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MEMORANDUM

July 19, 2024

TO: TRIBAL HOUSING CLIENTS

FROM:  ED CLAY GOODMAN AND CARI L. BAERMANN
HOBBS, STRAUS, DEAN & WALKER, LLP

RE: ***HUD Tribal Intergovernmental Advisory Committee Monthly Meeting***

On July 18, 2024, the United States Department of Housing and Urban Development (HUD) held a virtual Tribal Intergovernmental Advisory Committee (TIAC or “Committee”) monthly meeting. Below is a summary of the TIAC meeting.

I. HUD TIAC Meeting

Jacqueline Pata, TIAC Co-Chair and First Vice President of the Central Council of Tlingit and Haida Indian Tribes of Alaska, gave opening remarks at the meeting. HUD Deputy Assistant Secretary Heidi Frechette and Jad Atallah, Director of the Office of Native American Programs (ONAP) Office of Performance and Planning, and other HUD staff attended the virtual meeting as well.

A. Presentations

1. *HUD Equity Group (Erin McCord and Maria Danz)*

Erin McCord, HUD Public and Indian Housing Financial Analyst and Maria Danz, ONAP Grants Management Specialist gave a presentation on the HUD Equity Group (“Equity Group”). The Equity Group has developed a number of strategies to research equity issues within the communities that HUD serves. One of the strategies is using data to create equity.

Ms. McCord stated that as part of the strategy to use data to create equity, the Equity Group has researched studies, memoranda of understandings, and executive orders to examine tribal treaty rights and HUD’s trust responsibilities to tribes. HUD’s intent is to use this data to more equitably allocate its funding budget. Ms. Danz noted that HUD is aware that unsafe and overcrowded housing is more common in tribal communities. She also noted that HUD’s budget has increased by approximately 50% since 1996, while the Native American Housing Assistance and Self-Determination Act (NAHASDA) funding has increased only marginally. The Equity Group research is intended to focus on that funding difference and support efforts to remedy the funding inequity.

The tribal leaders participating on the call commented on other equity challenges that tribes face in receiving HUD funding. Teri Nutter, Vice President, Gulkana Village Council, Tribal Member, stated that many notice of funding opportunities (NOFOs) do not reflect unique tribal information, such as geographic areas, tribal data, tribal political structure, etc. Because the NOFOs do not reflect this information, tribes are often unable to submit a competitive grant application. Ms. Nutter commented that part of the reason why the NOFOs do not reflect tribal data may be due to the fact that HUD has not conducted any research on the factors that make tribal communities different from other applicants.

Kristen Arnold, ONAP Specialist, responded that the U.S. Treasury, U.S. Department of Interior (DOI), U.S. Health and Human Services (HHS), and the White House recently completed a Tribal Customer Experience (CX) Pilot for Post-Award Reporting. This pilot was intended to create and test out solutions to reduce the administrative burden of tribal grant recipients. In creating the pilot, HUD recognizes that many tribes, particularly those in rural and remote areas, face additional obstacles in complying with grant reporting requirements. These agencies created a report that summarizes that pilot. The report focuses on determining what factors make reporting difficult and how federal agencies can help address those difficulties. The report identifies barriers such as lack of access to reliable internet, a lack of flexible reporting tools, and tedious reporting requirements. The report also identifies what steps can be taken to overcome these and other barriers, including creating a federal grant systems hub and providing alternative means of meeting reporting requirements when access to internet is limited. Additional information on the pilot and the report's recommendations to reduce administrative reporting burdens is available [here](#).

2. PD&R IHBG Formula and Census Data (Todd Richardson and Jad Atallah)

Todd Richardson, General Deputy Assistant Secretary of HUD's Office of Policy Development and Research (PD&R), gave a presentation on the Indian Housing Block Grant (IHBG) formula ("Formula").

The Formula was developed through negotiated rulemaking and has been renegotiated three times since 1996. The Formula is administered at the national level in consultation with the Area ONAPs. A tribe's IHBG allocation depends on:

- The amount available for allocation (based on appropriations);
- Formula Current Assisted Stock (FCAS);
- Share of national needs ("Needs"); and
- Other Formula adjustments.

There are a number of factors that go into whether a unit counts as an FCAS unit, including: how the units were funded; whether they have been conveyed or are conveyance eligible; and whether they have been demolished. See 24 CFR § 1000.312-.322. Mr. Richardson commented that there is no operating subsidy for units built under NAHASDA. Instead, that funding comes out of the Needs side of the formula.

Once HUD determines the FCAS allocation, HUD allocates the remaining funds by a Need component. See 24 CFR § 1000.324. Mr. Richardson stated that for the Needs part of the Formula,

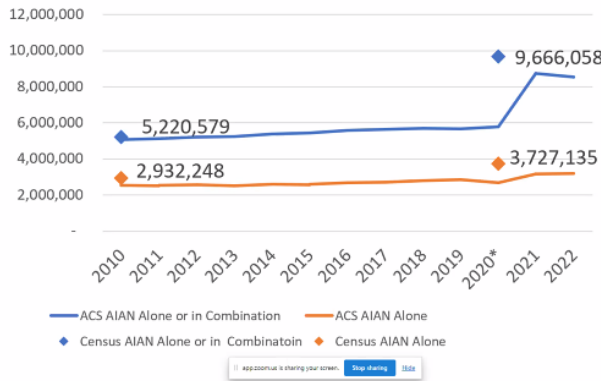
they use the American Community Survey (ACS) data. Mr. Richardson noted that that data is not perfect and can often lead to under or overcounting of American Indians and Alaska Natives (AI/AN) in tribal areas. The Need component is based on seven criteria:

1. 22% for households with a housing cost burden greater than 50 percent of annual income
2. 25% for households that are overcrowded or without a kitchen or plumbing
3. 15% for housing shortage: the number of AI/AN households with an annual income less than or equal to 80% of the medial income, which reduced the number of available FCAS and NAHASDA units
4. 13% households with less than 30% of the median income
5. 7% households with between 30–50 percent median income
6. 7% households with between 50–80 percent
7. 11% for AI/AN persons

The Need component is the adjusted by the total development cost. Finally, Mr. Richardson stated that HUD then does a pro rata reduction for all tribes based on the available funding that Congress appropriated.

Mr. Richardson also talked about the decennial census counts of AI/AN population. With the 2020 census, there was a sharp increase in people identifying as either solely AI/AN or AI/AN in addition to another identification. Below is a chart showing this increase.

Decennial Census Counts of AIAN Population



Mr. Richardson noted that this increase is likely due to people responding differently to the questions posed on the decennial census. The U.S. Census Bureau changed the survey question in 2020 to give more examples of what types of information the survey is looking for when asking about a person’s race. This may have prompted more people to self-identify as AI/AN. Mr. Richardson commented that HUD ONAP will provide a timeline update to TIAC on analyzing 2020 Census data and its implications for the IHBG formula in Fiscal Year (FY) 2026.

B. Future TIAC and HUD Meetings

The TIAC will continue to hold monthly virtual meetings in the coming months. In addition, the TIAC will be holding an in-person meeting on September 10–12, 2024 in Fort Worth,

Texas. The TIAC will hold a tribal caucus on Tuesday, September 10th, 2024, followed by a full TIAC meeting with HUD representatives on Wednesday, September 11th, 2024, and a site visit on Thursday, September 12, 2024.

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 be reached by phone at 503-242-1745.