




MEMORANDUM

July 12, 2024

TO: TRIBAL HOUSING CLIENTS

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

RE: ***NAIHC July 11, 2024 Legislative Committee Meeting and Other Housing Updates***

This memorandum provides a synthesis of information presented during the National American Indian Housing Council (NAIHC) Legislative Committee Meeting held on July 11, 2024, as well as updates on other housing matters.

I. NAIHC Legislative Committee

NAIHC Executive Director Douglas Marconi and NAIHC Legislative & Program Aide Blythe McWhirter facilitated the Legislative Committee Meeting.

a. Budget and Appropriations

Ms. McWhirter provided an update on the Fiscal Year (FY) 2025 appropriations. As we have reported in prior memoranda, on March 11, 2024, the President released his FY 2025 Budget Request ("Budget Request"), including his proposal for the U.S. Department of Housing and Urban Development (HUD) in FY 2025. The FY 2025 discretionary budget is capped at roughly FY 2023 enacted levels by the spending limits set by the Fiscal Responsibility Act (P.L.118-5). This means that the President cannot request significant increases for discretionary programs without offsetting the increases with cuts elsewhere. As such, the FY 2025 Budget Request is significantly lower across the board than the FY 2024 enacted levels.

Overall, the President requests \$1.05 billion for tribal housing programs, which is \$287 million (21%) below FY 2024 enacted levels. This cut comes almost entirely from the Indian Housing Block Grant (IHBG), which the Budget Request propose to decrease by \$290 million (26%). The FY 2025 Budget Request would keep funding flat for every other account with the exception of Section 184 Indian Housing Loan Guarantee ("Section 184"), which would receive a \$500,000 (33%) increase. Lastly, the President did not request new funds for HUD-Veterans Affairs Supportive Housing (HUD-VASH).

The House Appropriations Committee released the FY 2025 bill for Transportation, Housing and Urban Development, and Related Agencies Appropriations Act (THUD). On July

10, 2024, the full committee marked up the THUD bill. The THUD bill will move to the House floor next for consideration by the full House. The THUD bill includes \$1.455 billion for Native American programs, which is an increase over both FY 2023 and FY 2024 funding and is also significantly higher than the Biden Administration's budget proposal (which proposed a big reduction from FY 2024). However, Ms. McWhirter commented that appropriations for the Native Hawaiian Block Grant was removed from the full committee markup of the THUD bill. Chairman Cole stated that he will strive to add the Native Hawaiian Housing Block Grant (NHHBG) back in. However, Chairman Cole also indicated that the funding for the NHHBG may be deducted from the \$1.22 billion allocated to the Indian Housing Block Grant (IHBG) in the THUD bill.

For your reference, below is a chart showing the FY 2024 appropriations, the Biden Administration's budget proposal, and the recently released THUD appropriations bill:

Native American Programs	FY 2024	FY 2025 Request	THUD Bill
Tribal HUD-VASH	\$7.5 million	\$0	\$8 million
Indian Housing Block Grant (IHBG)	\$1.11 billion	\$820 billion	\$1.22 billion
Competitive Grants	\$150 million	\$150 million	\$150 million
Title VI Loans	\$1 million	\$1 million	\$1 million
Indian Community Development Block Grant (ICDBG)	\$75 million	\$75 million	\$75 million
Training and Technical Assistance	\$7 million	\$7 million	\$7 million
National Organization Funding (per Sec.703 of NAHASDA)	\$2 million	\$2 million	\$2 million
Section 184 Loans	\$1.5 million	\$2 million	\$2 million
Imminent threats to health and safety	\$5 million	\$5 million	\$5 million
Native Hawaiian Program			
Native Hawaiian Housing Block Grant (NHHBG)	\$22.3 million	\$22.3 million	\$22.3 million
Training and Technical Assistance	\$1 million	\$1 million	\$1 million

In the summer of 2024, the House and Senate appropriations committees will continue to hold hearings on the budget, receive feedback from their constituents, and accept letters on legislative priorities from Congressmembers. Congress must pass the FY 2025 appropriations by September 30, 2024 in order to continue funding the Federal Government.

b. NAHASDA Reauthorization

Ms. McWhirter also discussed the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) reauthorization efforts. On July 10, the Senate Committee on Indian Affairs (SCIA) Chair Brian Schatz (D-HI) and Vice Chair Lisa Murkowski (R-AK) added the NAHASDA reauthorization bill to the Senate's National Defense Authorization Act (NDAA). Ms. McWhirter commented that NAIHC is continuing to set up meetings with HUD officials and various Congressmembers to advocate for the NAHASDA reauthorization bill. Because the NDAA is a "must pass" bill, having the NAHASDA reauthorization attached to the Senate version of the NDAA is good news. NAIHC is collaborating with NCAI to advocate for the NAHASDA reauthorization by keeping it as an amendment to the NDAA.

Ms. McWhirter stated that NAIHC will also focus on advocating for NAHASDA with the House Financial Services Committee, which must sign off on a NAHASDA reauthorization. One of the participants recommended that NAIHC also focus on advocating with U.S. Representative Patrick McHenry (R-NC). Representative McHenry was opposed to NAHASDA last year. Ms. McWhirter responded that NAIHC will try to set up meetings with Representative McHenry to determine whether he will object to NAHASDA this year and how tribal housing advocates can overcome those objections.

c. Build America, Buy America Act (BABA)

The participants also discussed the Build America, Buy America Act (BABA) and how it will impact tribes and Tribally Designated Housing Entities (TDHEs). BABA was enacted on November 15, 2021 and establishes a domestic content procurement preference ("Buy America Preference," or "BAP") for Federal infrastructure programs.

The BABA requires HUD to ensure that none of the funds made available for infrastructure projects may be obligated by HUD unless it 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, TDHEs, and other tribal entities (collectively "Tribal Recipients") involving infrastructure projects. 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.

On May 14, 2022, HUD published a one-year general applicability public interest waiver ("Waiver") of the BAP in connection with HUD funding provided to Tribal Recipients. On May 30, 2023, HUD published a [notice \("Extension Notice"\)](#) extending the Waiver until May 23, 2024. On July 10, 2024, HUD issued a final rule, extending the Waiver again and stating that the Waiver period will end on **September 30, 2024**. Tribes and TDHEs should begin preparing for how to comply with BABA, so that they are ready when the waiver expires.

d. Other Tribal Housing Legislation

The following are bills introduced in 2023 or 2024 that would benefit tribal housing but that have not yet been enacted.

Tribal Rural Housing Access Act (S.3906). Senator Elizabeth Warren (D-MA) introduced the Tribal Rural Housing Access Act bill. Under the Tribal Rural Housing Access Act, the U.S. Department of Agriculture (USDA) would be required to set aside five percent of its funding under certain Rural Housing Service programs for use by tribes, tribally designated housing entities, tribal members, and tribal-owned entities. The legislation proposes the set-aside for a range of loan and grant programs, including programs providing technical assistance, money for repair and rehabilitation of rural housing, and the construction of new, multi-family homes for low-income residents.

Native American Rural Homeownership Improvement Act ([S.1941](#)) ("NARHI Act"). The NARHI Act would provide \$50 million from the 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 Cole, Co-Chair of the Native American Caucus, have advocated strongly for the bill.

Tribal HUD-VASH Program ([H.R.4155](#)). The Tribal HUD-VASH program aims to codify a tribal housing initiative between the U.S. Department of Veterans Affairs (VA) and the 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 ensure 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.

Tribal Trust Land Homeownership Act ([S.70/H.R.3579](#)). The Tribal Trust Land Homeownership Act (TTLHA) 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). Additionally, the bill sets 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 addresses 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 provide funding for Native CDFIs to expand outreach for the program to increase veteran participation. Additionally, the bill would adopt 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 amend 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 is intended to eliminate barriers to tribal infrastructure and economic development projects.

GSA Disposal Process Tribal Parity Act of 2024 ([S.3564/H.R.7663](#)). Senators Alex Padilla (D-CA) and James Lankford (R-OK) introduced the Senate version of the bill, and Representative Dusty Johnson (R-SD) introduced the House version of the bill. This bill would allow tribal governments to participate in an existing process that allows the General Services Administration

(GSA) to transfer surplus federal property to state and local governments below market value if those properties will be used for specified public purposes. The press release is [here](#). On May 22, 2024, the Senate Committee on Environment and Public Works ordered the bill to be reported without amendment favorably, clearing it for Senate Floor consideration.

e. Tribal Consultation on Annual Budget

HUD hosted a first inaugural annual budget consultation on June 14, 2024. HUD intended for the consultation to provide a forum for nation-to-nation dialogue where Tribes could share their views and housing funding priorities with senior HUD officials to help shape HUD's FY 2026 budget request. HUD stated that it is also seeking ideas for legislative proposals. The deadline for Tribal comments on the HUD annual budget is **July 12th, 2024**. Tribes can submit all electronic comments to consultation@hud.gov and should include "HUD's Annual Budget Tribal Consultation" in the subject line with the submission.

f. 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 sends 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) or Cari Baermann (cbaermann@hobbsstrauss.com). Both may also be reached at 503-242-1745.