provides approximately \$498 million 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 are based on the IHBG formula for FY 2021. Tribes or TDHEs that wished to receive HAF funding were required to submit a Notice of Request for HAF funding by December 15, 2021. Most tribes are still waiting to receive Treasury approval of their HAF plans. However, some tribes have received HAF plan approvals and HAF funds. On March 30, 2022, Treasury published a notice presenting a new draft of the Homeowner Assistance Fund (HAF) Annual and Quarterly Reporting Guidance ("Reporting Guidance") for review and public comment. Details on the Reporting Guidance are included in the attached memo.

NAIHC has training funds available for both the ERA Program and HAF Program. The application form for these training funds is available by contacting [training@naihc.net](mailto:training@naihc.net). Training is also available on NAIHC's website.

### **V. Other Matters**

#### *A. NAIHC Legislative Conference and Annual Convention*

Due to concerns of COVID-19 safety issues, the annual NAIHC Legislative Conference has been postponed to September 19, 2022. NAIHC is still planning on holding its NAIHC Annual Convention in person on May 16–19, 2022, in Seattle Washington. Registration is currently open. The agenda and additional information about the Annual Convention can be found [here](#).

#### *B. NAIHC Legislative Committee Meetings*

The NAIHC Legislative Committee meetings will continue to be held the first Thursday of each month on a videoconference platform. Anyone who would like to submit questions prior

to the calls may do so through the link provided in the NAIHC email sent out prior to each call. Sending in questions and comments ahead of time allows NAIHC to provide detailed responses during the call. Participants can reach out to NAIHC staff with any questions or comments by sending an email to [Twalters@NAIHC.net](mailto:Twalters@NAIHC.net).

*C. Additional Monthly Forums*

NAIHC will continue to hold additional monthly forums to focus on more in-depth conversations, which will be held on the second Wednesday of each month. The next monthly forum will be held on May 4, 2022 and will cover training and technical assistance questions and issues. The forums will cover a rotating discussion on a single topic. Currently, NAIHC is holding forums the three following topics: (1) Treasury programs; (2) HUD Continuum of Care; and (3) HUD Housing Counseling. NAIHC welcomes any other topics individuals would like covered during these monthly forums. One participant suggested the Tribal HUD-VASH program and Section 8 housing vouchers as topics for monthly forums. NAIHC is also asking for volunteers to help lead discussions during the forums.

*D. Other Updates*

NAIHC will continue to provide virtual and in-person training and technical assistance. NAIHC sends out a Native housing newsletter every two weeks. Any tribe who does not currently receive the newsletter can go to the NAIHC website to sign up.

*Conclusion*

If you have any questions, please do not hesitate to contact Ed Clay Goodman at [EGoodman@hobbsstrauss.com](mailto:EGoodman@hobbsstrauss.com) or Cari Baermann at [CBaermann@hobbsstrauss.com](mailto:CBaermann@hobbsstrauss.com) or by phone at (503) 242-1745.