

Native American, Alaska Native, and Native Hawaiian Housing Programs

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Several federal housing programs are designed to provide housing services and housing developing in native communities throughout the United States. The “Native American Housing Assistance and Self-Determination Act of 1996” (NAHASDA) is the primary federal statute designed to address Native American housing issues in tribal communities. NAHASDA has two major components: the formula-funded Indian Housing Block Grant (IHBG) Program and the Title VI Tribal Housing Activities Loan Guarantee Program.

Enacted in 1996, NAHASDA provides annual formula funding to Indian tribes so they can provide affordable housing-related opportunities for low-income families residing on reservations and in other tribal areas. The act, which became effective in October 1997, provides tribes with a consistent, dedicated annual funding stream without requiring them to navigate the myriad of general housing programs administered by HUD. The act recognizes tribal sovereignty and self-determination by providing block grant funds directly to tribes, which are operated pursuant to tribally-created Indian Housing Plans. NAHASDA’s most recent reauthorization expired in 2013, though Congress has continued to fund its programs every year. Amendments made to NAHASDA in 2000 added Title VIII - Housing Assistance for Native Hawaiians, which includes the Native Hawaiian Housing Block Grant (NHHBG) Program and the Section 184A Native Hawaiian Housing Loan Guarantee Program.

All Native Americans are also eligible for the Native American Housing Loan Guarantee Program, better known as the Section 184 Program, which began in 1992 and is intended to provide greater access to mortgage lending in tribal communities. The Section 184 program

was created before NAHASDA but is often associated with NAHASDA programs and legislation. Congress has annually funded the competitive Indian Community Development Block Grant (ICDBG) Program for tribes and tribal housing programs and since 2018, a competitive IHBG has focused on new housing constructions.

HISTORY AND PURPOSE

The United States has a unique legal and political relationship with Indian tribes that stems from treaties, federal statutes, court decisions, and executive agreements dating back to the ratification of the U.S. Constitution. With respect to tribal lands, the federal government often serves as a trustee, holding certain lands in trust for tribes and individual Native Americans acting as beneficiaries. Today, federal Indian law and policy largely extends the trust responsibility to include the provision of health care, education, natural resources protection and development, and housing.

In 1961, indigenous tribes became eligible for assistance under programs operated by HUD. Regional HUD offices administered programs to tribes in their areas. By the mid-1970s, HUD had created Offices of Indian Programs in Denver and in San Francisco to exclusively administer Indian housing programs. Finally, in 1992, legislation created the current administering entity at HUD headquarters, the Office of Native American Programs.

The enactment of NAHASDA in 1996 provided permanent dedicated funding to tribal housing programs, but it also restricted tribes from accessing many other HUD programs. Tribes were restricted from most other public housing grants and voucher programs. Examples include restricting access to the tenant-based voucher programs, homeless assistance grants and homebuyer counseling grants, among others. Originally, tribes were also excluded from the

HUD-VA Supportive Housing Program (HUD-VASH), but Congress created a Tribal HUD-VASH demonstration program in October 2015, allowing nearly 30 tribes to provide rental vouchers and supportive services to Native American veterans their communities. There have since been bills introduced in Congress to make Tribal HUD-VASH permanent and available to all tribes. The bills have enjoyed bipartisan support and the bills passed the Senate in both the 116th and 117th Congresses but failed to get through the House of Representatives before the end of each Congress.

The housing needs faced by Native American communities are as diverse as the communities served, which are in approximately 35 states. Overcrowding, poverty, unemployment, low household incomes, a rapidly increasing population, and lack of infrastructure are some of the challenges facing Native American, Alaska Native, and Native Hawaiian communities. According to an extensive **study** of American Indian and Alaska Native (AIAN) housing conditions released by HUD in early 2017, 6% of AIAN homes located in tribal areas had inadequate plumbing, 12% had heating deficiencies, and 16% were overcrowded, while nationwide only 1–2% of homes suffered each of these conditions. At the same time, 38% of AIAN households were cost burdened (paying more than 30% of income for housing), compared to 36% nationally. The study also confirmed that homelessness in tribal areas generally manifests as overcrowding: researchers estimated that 42,000–85,000 people in Native American communities were staying with friends or relatives because they had no place of their own. To address the issues of overcrowded and substandard homes, the HUD study estimated that 68,000 new units were needed, yet annual funding levels have limited tribes to building only between 1,000–1,500 new units a year.

HUD's study also found that NAHASDA's block grant program works well, and tribes are able to use the funds effectively. It noted, however, that funding levels have not been adjusted for inflation over time, so while funding has

remained steady from year to year, tribes' purchasing power with IHBG funding has been reduced by about a third since the enactment of NAHASDA. Additionally, when NAHASDA programs were first established, they comprised over 2% of the entire HUD budget but now are barely 1% of the HUD budget, despite the entire Department's growing 2.5 times over these past two decades.

PROGRAM SUMMARY

NAHASDA enhances tribal capacity to address the substandard housing and infrastructure conditions in tribal communities by encouraging greater self-management of housing programs and by encouraging private sector financing to complement limited IHBG dollars. The amounts of annual IHBGs are based on a formula that considers need and the amount of existing housing stock. The grants are awarded to eligible tribes or their Tribally-Designated Housing Entities (TDHEs) for a range of affordable housing activities on reservations or in other areas.

Activities eligible to be funded with NAHASDA assistance include new construction, rehabilitation, acquisition, infrastructure, and various support services. Housing assisted with these funds may be either rental or homeowner units. NAHASDA funds can also be used for certain types of community facilities if the facilities serve eligible low-income indigenous families who reside in affordable housing. Generally, only families whose income does not exceed 80% of the area median income are eligible for assistance.

NAHASDA's Title VI loan guarantee program can provide tribes and TDHEs better access to capital to develop larger housing projects. The Title VI program provides lenders a guarantee for amounts up to five-years' worth of a tribe's annual funding levels. For individual home purchases or construction, Section 184 loan guarantees can help secure mortgages for individual homebuyers or tribes, TDHEs, and Indian Housing Authorities.

NATIVE HAWAIIANS

In 2000, NAHASDA was amended to create a separate title addressing the housing and related community development needs of native Hawaiians. Title VIII Housing Assistance for Native Hawaiians includes the NHHBG program and the Section 184A Native Hawaiian Housing Loan Guarantee Program. The NHHBG program provides eligible affordable housing assistance to low-income Native Hawaiians eligible to reside on Hawaiian homelands. Since 2005, Title VIII has not been reauthorized, but the NHHBG has nevertheless been funded most years and housing services continue to be provided.

The Department of Hawaiian Home Lands (DHHL), the sole recipient of NHHBG funding, uses the funds for new construction, rehabilitation, acquisition, infrastructure, and various support services. Housing can be either rental or homeownership. The NHHBG can also be used for certain types of community facilities if the facilities serve eligible residents of affordable housing. DHHL also uses the funds to provide housing services, including homeownership counseling and technical assistance, to prepare families for home purchase and ownership.

The “Hawaiian Homelands Homeownership Act of 2000” created a new Section 184A Native Hawaiian Housing Loan Guarantee Program, equivalent to the Section 184 program for American Indians and Alaska Natives.

FUNDING

The IHBG program was funded at approximately \$650 million each year from FY12 through FY21. While not technically a cut to the program, level funding of NAHASDA programs for nearly 20 years has kept tribal programs from keeping pace with need. Congress in recent years also appropriated an additional \$100 million for a competitive IHBG which has focused on new construction in tribal communities. In addition to the gains through the new competitive grants, tribes have received additional funds through the Indian Country Development Block Grant,

which grew to \$70 million in FY 2020. For the first time in nearly a decade, Congress included substantial increases to NAHASDA, increasing the formula IHBG program 19% from \$650 million to \$772 million, and increasing the competitive IHBG program from \$100 million to \$150 million. While these increases are a positive trend, they have not yet made up for the relative stagnant funding since NAHASDA was established.

The Tribal HUD-VASH demonstration program for Native American veterans received \$7 million in funding in the FY15 appropriations bill and the program began operations in FY16. The tribes participating in the demonstration program have had varied levels of success, with some struggling to find available housing stock in their communities, while other tribes were unable to receive consistent supportive services from the VA. Those issues led Congress to reduce appropriations to only \$1 million for the program in FY20, however that funding has been restored to \$5 million annually. The Program has also expanded administratively, with HUD allowing a small number of new tribes to enter the program over the past two years.

In addition to these regularly funded tribal housing programs, Congress has provided supplemental funds to tribal housing programs throughout the COVID-19 pandemic. Congress included \$300 million for tribal housing programs through the “CARES Act” in 2020, which tribes received as supplemental formula grants and through the Indian Community Development Block Grant. Congress provided \$750 million in additional funding to tribal housing programs through the American Rescue Plan, with \$450 million being added through the existing formula grants, and another \$280 million being processed through ICDBG applications.

Finally, as part of COVID relief packages, Congress included tribal set-asides under the Emergency Rental Assistance (ERA) (\$898 million) and Homeowner Assistance Fund (HAF) (\$498 million) programs operated through the Treasury Department. These funds were allocated to tribes by the NAHASDA formulas, and

provided more funds for just rental, mortgage and utility assistance than tribes receive annually for their entire housing programs. Tribes have been distributing these funds in a similar manner as state and local ERA and HAF grantees, but unfortunately these funds are not able to help tribes address the direct issues of overall housing shortages found in tribal communities. Tribal ERA programs are currently facing the prospect of returning nearly \$300 million in ERA funds due to statutory deadlines. Tribes and housing advocates have been asking Congress to provide an extension for Tribal ERA programs, since state and local ERA programs have additional time to carry out rental assistance activities due to other ERA provisions.

FORECAST FOR 2023 AND WHAT TO SAY TO LEGISLATORS

NAHASDA Reauthorization

NAHASDA programs are currently expired, though they continue to receive funding. Reauthorization bills have continued to make progress during each of the last few Congresses. Bills have been introduced in both chambers of Congress and are largely in line with prior reauthorization efforts. Current Senate versions of NAHASDA reauthorization bills would make small changes to improve the overall implementation of NAHASDA programs, while also make tribes eligible for the homebuyer counseling grant program at HUD, make Tribal HUD-VASH program permanent and available to all tribes, and other smaller improvements. Current House versions of the bill would also create set-asides for tribes in certain USDA Rural Housing programs, address Flood Insurance disparities and bolster tribal court jurisdiction in mortgage proceedings. During the 117th Congress, the full Senate passed a NAHASDA reauthorization as part of a larger package before it was dropped out during final negotiations with the House. This was the first time a reauthorization bill had passed one chamber since the program was last reauthorized in 2008.

Resources for Tribal Housing Programs

Funding for tribal housing is the lifeblood of community development in Native American communities. For many years, funding has leveled off, failing to keep pace with inflation and the ever-increasing costs of energy, materials, and construction. Advocates should ask Congress to fully fund tribal housing and tribal housing-related programs, including the IHBG program; the ICDBG program; the NHHBG program; and the Section 184, 184A, and Title VI Loan Guarantee Programs. If the IHBG program included funding growth with inflation since NAHASDA's enactment, the IHBG would be funded at over \$1.1 billion for FY23. Congress approved some increases in FY22, providing \$772 million to the IHBG program, yet that is still below original, adjusted NAHASDA funding levels. Other federal housing programs, such as the USDA Rural Housing programs, the Department of the Interior Housing Improvement Program, the Department of Treasury Native American CDFI Assistance (NACA) program, and others could all be enhanced to deliver greater housing opportunities to tribal communities as well.

HUD-Veterans Affairs Supportive Housing

The nation's largest supported permanent housing initiative combines HUD Housing Choice Vouchers with U.S. Department of Veterans Affairs case management services that promote and maintain recovery and housing stability. The FY15 HUD appropriations bill directed the HUD secretary to set aside a portion of HUD-VASH funds for a rental assistance and supportive housing demonstration for Native American veterans who are at risk of homelessness living on or near reservations or in other Native American communities. As a demonstration project, only 26 tribes (out of 574) were invited to participate in the program starting in 2015, though a few more have been added in recent years. Congress has been close to passing a permanent authorization of the Tribal HUD-VASH program in both the 116th and 117th Congresses and advocates should encourage Congress to

pass the Tribal HUD-VASH Act as part of a full NAHASDA reauthorization.

FOR MORE INFORMATION

Housing Assistance Council, www.ruralhome.org.

National American Indian Housing Council, www.naihc.net.

HUD Office of Native American Programs, https://www.hud.gov/program_offices/public_indian_housing/ih.

DHHL, <http://hawaii.gov/dhhl>.