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## MEMORANDUM

March 8, 2024

TO: TRIBAL HOUSING CLIENTS

FROM:  Ed Clay Goodman & Cari L. Baermann  
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RE: ***2024 NAIHC Legislative Committee Meeting***

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This memorandum provides a synthesis of information presented during the National American Indian Housing Council (NAIHC) Legislative Committee Meeting held on March 7, 2024, as well as updates on other housing matters.

### I. NAIHC Legislative Committee

The new NAIHC Executive Director Douglas Marconi, NAIHC Chairperson Sami Jo Difuntorum, NAIHC Legislative Aid Blythe McWhirter, and NAIHC Finance and Operations Manager Ryan Edwards facilitated the Legislative Committee Meeting.

#### *a. Build America, Buy America Act (BABA)*

The Build America, Buy America Act (BABA) was enacted on November 15, 2021. BABA establishes a domestic content procurement preference (“Buy America Preference,” or “BAP”) for Federal infrastructure programs. On August 23, 2023, United States Office of Management and Budget (OMB) published a final rule to implement BABA, located at [2 CFR Part 184](#) and incorporated into 2 CFR Part 200.

The BABA requires United States Department of Housing and Urban Development (HUD) to ensure that none of the funds made available for infrastructure projects may be obligated by HUD unless HUD has taken steps to ensure that all iron, steel, manufactured products, and construction materials used in a project are produced in the United States. Projects include “the construction, alteration, maintenance, or repair of infrastructure in the United States.” The BAP applies to *all sources* of Federal Financial Assistance (FFA) provided to tribes, Tribally Designated Housing Entities (TDHEs), and other tribal entities (collectively “Tribal Recipients”) involving infrastructure projects. HUD has issued two extensions of the deadline for tribal compliance with BABA requirements, and the current extension expires on May 24, 2024. Please see our September 22, 2023 and November 6, 2023 memoranda for a more detailed analysis of the BABA requirements and the effects that BABA will have on tribes.

NAIHC has put together a letter to send to HUD and OMB on a proposed strategy for addressing how BABA applies to tribes and TDHEs. The letter includes language addressing the conflict caused by the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) Native preference requirements and BABA requirements. The letter asks the OMB and HUD to recognize the government-to-government relationship between tribes and the federal government. The letter further requests that HUD issue a waiver for application of BABA to tribes and TDHEs until HUD determines how BABA will impact tribal costs for projects. This waiver would be similar to how the U.S. Department of Energy (DOE) has issued a waiver for Hawaii Natives until DOE is able to determine how BABA will affect their costs. The letter will be signed by the NAIHC board members to demonstrate the strong Native support for the strategies it proposes.

*b. Budget and Appropriations*

On March 6, 2024, the House of Representatives passed a six-bill, \$467.5 billion final fiscal year (FY) 2024 appropriations package (H.R.4366 – Consolidated Appropriations Act, 2024). The Senate now has to pass the bill ahead of the March 8, 2024 deadline for four of the six appropriations measures included in the combined bill to prevent a partial government shutdown this weekend. The package includes the Military Construction-Veterans Affairs measure, as well as the Agriculture, Commerce-Justice-Science, Energy-Water, Interior-Environment, and Transportation, Housing and Urban Development, and Related Agencies Bills (THUD) bills. The THUD bill includes a significant amount of funding appropriated to American Indian and Native Hawaiian housing programs compared to FY 2023, summarized in the following table:

<b>Native American Programs</b>	FY2023	FY2024
Tribal HUD-VASH	\$7.5 million	\$7.5 million
Indian Housing Block Grant (IHBG)	\$787 million	\$1.11 billion
Competitive Grants	\$150 million	\$150 million
Title VI Loans	\$1 million	\$1 million
Indian Community Block Grant (ICBG)	\$75 million	\$75 million
Training and Technical Assistance	\$7 million	\$7 million
National Organization Funding (per Sec.703 of NAHASDA)	\$2 million	\$2 million
Section 184 Loans	\$5.5 million	\$1.5 million
Imminent threats to health and safety	\$5 million	\$5 million
<b>Native Hawaiian Program</b>		
Native Hawaiian Housing Block Grant (NHHBG)	\$22 million	\$22.3 million
Training and Technical Assistance	\$1 million	\$1 million
Total loan principal under Section 184	\$28 million	\$28 million

The House is expected to release the next six-bill package for the rest of the federal government as early as this weekend, which must be passed by March 22, 2024 to avoid a partial government shutdown.

*c. NAHASDA Reauthorization*

**NAHASDA.** As we have discussed in prior memoranda, the Senate Committee on Indian Affairs (SCIA) Chair Brian Schatz (D-HI) and Vice Chair Lisa Murkowski (R-AK) introduced legislation in 2023 to reauthorize NAHASDA (S. 2285). The reauthorization bill was later added as an amendment to the Senate's National Defense Authorization Act (NDAA), which was passed by the full Senate on July 27, 2023. Unfortunately, the NAHASDA reauthorization bill was removed from the NDAA during conference negotiations with the House.

The participants discussed a new proposed strategy for breaking up the NAHASDA bill into multiple, separate bills in order to give each of those bills a greater chance of being passed. The participants commented that if the NAHASDA reauthorization bill was separate from the provisions amending the existing regulations, Congress might look more favorably on both the reauthorization and the program amendments. The participants noted that if not all of the NAHASDA provisions were included in one all-or-nothing bill, perhaps Congressional members would be more likely to pass some of the provisions. This could be specifically true for the House Financial Services Committee, as the participants commented that the House Financial Services Committee Members have never strongly supported NAHASDA bill. NAIHC will continue to develop this new proposed strategy and welcomes tribal feedback on how to make it effective.

*d. Other Tribal Housing Legislation*

The following are bills introduced in 2023 that would have benefited tribal housing. Congress will need to reintroduce these bills in 2024 for the bills to be passed.

**Native American Rural Homeownership Improvement Act ("NARHI Act").** The NARHI Act, re-introduced in 2023 as part of the Rural Housing Service Reform Act of 2023 (S. 1389), would provide \$50 million from the U.S. Department of Agriculture (USDA) Single Family Home Loan Program to Native Community Development Financial Institutions (CDFI) to provide home loans in tribal communities. It would also expand the USDA 502 Program, a demonstration project currently operating only in South Dakota. In addition, it would authorize an operating grant for Native CDFIs who re-lend under this program and would appropriate \$1 million annually for technical assistance to Native CDFIs. Senator Mike Rounds (R-SD) and Representative Tom Cole (R-OK), Co-Chair of the Native American Caucus, advocated strongly for the bill.

**Tribal 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 the HUD. This program paired 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 (5%) 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. The 2022 bill was supported by Senators Jon Tester (D-MT) and Jerry Moran (R-KS), and Representatives Mike Bost (R-IL) and Mark Takano (D-CA).

**Tribal Trust Land Homeownership Act (S. 70/H.R. 3579).** The Tribal Trust Land Homeownership Act (TTLHA) bill set 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). Additionally, the bill set forth requirements for the BIA regarding (1) response times for the completion of certified title status reports, (2) notification of delays in processing, and (3) the form of notices and delivery of certain reports.

**Native American Direct Loan Improvement Act of 2023 (S. 185).** 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 S. 185 bill addressed some of the issues found in a U.S. Government Accountability Office (GAO) [report \(#GAO-22-104627\)](#) on the effectiveness of the NADL program. The bill would also 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.

**Unlocking Native Lands and Opportunities for Commerce and Key Economic Developments Act of 2023 (S.1322) (“UNLOCKED Act”).** Senator Schatz and Senator Murkowski introduced the UNLOCKED Act in 2023. The bill would have amended the Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012 (“HEARTH Act”), 25 U.S.C. § 415, to authorize all federally recognized tribes to issue leases of up to 99 years and affirm tribal authority to issue rights-of-way. The Unlocked Act was intended to eliminate barriers to tribal infrastructure and economic development projects.

*e. TIAC Update*

Participants gave an update on the HUD Tribal Interagency Advisory Committee (TIAC). The TIAC has developed position papers on a number of topics, including BABA, funding equity, ICDBG rulemaking, data, and studies on housing construction costs, how to make housing more affordable, and procurement issues. The TIAC plans to continue to develop and release these positions papers in the coming months. The TIAC will likely be holding its next bi-annual meeting May 13–19, 2024 in Washington DC. More information will be available soon.

*f. HUD Preservation and Reinvestment Initiative for Community Enhancement (PRICE) NOFO*

On February 28, 2024, HUD issued a [Notice of Funding Opportunity \(NOFO\)](#) which appropriates **\$225 million** in grant funding for the Preservation And Reinvestment Initiative For Community Enhancement (PRICE) competition. PRICE supports communities in their efforts to maintain, protect, and stabilize manufactured housing and manufactured housing communities (MHCs) preservation and revitalization of manufactured housing and eligible manufactured housing communities. Tribes and TDHEs are eligible to apply, and at least \$10 million of the available funding is intended for Tribal communities.

HUD will be hosting a number of webinars with more information on PRICE. Tribes and TDHEs can sign up for the [PRICE NOFO](#) webinars [here](#).

*g. 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. 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.

***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](mailto:egoodman@hobbsstrauss.com)) or Cari Baermann ([cbaermann@hobbsstrauss.com](mailto:cbaermann@hobbsstrauss.com)). Both may also be reached at 503-242-1745.