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MEMORANDUM

April 6, 2023

TO: TRIBAL HOUSING CLIENTS

FROM:  Ed Clay Goodman & Cari L. Baermann
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RE: *NAIHC Legislative Committee Meeting*

This memorandum provides a synthesis of information presented during the National American Indian Housing Council (NAIHC) Legislative Committee meeting held on April 6, 2023, as well as other developments in housing matters. NAIHC Executive Director Tony Walters presided over the Legislative Committee meeting.

I. NAIHC Legislative Committee Meeting

a. *Legislative Update*

The 118th Congress is continuing to draft and introduce legislation and hold meetings with constituents and interested parties. The United States Senate Committee on Indian Affairs (SCIA) is holding a hearing on May 8, 2023 on “Native Communities' Priorities for the 118th Congress.” NAIHC has been meeting with Congressmembers and their staff in both the House and Senate to advocate for various tribal housing bills, discussed further below. NAIHC will continue to meet in particular with the Transportation, Housing and Urban Development (THUD) Appropriations Committee Chairs Senator Brian Schatz (D-HI) and Representative Tom Cole (R-OK), who have both been supportive of tribal housing.

b. *Budget and Appropriations*

On March 9, 2023, the Biden Administration released its \$6.9 trillion Fiscal Year (FY) 2024 budget. That is the first step in the appropriations process. The budget requests \$1 billion for tribal housing, including \$820 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. NAIHC is continuing to advocate that increased funding be allocated to tribal housing this year. Below is a breakdown of the FY 2024 President’s budget compared to past appropriations and NAIHC’s recommendations.

Programs	Fiscal Year 2022	Fiscal Year 2023	Fiscal Year 2024 President's Budget Request	NAIHC Recommendation
Indian Housing Block Grants	\$772 million	\$787 million	\$820 million	\$1.642 billion, no less than \$1.111 billion
Competitive IHBG	\$150 million	\$150 million	\$150 million	*combined above
T&TA grants	\$7 million	\$7 million	\$7 million	\$7 million
Indian Community Development Block Grant	\$72.1 million	\$75 million	\$75 million	\$100 million
Title VI Loan Guarantee	\$1 million	\$1 million	\$1 million	\$1 million
Section 184 Loan Guarantee	\$3.5 million	\$5.5 million	\$906 thousand**	\$10 million
Native Hawaiian Housing Block Grant	\$22.3 million	\$22.3 million	\$22.3 million	\$20 million
Tribal HUD-VASH	\$5 million	\$7.5 million	\$5 million	\$7.5 million
HIP	\$11.7 million	\$12.2 million	\$18 million	\$23 million
Rural Development 502 Single Family Direct Loan	\$1.25 billion *general program, not tribal specific	\$1.25 billion + \$10 million for Native CDFI Re-lending Pilot	\$1.5 billion + \$17 million for Native CDFI Re-lending Pilot	\$1.5 billion (general) <i>with</i> tribal set-aside

The President’s budget also requested an additional \$5 million for the U.S. Department of Agriculture’s (USDA) 502 relending program (“USDA 502 Program”). 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.

Additionally, the U.S. Department of Housing and Urban Development’s (HUD) budget request included a proposal to amend the Section 184 authorizing statute to permit HUD to expand the program service area to all Tribal members regardless of where they purchase a home. HUD’s budget request also requested allowing new construction with ICDBG funds.

In the spring and summer of 2023, the House and Senate appropriations committees will hold hearings on the budget, receive feedback from their constituents, and accept letters on legislative priorities from Congressmembers. Congress will aim to start drafting FY 2024 appropriations bills during the summer of 2023, with a September 30, 2023 deadline by which they must pass the appropriations in order to continue funding the Federal Government. NAIHC will continue to push for the reauthorization of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) and for more resources for tribal housing. NAIHC is also working with the Senate THUD Appropriations Committee Chairman Schatz and Ranking

Member Cindy Hyde-Smith (R-MS), and House THUD Appropriations Chairman Cole and Ranking Member Mike Quigley (D-IL), to advocate for increased appropriations funding for tribal housing.

As part of the appropriations discussion, some of the participants commented on the obstacles that small tribes face in obtaining and using the NAHASDA housing funding. They also commented on the limited NAHASDA funding for tribes and the difficulties in dividing up such a limited amount of funding between all of the tribes.

c. Tribal Housing Legislation

Native American Housing Assistance and Self-Determination Act of 1996. Now that the 118th Congress has begun, the process for introducing and passing a NAHASDA reauthorization bill will start over. The two versions of the NAHASDA reauthorization bill introduced in 2021 (S. 2264 and H.R. 5195) contained some promising provisions and NAIHC hopes these provisions will provide a strong foundation on which to reauthorize NAHASDA in 2023. NAIHC will focus its effort in 2023 on advocating that Congress draft one single bill reauthorizing NAHASDA, to be passed in both the Senate and House, instead of each chamber drafting and passing separate bills. NAIHC has already met with multiple SCIA Majority/Minority Congressmembers, as well as with the Republican Financial Services Committee Chairman Patrick McHenry (R-NC).

Because Congress has not yet introduced a NAHASDA reauthorization bill this year, advocates can support the reauthorization by mentioning the Senate NAHASDA bill introduced in 2021 and noting that tribes support that Senate bill. Advocates can encourage Senators and Representatives to co-sponsor a single NAHASDA bill in 2023. Senators Schatz and Lisa Murkowski (R-AK) are the leaders on the NAHASDA bill and NAIHC is continuing to work with them to introduce a new NAHASDA reauthorization bill.

One of the participants asked about whether there is any further discussion about revising the definition of “Native American” with regard to the Census. Mr. Walters responded that he has not received an update on the Census definition of Native American. The participant also asked whether there is an update regarding the Representative Maxine Waters’ position on including language in NAHASDA that targets the five tribes (“Five Tribes”) in Oklahoma (Cherokee Nation, Seminole Nation, Muscogee (Creek) Nation, Chickasaw Nation, and Choctaw Nation), withholding NAHASDA funding from the Five Tribes unless they provide housing assistance to Freedman descendants. Mr. Walters responded that this Freedman issue remains a big issue for Representative Waters and that this issue could continue to pose a problem to passing NAHASDA. NAIHC is continuing to work with other Congressmen to determine how to address this issue.

The American Housing and Economic Mobility Act. The American Housing and Economic Mobility Act was another bill introduced in 2022 that included a provision reauthorizing NAHASDA for a period of ten years. It would have provided up to \$2.5 billion for NAHASDA in the first year and would have allowed tribes access to Section 8 housing vouchers. Tribal housing advocates will continue efforts to reintroduce this bill in 2023.

Native American Rural Homeownership Improvement Act (NARHI Act). The NARHI Act, introduced in 2022, would have provided \$50 million from the USDA Single Family Home Loan Program to Native Community Development Financial Institutions (CDFIs) to provide home loans in tribal communities. It would also have expanded the USDA 502 Program, currently operating only in South Dakota. In addition, it would have authorized an operating grant for Native CDFIs who re-lend under this program and would have appropriated \$1 million annually for technical assistance to Native CDFIs. Last year, advocates in both the House and Senate indicated they intend to include the NARHI Act in the upcoming farm bill (an omnibus, multiyear package of legislation that governs a variety of agricultural and food programs). Senator Mike Rounds (R-SD) has advocated that an additional \$12 million be added to the budget for this program next year. Representative Cole, Co-Chair of the Native American Caucus, has also been advocating strongly for the bill. Tribal housing advocates will continue efforts to reintroduce this bill in 2023.

Tribal HUD-Veterans Affairs Supportive Housing (HUD-VASH) Program. The Tribal HUD-VASH program, introduced in 2022, aimed to codify a tribal housing initiative between the U.S. Department of Veterans Affairs (VA) and HUD. This program pairs recipients of HUD housing vouchers with VA case managers and supportive services to provide rental and housing assistance to permanently house homeless and at-risk veterans in Indian Country. The bill would also have ensured that at least five percent of all HUD-VASH vouchers are set aside for tribes and tribal housing authorities. The Tribal HUD-VASH program has been included in the larger efforts to reauthorize NAHASDA. NAIHC will advocate that the bill sponsors re-introduce this as a standalone bill this year. The 2022 bill was supported by Senators Jon Tester (D-MT) and Jerry Moran (R-KS), and Congressmembers Mike Bost (R-IL) and Mark Takano (D-CA).

One participant asked about the progress in moving this HUD-VASH program forward. Mr. Walters commented that the HUD-VASH program has a significant amount of support, but that the main issue is attaching the Tribal HUD-VASH bill to a larger bill in order for Congress to pass it. It has been included in NAHASDA in the last couple of years, and tribal advocates will continue to identify other larger bills to which to attach the HUD-VASH bill. Additionally, the regular HUD-VASH program has established a pilot program for veterans for which the interest rate will be capped at 2.5%.

Tribal Trust Land Homeownership Act, S. 70. On January 25, 2023, Senator John Thune (R-SD) introduced the Tribal Trust Land Homeownership Act. It currently has four bipartisan cosponsors: Senator Thune, Senator Tina Smith (D-MN), Senator Rounds, and Senator Tester. The bill sets forth requirements for the processing of a proposed residential leasehold mortgage, business leasehold mortgage, land mortgage, or right-of-way document by the Bureau of Indian Affairs (BIA). Notably, the Act would establish timeframes for the realty and land title process.

Native American Direct Loan Improvement Act. The VA Native American Direct Loan (NADL) program allows eligible Native American Veterans to buy, build, or improve a home on federal trust land. The NADL may also be used to refinance an existing loan to reduce the interest rate. The NADL Act's 2022 bill would have provided funding for Native CDFIs to expand outreach for the program to increase veteran participation. Additionally, the bill would have adopted the re-lending model through Native CDFIs, which would provide Native CDFIs with more flexibility to use the funding in a way that fits Native communities. NAIHC will advocate

that the bill sponsors re-introduce this as a standalone bill this year. However, Senator Sherrod Brown (D-OH), the Chair of the Senate Committee on Banking, Housing, and Urban Affairs, has already expressed some concerns with parts of the bill. NAIHC will be meeting with Senator Brown and Senators Debbie Stabenow (D-MI), John Boozman (R-AR), Glenn Thompson (R-PA), and David Scott (D-GA) to address these concerns and advocate that the bill be passed. Joanna Donohoe commented that Chairman Tester is working to put together a number of veterans bills as a package, with this NADL as part of the package. Mr. Walters remarked that including the NADL with other veterans bills could be a useful way to have the NADL passed.

One participant remarked that Tribal advocates are working with Senator Mike McGuire (D-CA) to create a bill (SB18) that would enact the Tribal Housing Reconstitution and Resiliency Act and would create the Tribal Housing Grant Program Trust Fund. The tribal housing grant program would authorize the funds to be allocated for housing and housing-related program services for affordable housing, housing and community development project costs, and management services for affordable housing, among other purposes. The grant program would be funded and administered through the California Department of Housing and Community Development. The participant encouraged tribes to join in the advocacy efforts for that program.

d. HUD programs

HUD's Office of Native American Programs (ONAP) recently published the FY 2023 IHBG Formula Allocations, available [here](#). ONAP also released a [Dear Tribal Leader Letter](#) (DTLL), in which ONAP announced that the total IHBG appropriation for FY 2023 is \$787 million. Tribes and Tribally Designated Housing Entities (TDHEs) must review their data on the FY 2023 IHBG Allocation and Formula Data Sheets and report any changes to the IHBG Formula Customer Service Center. Additional information and forms can be found [here](#).

The FY 2023 IHBG competitive funding (\$150 million) and FY 2023 Indian Community Development Block Grant (ICDBG) funding (\$70 million) will be available soon. Additionally, ICDBG imminent threat funding is still available and HUD encourages tribes and TDHEs to apply.

On March 29, 2023, the United States Department of Housing and Urban Development (HUD) announced that its Tribal Intergovernmental Advisory Committee (TIAC or "Committee") will meet for the first time on April 12–13, 2023, in Washington, D.C. In its March 29, 2023 notice, HUD reiterated its desire that the TIAC, which is HUD's first tribal advisory committee, will help "strengthen HUD's engagement with Tribal Nations." To this end, the public may observe the upcoming meeting, but only TIAC members may formally participate in the meeting or make statements before the Committee. Additional information related to this meeting can be found by contacting Heidi J. Frechette, Deputy Assistant Secretary for Native American Programs in the Office of Public and Indian Housing at HUD. Ms. Frechette may be reached at 202-401-7914.

On February 13, 2023, HUD published a [notice](#) in the Federal Register regarding Addressing Radon in Environmental Review Process. The Notice invites interested persons to submit comments on the proposed HUD Departmental Radon Policy that includes a proposed clarification that radon as a radioactive substance must be considered in the environmental

review of proposed HUD-assisted projects. Comments may be submitted to HUD electronically at <http://www.regulations.gov>. The deadline for submitting comments is April 14, 2023.

e. Treasury Programs Update

1. ERA Program

The U.S. Department of Treasury's Emergency Rental Assistance Program ("ERA Program") funds expired on September 30, 2022 and are no longer available to provide financial assistance and housing stability services to eligible households. Funds can now be used only for administrative expenses beyond the September 30, 2022 deadline. Tribes that received reallocated funds had until December 29, 2022 to spend those reallocated funds. That December 29, 2022 deadline was a hard deadline, so tribes can no longer write any checks for ERA Program funds, including for prospective rent.

Mr. Walters stated that there has not been much success in efforts to convince Congress to retroactively extend the expenditure deadline for the ERA Program for another year. NAIHC has drafted letters, available at this [link](#), that tribes can use to send to their own members of Congress. Mr. Walters noted that while it is possible for there to be an extension, such an extension is very unlikely.

One participant asked where the funds that Treasury recaptured from the ERA Program will go. Mr. Walters commented that it is not clear where the recaptured funds will go, but that some Congressmembers would argue that the recaptured funds would go back into the general appropriations pool.

2. HAF Program

The American Rescue Plan Act of 2021 ("ARP Act") provides approximately \$498 million in funding to tribes for the Homeowner Assistance Fund (HAF) Program. This 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. As of April 6, 2023, over 180 tribes have received HAF plan approval and funds. Mr. Walters commented that it is in tribes' best interest to submit their HAF plans as soon as possible, if they have not yet done so. He noted that if HAF funds remain unclaimed, it can be an indication to Congress that those funds are not needed, which in turn may cause Congress to decrease the amount of funding appropriated for tribal housing in the future.

f. Other Matters

3. NAIHC Legislative Committee Meetings and Future Conferences

The NAIHC Legislative Committee meetings will continue to be held on the first Thursday of each month via Zoom. NAIHC will still be holding its next Legislative Committee meeting on May 4, 2023. Anyone who would like to submit questions prior to the calls may do so through the link provided in the NAIHC email sent out before each call. Additionally, NAIHC will also be holding its Annual Convention on May 8–11, 2023 in Waikoloa, Hawaii. Registration is now open for the Annual Convention.

Tribes and TDHEs can find more information and trainings on tribal housing programs through NAIHC's YouTube channel, which can be found [here](#).

Conclusion

If you have any questions about this memorandum or any of the topics discussed in this memorandum, please contact Ed Clay Goodman (egoodman@hobbsstrauss.com or 503-242-1745) or Cari Baermann (cbaermann@hobbsstrauss.com or 503-242-1745).