



215 SW Washington Street, Suite 200
Portland, OR 97204

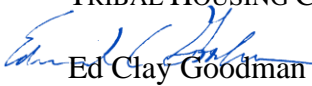
T 503.242.1745
F 503.242.1072

HOBBSSTRAUS.COM

MEMORANDUM

September 13, 2024

TO: TRIBAL HOUSING CLIENTS

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

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

On September 10–11, 2024, the United States Department of Housing and Urban Development (HUD) held an in-person Tribal Intergovernmental Advisory Committee (TIAC) meeting in Fort Worth, Texas. The TIAC held a Tribal Caucus on September 10, 2024, followed by a day of meetings with HUD representatives on September 11, 2024. Below is a summary of the TIAC meetings.

I. First Day of HUD TIAC Meeting—Tribal Caucus

Jacqueline Pata, TIAC Co-Chair and First Vice President of the Central Council of Tlingit and Haida Indian Tribes of Alaska, gave opening remarks during the Tribal Caucus.

Various tribal leaders then discussed a number of topics, including planning their approach to raising various tribal issues and concerns with HUD during the TIAC meetings. Below is a brief list of the topics that they discussed. This memorandum discusses these topics in more detail further below.

- HUD’s Section 184 Handbook;
- Indian Housing Block Grant (IHBG) Competitive Feedback;
- Update on the Indian Health Service (IHS) sanitation funding used for housing projects;
- HUD Office of Native American Programs (ONAP) staffing, technical assistance, other issues;
- Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) Reauthorization;
- Funding for tribal housing, and the federal appropriations process;
- HUD grants: how HUD can streamline and consolidate the reporting process for multiple grants;
- Build America Buy America Act (BABA) and its impact on tribes;
- The burden of housing development costs; and
- High costs of insurance and appraisals.

II. Second Day of HUD TIAC Meeting—Meetings with HUD

Heidi Frechette, ONAP Deputy Assistant Secretary (DAS); Richard Monocchio, Principal Deputy Assistance Secretary (PDAS) of the HUD Office of Public and Indian Housing (PIH); Jacqueline Pata, TIAC Co-Chair; and Tyler Yellow Boy, TIAC Co-Chair and Council Member of the Oglala Sioux Tribe, gave opening remarks. Acting Secretary of HUD, Adrienne Todman, and Damon Smith, HUD Acting Deputy Secretary, joined the meeting virtually and also gave opening remarks.

A. Funding for Tribal Housing

The TIAC began the day with a discussion on the funding disparity between funding for tribal housing and the rest of HUD's programs. TIAC Co-Chair Pata remarked that IHBG appropriations remained flat for years after NAHASDA was passed in 1996, while HUD's budget has increased in that time. Congress did increase the fiscal year (FY) 2024 IHBG funding to \$1.11 billion. However, TIAC Co-Chair Pata remarked that this funding increase is not enough to compensate for the years of insufficient funding for tribes and the detrimental impacts that this insufficiency has had on tribal communities. The tribal leaders therefore recommended that the IHBG FY 2024 funding amount should be considered the new baseline for appropriations going forward.

The TIAC tribal leaders requested that HUD take more active steps to address the lower funding for tribal housing compared to the rest of HUD's budget, which TIAC Co-Chair Pata remarked demonstrates a significant inequity. TIAC Co-Chair Pata noted that while the tribal leaders are aware that it is Congress that actually appropriates funding for tribal housing, federal agencies can have a significant influence on those appropriations through their budget requests. The tribal leaders therefore requested that HUD make a concerted effort to advocate more strongly that NAHASDA funding be increased to comprise a more equitable share of the HUD budget. The tribal leaders drafted a whitepaper (attached to this memorandum) addressing the inequity in greater detail.

A number of tribal leaders highlighted a few factors explaining why federal funding for tribal housing is not sufficient. One such factor they mentioned is that tribal populations are growing, especially as tribal families move back to tribal communities because of the high costs of housing in large cities. However, funding for housing has not increased to match that population increase. As a result, housing supply shortages and overcrowding have continued to increase. Another factor is that while IHBG funding helps Tribally Designated Housing Entities (TDHEs) maintain their existing housing, the funding is often insufficient to also support TDHEs in building new housing to reduce the overcrowding. The tribal leaders also emphasized that any benefit tribes receive from the FY 2024 IHBG funding increase will be undercut by the costs and burdens of complying with the Build America Buy America Act (BABA) requirements, as discussed in greater detail in the following section.

The tribal leaders then discussed the obstacles that they face regarding the U.S. Census Bureau ("Census") data and its impacts on funding for tribal housing. Multiple leaders remarked

that Census data on the number of tribal members is frequently inaccurate, leading to undercounting and therefore underfunding of tribal housing programs. The Oglala Sioux Tribe's technical advisor therefore emphasized the importance of tribes being able to self-certify their own data as a means of correcting the historic undercounting of tribal members.

Victoria Hobbs, Councilwoman for the Tohono O'odham Nation, also commented on her tribe's obstacles in challenging the Census, noting that the Census Bureau frequently rejects tribal census challenges or delays responding to the challenges for long periods of time. DAS Frechette responded that HUD will check with the Census Bureau to investigate what can be done to reduce those delays.

Marion Mollegen McFadden, PDAS for HUD's Office of Community Planning and Development (CPD), remarked that current Vice President and Presidential candidate Kamala Harris has stated that her administration would plan to build 3 million homes. PDAS McFadden asked what proportion of those 3 million homes should be built in tribal communities. The Cook Inlet Housing Authority technical advisor commented that tribal communities likely need about 100,000 homes in order to adequately address the housing shortage, which equates to roughly 3% of the 3 million homes.

B. Build America Buy American Act (BABA)

The TIAC held an in-depth discussion on BABA. BABA was enacted on November 15, 2021, and establishes a domestic content procurement preference ("Buy America Preference," or "BAP") for federal infrastructure programs. BABA requires federal agencies to ensure that none of the funds made available for infrastructure projects may be obligated unless the federal agency 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 Buy America Preference 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 Buy America Preference in connection with HUD funding provided to Tribal Recipients. That Waiver period will end on **September 30, 2024**. Jad Atallah, Director of ONAP's Office of Performance and Planning, remarked that HUD has been consistently advocating for a permanent tribal waiver from the BABA requirements. However, HUD has not yet received any indication from the U.S. Office of Management and Budget (OMB) that it would be willing to approve such a tribal waiver. Instead, OMB has indicated that it expects Tribal Recipients to fully comply with BABA starting on **October 1, 2024**.

Director Atallah stated that any funding that HUD *has already obligated* to tribes and TDHEs will not be subject to BABA, even after October 1, 2024. However, all new awards that HUD obligates *after* October 1, 2024, will be subject to BABA. Additionally, Director Atallah

remarked that if a TDHE starts an infrastructure project with a grant obligated *prior* to October 1, 2024, but subsequently uses a grant obligated *after* October 1, 2024 (and which is therefore subject to BABA), the *entire* construction project must comply with BABA.

Director Atallah stated that ONAP has created a BABA implementation notice for tribes and TDHEs that will address many of the questions that tribes have raised on how to comply with BABA. However, HUD is still making larger policy decisions in conjunction with OMB, and those decisions have delayed ONAP's ability to release the implementation notice.

The Cook Inlet Housing Authority technical advisor commented that OMB representatives recently visited various remote Alaska tribal villages to see the housing and construction issues that tribal communities face. He also remarked that the visit was a useful way for the OMB representatives to observe the difficulties that remote tribal areas will face if they must comply with the BABA requirements.

Deputy Secretary Smith commented that OMB's Made in America Office (MIAO) has asked for specific details and numbers on how BABA will impact tribes. He therefore recommended that any advocacy letters provide specific details on how BABA will impact tribal housing, such as hard data showing cost comparisons between American-made materials and foreign-made, rather than talking about the broad impacts of BABA. However, the Cook Inlet Housing Authority technical advisor responded that MIAO's request is disingenuous, given that tribes have already provided such specific details to MIAO and yet the administration does not appear to have changed its opposition to a tribal waiver. Further, the technical advisor stated that the Cook Inlet Housing Authority has asked contractors to specify the costs of BABA compliant materials. Those contractors have repeatedly stated that they are unable to do so, because that data is simply not available. As a result, he remarked that it is exceedingly difficult to supply MIAO with the data that it is demanding. Deputy Secretary Smith responded that he appreciated hearing that so that HUD can convey that message to OMB to counter their continual demands for data.

The Cook Inlet Housing Authority technical advisor commented that tribal advocates have been told that Congress is unlikely to pass any legislation this year that would exempt tribes from the BABA requirements. Because this is an election year and due to the timing difficulties that Congress faces in passing annual appropriations this year, many Congressional leaders have been unwilling to support any permanent tribal BABA waiver. However, the Cook Inlet Housing Authority technical advisor still recommended that tribes reach out to Elizabeth Molle-Carr, the Tribal Advisor to the Director of OMB, so that she can convey to the OMB Director the impact that BABA will have on tribes. Elizabeth Molle-Carr can be reached at Elizabeth.e.molle-carr@omb.eop.gov or at (202) 881-6057.

C. Section 184 Handbook

The TIAC also discussed the HUD Section 184 program, which is a 100% loan guarantee program provided by HUD to lenders for home loans provided to tribal members. The goal of the program is to increase lending opportunities for housing in Indian communities. Both

tribes/TDHEs and individual tribal members can borrow funds with a Section 184 loan guarantee. Additionally, individual borrowers do not need to be low income.

HUD recently issued updated Section 184 regulations, available [here](#). The final rule makes amendments to conform with statutory amendments. The changes are also intended to increase lender participation in the program, to allow flexibility to address growing demands and participation, and to clarify the rules for stakeholders. HUD's Office of Loan Guarantee (OLG) is in the process of developing a Section 184 Policy Handbook ("Handbook") for implementing the new Section 184 amendments (HUD circulated sections for comments as they were drafted). Because HUD is still working on the Handbook, and because other stakeholders will need time to get up to speed, HUD has delayed the effective date of the updated regulations to January 1, 2025.

The Rosebud Sioux technical advisor commented on the Handbook sections, highlighting the difficulties that tribes faced in submitting comments on those Handbook sections. She also noted that the Handbook imposes a greater number of requirements on tribes in the lower 48 states than it imposes on Alaska tribes. She asked for HUD to clarify why there is a disparity between those requirements. The Rosebud Sioux technical advisor also emphasized that the Handbook provides the OLG with an inappropriate level of control over tribal housing programs. DAS Frechette recommended that HUD plan to have the Section 184 Handbook drafters attend the next TIAC tribal call so that the TIAC members can provide those concerns directly to the drafters.

D. NAHASDA Reauthorization

The TIAC also held a brief discussion on the NAHASDA reauthorization efforts. On July 10, 2024, 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). Because the NDAA is a "must pass" bill, having the NAHASDA reauthorization attached to the Senate version of the NDAA is good news. However, various Senators have added a significant number of other amendments to the NDAA, and it is not yet certain whether these additional amendments will undermine the chances of keeping the NAHASDA reauthorization as an NDAA amendment.

The TIAC members had a number of questions and comments about the specific language included in the NAHASDA reauthorization amendment. They decided to address these questions in a future TIAC working session. A brief summary of some of the questions and comments is included below.

1. Consolidation of environmental review requirements

TDHEs often use multiple sources of federal funding for housing projects. Under the current laws, TDHEs must conduct a separate environmental review process for each source of federal funding, and the review requirements of different agencies can differ or can be duplicative. The NAHASDA bill provides for the consolidation of environmental reviews for tribal housing projects that are funded by one or more federal agencies.

2. NAHASDA funding amounts

The tribal leaders recommended adding a provision to the NAHASDA reauthorization bill to provide that NAHASDA funding would automatically increase to keep pace with inflation.

3. Reports to Congress

The NAHASDA bill would revise Section 407 of NAHASDA to require ONAP to submit annual reports on tribal housing to the “Committee on Indian Affairs and the Committee on Banking, Housing and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives,” instead of more broadly to Congress as a whole. The TIAC tribal leaders noted that they support this revision. However, even if Congress does not pass the NAHASDA bill, the TIAC tribal leaders recommended that ONAP focus on preparing more in-depth reports to Congress that clearly demonstrate the benefits of investing in tribal housing communities.

4. Community-Based Development Organizations

The NAHASDA bill provides that an Indian tribe, a TDHE, or a tribal organization would automatically qualify as a community-based development organization (CBDO) under the ICDBG program. This would allow tribes and TDHEs to carry out new housing construction without using a local CBDO as a pass-through entity or going through the process of becoming qualified as a CBDO.

E. HUD Programs

1. IHBG Competitive Feedback

The TIAC attendees discussed the IHBG Competitive grant. TIAC Co-Chair Yellow Boy commented that it is important for TDHEs to receive ONAP’s feedback after the grant awards so that TDHEs can learn why they did not score as well on a particular grant. The Rosebud Sioux technical advisor noted that many TDHEs would like additional information about how each ONAP region scores the grant applications in order to help ensure fairness in the scoring. DAS Frechette responded that ONAP will no longer be using a third-party consultant to do the grant reviews. Additionally, the central ONAP office will now be reviewing all grant applications instead of having the regional ONAP offices complete that review. She noted that these changes will help improve the fairness and consistency in the grant application scoring.

HUD has added population-based grant ceiling amounts for the IHBG Competitive funding that a tribe can receive, as follows:

Population	Ceiling Amount
50,001 +	\$7,500,000
10,501–50,000	\$6,000,000
10,500 and below	\$5,000,000

Because these grant ceilings are based on the population of the tribe, the grant ceiling for a larger tribe is higher than the grant ceiling for a smaller tribe. The tribal leaders remarked that there are disagreements amongst tribes about whether the grant ceilings are fair and how the language on grant ceilings could be revised to be fairer to all tribes. However, TIAC Co-Chair Yellow Boy remarked that one of the underlying issues with those grant ceilings is that housing funding is simply insufficient to meet all of the tribal housing needs, regardless of whether there are grant ceilings. DAS Frechette responded that HUD is aware of the challenges with distribution of IHBG Competitive funds and would like to work with tribes on other ways to allocate and distribute that funding. The TIAC members decided to continue discussions on the grant ceilings going forward.

2. IHS Sanitation Funding on HUD Grant-Funded Projects

The TIAC also discussed an ongoing issue with using IHS funding for tribal housing projects. Currently, an annual appropriations rider prohibits tribes from using IHS sanitation facilities funding for new homes funded through HUD grant programs.¹ This includes IHBG funding. The tribal leaders remarked on the challenges that this language causes for tribes, noting that many tribes need IHS sanitation funding to develop sanitation systems for housing construction projects. However, the appropriations rider forces tribes to choose between using HUD funding or IHS sanitation funding for the project.

PDAS Monocchio responded that HUD recognizes the incongruity of not being able to use IHS funding on HUD-funded projects, and HUD is actively working to remedy this prohibition. As part of this effort, on September 9, 2024, HUD and IHS issued a [Dear Tribal Leader Letter \(DTLL\)](#) addressing this issue. The DTLL states that HUD and IHS are seeking tribal “feedback and recommendations on how HUD and IHS programs can better address the housing-related water and sewer infrastructure needs of Tribal communities.” HUD and IHS are also seeking feedback on a number of specific questions, which can be found in the [DTLL](#). Tribes and TDHEs can email their comments and recommendations to: consultation@hud.gov and consultation@ihs.gov, using the subject line “HUD/IHS Housing-related Infrastructure for Tribal Communities.” The comment period closes on November 9, 2024. In addition to written comments, HUD and the IHS will hold a virtual Consultation session, details of which will be forthcoming. Please let us know if you would like assistance with drafting and submitting comments.

3. Grant Reporting Requirements

The TIAC attendees discussed HUD’s grant reporting requirements. The tribal leaders highlighted the challenges that tribes face in meeting the often inconsistent and duplicative reporting requirements for multiple HUD grants. TIAC Co-Chair Pata noted that meeting the multiple and inconsistent grant requirements is burdensome, inefficient, and expensive for TDHEs.

¹ See, e.g., Consolidated Appropriations Act of 2024, Pub. L. 118-42, 138 Stat. 275 (2024) <https://www.congress.gov/bill/118th-congress/house-bill/4366/text>.

The tribal leaders therefore requested that HUD revise the reporting requirements to allow tribes and TDHEs to use the Indian Housing Plan (IHP) and Annual Performance Report (APR) to report on all HUD grants. Additionally, the tribal leaders requested that HUD establish a pilot program combining the grants management lifecycle for multiple HUD programs into a single existing grant award and reporting mechanism using the IHP and APR. Such a pilot program would allow tribes and TDHEs to test out and demonstrate the success of a single reporting process.

4. Community of Care (CoC) Builds Program

PDAS McFadden noted that HUD is working on revising the Community of Care (CoC) Builds Program (“CoCBuilds”) to make it more accessible to tribes, and to make it easier for tribes to submit applications and carry out CoCBuilds Program activities on tribal lands.

CoCBuilds is a grant program that provides one-time awards for new construction, acquisition, or rehabilitation to address and reduce homelessness by adding new units of permanent supportive housing (PSH). PSH addresses both the immediate need for shelter and the underlying factors contributing to homelessness. The CoCBuilds [Notice of Funding Opportunity](#) provides incentives for tribes and TDHEs to apply for the CoCBuilds program in order to develop units of new PSH in tribal areas. PDAS McFadden remarked that at least three of the awards will be for tribal programs. PDAS McFadden also noted that there are resources for tribes on the HUD website to help them successfully apply for CoC programs. The deadline to apply is November 21, 2024.

5. PRICE Grant

On February 28, 2024, HUD issued a [NOFO](#) which appropriates \$225 million in grant funding for the PRICE competition. The deadline to apply was June 5, 2024, and CPD is currently reviewing applications. The PRICE program supports communities in their efforts to maintain, protect, and stabilize manufactured housing and manufactured housing communities (MHCs), as well as the preservation and revitalization of manufactured housing and eligible MHCs. Tribes and TDHEs were eligible to apply, and a minimum of \$11 million of the available funding was intended for tribal communities. For the PRICE main grant, the minimum funding for a grant is \$500,000 and the maximum funding is \$75 million.

PDAS McFadden stated that roughly one quarter of the applicants were from tribes and TDHEs. She asked for TDHEs to provide HUD with feedback on whether there are any factors that HUD asked for in the application that were too burdensome. Bobby Yandell, Representative of the Choctaw Nation of Oklahoma, remarked that his tribe received an email from CPD on the Friday before Labor Day weekend stating that there were deficiencies in the tribe’s PRICE application. The email stated that the tribe had 48 hours to respond acknowledging that they received the email, which caused the tribe’s housing staff to worry that their grant would be denied if they did not respond within that timeframe. PDAS McFadden responded that the email was unclear and tribes actually had much longer than 48 hours to respond and correct the deficiencies.

6. *Environmental Issues*

PDAS McFadden acknowledged that HUD is aware of the difficulties that tribes face in completing environmental reviews. CPD will be holding listening sessions on environmental reviews to help tribes complete their reviews more efficiently.

On January 11, 2024, HUD published [Notice CPD-23-103: Departmental Policy for Addressing Radon in the Environmental Review Process](#). Under HUD's Departmental Policy for Addressing Radon in the Environmental Review Process ("Radon Policy"), radon gas must now be considered in the contamination analysis required by HUD's contamination regulations as set forth at 24 CFR Part 50.3(i) and 58.5(i). For all tribes and TDHEs, the Radon Policy will go into effect on January 11, 2026.

However, tribes provided feedback to HUD explaining that the requirement to consider radon in the contamination analysis would be an unfunded mandate, and this would greatly reduce a tribe's abilities to rehabilitate housing. PDAS McFadden noted that in response to the feedback, the Radon Policy will not require tribes to complete radon testing. Instead, the Radon Policy only *recommends* that tribes complete radon testing.

7. *Housing Counseling*

The TIAC attendees discussed HUD's Housing Counseling requirements. Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, entities that participate in the HUD Housing Counseling Program ("Housing Counseling Program") must be certified by HUD. On June 12, 2024, the HUD Office of Housing Counseling (OHC) published a Housing Counseling Program final rule outlining housing counselor certification requirements for housing counseling conducted in connection with the IHBG and the ICDBG programs.

The final rule exempts tribes, TDHEs, and tribal entities from compulsory participation in the existing Housing Counseling Program (Subparts B–E of the regulations) unless the entities also provide housing counseling under, or in connection with, HUD programs *other* than IHBG and ICDBG. Director Atallah commented that as a result of this rule, if a tribe provides an IHBG-funded housing program that requires the homeowner to take a housing counseling class then that housing counseling must still be provided by a HUD-certified housing counselor, even if the housing counseling class itself is not funded by IHBG. Director Atallah therefore recommended that each tribe look into having one tribal member go through the HUD housing counseling certification, so that a tribal member can provide that housing counseling for the tribe.

The final rule also added a new Subpart F (24 CFR § 214.600) to the regulations that establishes housing counseling certification requirements specific to tribes, TDHEs, and other tribal entities. HUD will be developing the tribal test for the certification process over the next couple of years. Tribes will have a four-year transition period by which they need to obtain a tribal certification in order to ensure that they have enough time to meet the certification requirements. HUD is looking for feedback from tribes and TDHEs on what information the tribal test should cover, as well as how best to structure the test. David Valdez, Office of Housing Counseling

(OHC) Senior Housing Program Specialist, noted that OHC will publish a notice in the federal register when the four-year period is about to end.

TIAC Co-Chair Pata recommended that HUD consult with tribes through the various national tribal programs, such as the National American Indian Housing Council (NAIHC), National Congress of American Indians (NCAI), and the various native Community Development Financial Institutions (CDFIs). These entities will be able to provide detailed information on the criteria that should be included in the tribal housing counseling test. Councilwoman Hobbs asked what will the application process be for tribes that want to become certified as housing counselors. Mr. Valdez responded that OHC will accept applications on a rolling basis year-round. Mr. Valdez noted that tribes in and of themselves are not eligible to be a housing counselor. He remarked that that eligibility issue is a statutory requirement, so OHC cannot change that.

8. ONAP Technical Assistance

The tribal leaders asked that HUD allow tribes to have input on which entity provides the technical assistance. DAS Frechette responded that HUD will need to review the technical assistance appropriations language to determine whether there are restrictions on which entities can provide the technical assistance. The appropriations language might restrict how HUD provides funding for technical assistance.

F. Policy, Development, and Research (PD&R)

The TIAC attendees then discussed some of the resources available through HUD's Office of Policy, Development, and Research (PD&R). The PD&R staff highlighted three PD&R training and technical assistance programs that tribes and TDHEs can access.

The first PD&R program that the staff discussed is the Community Compass Technical Assistance and Capacity Building Program ("Community Compass"), which funds technical assistance and capacity building activities for HUD grantees, including tribes. Community Compass can help tribes by equipping them with the knowledge, skills, tools, capacity, and systems to implement HUD programs and policies successfully. Tribal entities are eligible to receive that technical assistance. More information is available [here](#).

Second, the PD&R Distressed Cities and Persistent Poverty Technical Assistance Program (DCTA) provides technical assistance to help build the capacity of local governments, including tribes, to alleviate persistent poverty. Technical assistance under the DCTA program covers topics such as governance, management, leadership development, data, research, building partnerships, community engagement, strategic planning, plan implementation, and program evaluation. More information is available [here](#).

Third, the PD&R Thriving Communities Technical Assistance Program (TCTA) helps local governments ensure housing needs are considered as part of their larger infrastructure investment plans. More information is available [here](#). TCTA can provide tribes with guidance

and resources to coordinate and integrate housing and transportation during the project planning and implementation phases.

G. Housing Development Costs and Challenges

1. Construction Innovations

The TIAC attendees also discussed the impact that high construction costs have on tribal housing programs. PD&R General Deputy Assistant Secretary Todd Richardson noted that PD&R will be conducting a study on construction costs in tribal areas in 2024 and 2025. Councilwoman Hobbs asked whether the study will include tribes with various sizes of land bases. She noted that tribes face different issues with construction costs depending on the size of their land base. General DAS Richardson responded that PD&R will work with TIAC to ensure that PD&R considers tribes with land bases of all sizes in its study.

Griffin Hagle-Forster, Executive Director of the Association of Alaska Housing Authorities, talked about the high costs of transporting construction materials to remote tribal areas. He remarked that one program that helps reduce such transportation costs is the Department of Defense (DoD) Innovative Readiness Training (IRT). The IRT is a military training opportunity that delivers joint military training opportunities to increase military deployment readiness. Through those opportunities, the IRT provides key services (such as health care, construction, transportation, and cybersecurity) to American communities. Mr. Hagle-Forster remarked that his tribe has worked with the IRT to move a significant amount of construction materials to certain tribal regions in Alaska at a reduced cost.

The delegate from the Cherokee Nation spoke about his tribe's partnership with the Air National Guard. He noted that while the partnership was helpful, the tribe faced a few issues in implementing the program, such as a delayed build time for some of the projects. TIAC Co-Chair Pata recommended that PD&R and tribes consider other partnership between tribes and various DoD programs to reduce the high costs of construction in tribal communities.

Solomon Greene, PD&R PDAS, commented on PD&R's efforts to study innovative ways to reduce construction costs. Those studies include how to build climate-resilient housing by using sustainable materials, using solar and wind-powered energy, building more pre-fabricated homes to reduce building costs, and streamlining the regulatory processes in building codes to improve the quality of tribal housing.

2. Insurance Costs and Appraisals

Diane M. Shelley, PDAS for HUD's Office of Fair Housing and Equal Opportunity (FHEO), and other FHEO staff gave a presentation on FHEO's efforts to advance racial equity as it relates to appraisals and insurance costs.

The FHEO staff discussed FHEO's recent investigation into systemic racism in the appraisal industry. They remarked that based on HUD's investigation, 94.7% of the appraisers are

white males. The Appraisal Foundation (TAF) is an organization responsible for setting standards and qualifications for real estate appraisers and providing voluntary guidance for all industry valuation. HUD investigated TAF, finding that the TAF standards created discriminatory barriers that prevent qualified black persons and other persons of color from entering the appraisal profession. HUD also filed suit against TAF, which the parties settled on July 10, 2024. The settlement includes a \$1.22 million scholarship fund for aspiring appraisers to pursue an alternative path to meet the appraisal qualifications. HUD hopes that this scholarship will increase the number of non-white appraisers.

HUD also recently settled a case against Rocket Mortgage, alleging that Rocket Mortgage denied a mortgage loan application based on race because the home being purchased was on fee simple land located on a tribal reservation. The settlement agreement requires Rocket Mortgage to abide by fair lending requirements for applicants seeking residential mortgage credit. The settlement also provides \$30,000 in financial support for programs to improve housing conditions, outreach, and homeownership education for counseling for Native Americans.

Sara Edelman, DAS of HUD's Office of Single Family Housing, asked that TDHEs submit feedback to the Office of Housing regarding the factors in the appraisal process that are creating barriers. TIAC Co-Chair Pata commented that some TDHEs receive low housing values if the appraisers use a sales comparison approach because there are not enough recently-built houses in the local area to use for accurate comparisons.

The TIAC attendees also commented on the high costs of insurance and the problems these costs cause in tribal communities. The HUD staff noted that the high cost of insurance is impacting all housing communities, including private and public housing, in both tribal and non-tribal areas. Some of the tribal leaders noted that insurance companies are starting to refuse to provide insurance in remote tribal communities in their states because of the risks of natural disasters such as wild fires and flooding. TIAC Co-Chair Pata remarked that some homeowners are facing foreclosure solely because they cannot afford to pay for homeowner's insurance. Mr. Monocchio stated that HUD's budget request to Congress requests funding to address the costs of insurance and insurance companies' denial of homeowners' insurance claims. Mr. Monocchio stated that HUD is also considering ways for public housing authorities, including TDHEs, to help homeowners appeal private insurance companies' denial of claims.

TIAC Co-Chair Yellow Boy asked if HUD could help coordinate with the Federal Emergency Management Agency (FEMA) tribal liaison to help FEMA understand tribal set asides in FEMA funding. TIAC Co-Chair Yellow Boy also recommended that HUD work with FEMA to create a workgroup between FEMA, HUD, and tribes to increase the FEMA resources available to tribes.

3. Tribal Housing Standards and Housing Improvements

The TIAC attendees also held a brief discussion on tribal building codes, the substandard building conditions of some tribal housing, and ways to improve the conditions of tribal housing. They briefly noted the challenges that some tribes face in enforcing building standards and holding

contractors accountable to complying with building standards. DAS Edelman recommended that tribes and the HUD Office of Housing plan to talk about how to address issues with building codes going forward.

PDAS Solomon mentioned the Greenhouse Gas Reduction Fund (GGRF) as another resource for tribes and TDHEs to address housing costs and substandard housing. The GGRF is a \$27 billion fund designed to address climate change by promoting energy efficiency, lowering energy costs, and reducing greenhouse gas and air pollution, among other goals. A sizable portion of that funding will be used for housing. Of the \$27 billion, \$7 billion is set aside for the Solar for All competition, which aims to offer affordable, resilient, and clean solar energy. The Solar for All program awarded funds to 60 grantees, including multiple states, nonprofits, and six tribal entities. Individual tribes and tribal members can reach out to the state, nonprofit, or tribal grantees to find out how they can receive assistance through the Solar for All competition. PDAS Solomon recommended that TDHEs consider how to utilize funding from the GGRF to increase the use of sustainable and energy-efficient materials in tribal housing. PDAS Solomon also noted that PD&R is currently researching how to utilize modular and manufactured housing in tribal areas to reduce housing costs and the housing shortage. More information is available [here](#).

H. Future TIAC and HUD Meetings

The TIAC discussed holding the next in-person meeting in the spring of 2025. The TIAC will release more information on future meetings once it is available.

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.