

Testimony of
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Before the
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SUBCOMMITTEE ON HOUSING AND COMMUNITY OPPORTUNITY
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“Improving Housing Opportunities for Native Americans”

Chairman Ney, Ranking Member Waters, and other distinguished members of the Subcommittee, on behalf of the Members of the National American Indian Housing Council (NAIHC) and its Board of Directors, thank you for this opportunity to participate today in this first-ever Congressional hearing on Indian housing. As the only national organization dedicated solely to Native American housing development and advocacy, you can imagine how pleased NAIHC is that attention is being brought to this area. My name is Russell Sossamon and I am both the NAIHC Chairman and Executive Director of the Choctaw Nation Housing Authority of Oklahoma.

NAIHC began as a data collection office for the BIA in 1974 in Nevada. Over the course of its 30-year history, NAIHC expanded its services to offer research, training, technical assistance and many programs tailored to the needs of both large and small tribes. In addition, NAIHC helped create AMERIND Risk Management Corporation in 1986, when insurance was unavailable in Tribal areas. After 30 years, NAIHC has 474 tribes as members, and is recognized as the leading national advocate for Indian housing.

Indian housing took a giant step forward with the 1996 passage of the Native American Housing Assistance and Self-Determination Act (NAHASDA), which created tribal self-determination over Indian housing programs. The Act provides block grant assistance to tribes for activities such as: housing development, housing services (ex: counseling), housing management services, crime prevention and safety activities, as well as model activities (ex: college housing).

Across the country, thousands of Native families are facing housing conditions similar to those in undeveloped countries. Compared to most American homes, many tribal homes lack proper sewage and water systems, adequate roads, telephone lines, indoor plumbing and electricity. The problem is exacerbated by the remote or rural locations of tribes, many of which have few, if any, economic opportunities. As mainstream society progressed, that development did not extend to Native communities, in part because of land jurisdiction, but for many other reasons as well, including federal policy.

Today I would like to focus on legislative initiatives we hope this Committee will support as well as answer the questions about current issues you have forwarded to me. But first, I would like to briefly touch on funding, data, and infrastructure development.

NATIVE AMERICAN HOUSING BLOCK GRANT FUNDING:

I was disappointed with the President's budget proposal for Indian housing in fiscal year 2005 because for the fourth year in a row it **does not include any increases for Indian housing in spite of the desperate need**. The poverty rate for Native Americans continues to hover at about 26%, which is more than double the poverty rate for the general American population. I would like to direct you to a "Fact Sheet" attached to the end of this testimony that will give you more information on the challenges facing tribal communities.

This Committee recently helped to reauthorize NAHASDA for another five years. You have passed difficult amendments packages in the last three Congressional sessions which have improved the Act greatly. My message to you today is that, while NAHASDA has ushered in a new era of leveraged funding and self-determination, the core fund must be increased to adequately support investment in more than 560 federally-recognized tribes. If there is not enough funding to put into the program much of your effort will remain unfulfilled.

NAIHC estimates that to meet the needs as presented to us now, we need **at least \$1 billion per year in funding for the Native American Housing Block Grant**. We believe that \$700 million for FY 2005 would be a step in the right direction. The President has proposed \$647 million for fiscal year 2005. This is roughly the same amount that has been appropriated the last four years. Given the rate of inflation and increasing housing costs, housing funding has decreased under this Administration.

INDIAN HOUSING DATA:

We understand that Congress has been frustrated by the lack of hard data to support the yearly budget request for Indian housing. We share your frustration. You may be aware that last year HUD's Office of Native American Programs (ONAP) underwent a performance assessment through the Office of Management and Budget. ONAP received a poor score, due mainly to its lack of data and therefore its inability to measure performance, rather than through poor performance. We had hoped this assessment would lead to a swift implementation of a data collection system that would show what the tribes already know – that this program is working. HUD collects data yearly in Indian Housing Plans and Annual Performance Reports on such items as number of overcrowded units, number of housing units constructed, and number of housing units rehabilitated. Unfortunately, HUD still does not have a database that can pull this data together to give a national picture.

HUD announced in early 2003 that more than half of the funding appropriated to the NAHASDA block grant remained in the pipeline. NAIHC swiftly surveyed the Tribes and with a 65 percent response rate, we were able to show that the program has performed much better than HUD reported. In this year's Senate Indian Affairs Committee budget hearing, HUD recognized NAIHC's assistance in updating the data and testified that 88 percent of all grant funds have been obligated, which they say indicates that "the majority of tribes are obligating and spending their grants in an expeditious manner."

Since we at NAIHC know that more comprehensive data could be the key to increased appropriations and support in the authorizing committees for continuation of the program, we have decided to embark on our own

comprehensive data collection effort. A survey has been sent to all Tribes across the country that will seek to collect the kind of information required to show both what NAHASDA has accomplished, but also identify the current housing needs. We hope to report back to this Committee later this summer with facts and figures on the use of federal programs at various agencies, as well as a report on the services and banking opportunities that are currently available to tribes.

There is another aspect of Indian housing data that I would like to touch on today having to do with the use of Census data in the Native American Housing Block Grant formula to calculate population. Census data is used widely in determining individual allocations in federal programs for tribes, and therefore it greatly impacts the funding tribes receive from year to year. In 1990 a person filling out a Census form could select only one race, while in 2000 they could select one or several. Thus, under the 1990 Census, someone who is half Native American and half Caucasian, Black, Hispanic, or another race would have to choose a single race with which to identify. In the 2000 model, they can define themselves under more than one race. Thus, under the 2000 census, you have two numbers relating to the Indian population: 2.5 million individuals designating themselves under the category of Native Americans single race, and over 4 million individuals who categorize themselves as multi-race. Determining which Census number to use in the formula for the Native American Housing Block Grant program has now become an issue.

The situation needs a much more thorough analysis than what has been done so far to determine exactly what the impact of the new method of collecting Census data has on each tribe. Some believe that it has generally shifted funds from the more sparsely populated tribal reservation-based areas to areas which, while less remote, have greater population, and that this is an inequitable shift in the program. They argue that allowing someone to identify him or herself as Native American without being formally affiliated with a tribe distorts the population they feel tribal programs are meant to target. On the other hand, most AIAN people of today are not of a single race and would like to be identified in their true heritage, whether that is one or two or more races. They believe that while there may have been a shift in resources, the 2000 Census data is a more accurate reflection of tribal population in this day and age, and reflects a correction in a historical pattern.

Recently I sent a letter to the Financial Services Committee on behalf of the NAIHC Board of Directors, requesting a hearing on the use of Census data for the NAHBG formula. I would like to direct you to that letter for a more thorough review of the issue and hope that you will be able to assist in coming to some conclusion as to the best policy.

INDIAN HOUSING INFRASTRUCTURE:

For most Americans, the cost of basic infrastructure—like water, sewer and roads, is an expense shared by a local community, or paid for by county and state taxes. In Indian Country though, things are slightly different. Although tribes receive federal money for housing through the form of Native American Housing Block Grant funds, tribes are not able to build a home without putting infrastructure in place first. With limited funding, this results in some tribes with waiting lists as long as 5-6 years.

NAIHC issued a report on infrastructure in Indian Country in 2003. NAIHC's report revealed that a small percentage of tribal communities have no infrastructure in place, while in other areas, roads were described as "poor to fair" and sewer systems/facilities were described as "generally poor," negatively affecting not only housing, but also much-needed business development as well. With a large percent of the Native population in need of basic infrastructure, particularly as compared to businesses and schools in most of the United States, Native entrepreneurs are at a distinct disadvantage when it comes to successfully building or establishing a business.

Less than half of homes on reservations are connected to a public sewer system, making it necessary for some homes in Alaska Native Villages to dispose of sewage by using "honeybuckets," in which household waste is collected in containers and dumped on lands or even in lagoons near or on the reservation. Once rainwater comes into play, this can mean serious contamination and poisoned crops.

According to 2000 Census data, 12% of Native American households lack plumbing facilities compared to 1% of the general U.S. population. And 11% of Native households lack kitchen facilities compared to 1% of the general U.S.

As Native youth struggle with Third World conditions and limited economic prospects, their physical and mental health is in danger because in homes without kitchen facilities, residents encounter health issues such as an unclean water supply or difficulty ensuring safe food preparation and storage.

Congress needs to put greater emphasis on addressing the issue of basic infrastructure for tribes. In many cases the money is there in various agencies, but statutory or regulatory barriers keep them from working together to address tribal community needs as a whole. NAIHC has been working to remove one such barrier from the Indian Healthcare Improvement Reauthorization Act and from Interior appropriations bills that prohibits the use of Indian Health Service Sanitation Facilities Construction Funds from being used to service homes that are constructed using HUD dollars. This assumes that tribes receive enough funds to both construct homes *and* the needed infrastructure. What we request is that this decision be allowed to be made at the tribal level, not at the agency level.

The Indian Health Services has estimated at least \$1.6 billion would be necessary to address housing infrastructure alone. We are pleased that the President, with the assistance of Health and Human Services Secretary Tommy Thompson, recognized the desperate need for improved water and sewer infrastructure in Indian Country by requesting a \$10 million increase for Sanitation Facilities Construction in FY 2005. A similar requested increase of \$20 million was disregarded by Congress in FY 2004. We hope that will not be the case again.

PENDING LEGISLATION:

While NAHASDA has improved the ability of tribes to serve the housing needs of their tribal members, several requirements of the Act continue to hamper progress. In response to a call to improve overall federal housing delivery to Native Americans, Senator Tim Johnson (D-SD) introduced the Native American Housing Enhancement Act in October 2003, which is now co-sponsored by Senator Michael Enzi (R-WY). The bill contains the following provisions:

1. Amends the 1949 Housing Act, which governs USDA housing programs, to allow tribes the same rights to Indian preference as HUD housing programs
2. Re-establishes the eligibility for tribes in HUD's YouthBuild program
3. Amends NAHASDA to allow for the establishment of reserve accounts
4. A technical correction for the treatment of program income under NAHASDA
5. Amends NAHASDA to allow for replacing the requirement of charging no more than 30% of adjusted income to a ceiling of Fair Market Rents

As the committee with jurisdiction over Indian housing legislation in the House of Representatives, we hope that the Financial Services Committee will support passage of this legislation before the end of the 108th Congress.

1. Amending the Housing Act of 1949: The Housing Act of 1949 is the funding statute for the United States Department of Agriculture's housing programs. As written, any affordable housing programs funded by USDA are subject to Title VI of the Civil Rights Act of 1964 and the Fair Housing Act, including those programs accessible and applicable to Indian Tribes. Many tribal representatives, as well as the U.S. Department of Housing and Urban Development, believe that Title VI impedes tribal sovereignty by requiring tribes to sign a form stating they will comply with Title VI non-discrimination requirements based on race, color, and national origin. Instead, tribes argue that, as recognized sovereign governments, they should be able to sign assurances they will comply with Title II of the Indian Civil Rights Act, as allowed for in HUD programs.

The Rural Housing Service (RHS) under USDA is charged with providing program services to all eligible persons, and has established goals to reach rural America's underserved populations. Consequently, RHS has been actively trying to increase the delivery of their programs to Native Americans. However, in a recent inter-agency memorandum, the USDA Native American Coordinator cites obstacles with USDA's demand for Title VI compliance as the principal cause for USDA's inability to successfully implement programs for tribes. The Coordinator contends that an amendment to the Housing Act of 1949 permitting tribal compliance with the Indian Civil Rights Act in lieu of Title VI would not only replicate those civil rights guarded by Title VI, but would also allow for the proliferation of USDA programs on tribal lands.

The OGC at USDA has determined that tribes receiving federal housing assistance from USDA must comply with nondiscrimination requirements of Title VI unless the funding statute specifically exempts them from compliance. S.1802 would exempt tribes from compliance, but we recommend that the provision go further, to require that tribes abide by the Indian Civil Rights Act when receiving housing assistance from USDA rather than just being exempt from non-compliance. This would place USDA's programs in line with HUD's Native American Housing Assistance and Self-Determination Act. Our preferred language is as follows:

(k) Federally recognized Indian Tribes who exercise powers of self government (or their instrumentalities) must comply with the Indian Civil Rights Act (Title II of the Civil Rights Act of 1968; 25 U.S.C. 1301-1303) when receiving assistance under this title. Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d) and Title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) shall not apply to tribes covered by the Indian Civil Rights Act or to tribes acting under Section 201(b) of the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4101, et seq.)

2. Inclusion in YouthBuild: The unfortunate interplay between NAHASDA and tribal housing programs has resulted in Native youth being denied the opportunity to participate in YouthBuild, one of the most successful youth development programs in the U.S. The situation has been exacerbated by the recent elimination of the HUD Drug Elimination Program, which had been widely used to fund Native youth programs in the past. NAIHC seeks a change in policy to reinstate tribal eligibility in YouthBuild.

Native youth comprise only 1% of the general U.S. population, and they are highly and disproportionately represented in all categories of risk for youth. For these young people the obstacles to healthy families and success in school and work are staggering. Therefore, there is a high level of interest in YouthBuild from tribal governments, housing authorities, and non-profit organizations serving Native communities. In the 2001 and 2002 funding rounds HUD received 13 YouthBuild applications to serve Native youth but all were denied under HUD eligibility restrictions. These applications, if funded, would have channeled at least \$5.2 million to YouthBuilds in Indian Country for the training of at least 300 young people and the construction of nearly 20 homes. YouthBuild USA, the national support center for local programs, has responded to requests from 50 tribal organizations and non-profits that serve tribal areas that are interested in starting YouthBuild programs. Currently there are only five YouthBuild programs that serve a significant number of Native youth, and only one of those programs is on reservation land. Prior to NAHASDA, Native youth participated in YouthBuild in significant numbers.

During the development of NAHASDA several existing federal programs, including YouthBuild, were bundled into the Act. This meant that YouthBuild became an eligible activity under NAHASDA, thus authorizing tribes to fund their own YouthBuild programs. Unfortunately, this shift from HUD YouthBuild funding to NAHASDA funding has not resulted in a single NAHASDA-funded YouthBuild program for Native youth. Further, given that tribal organizations are no longer eligible for HUD YouthBuild funding, the HUD-funded tribal programs operating prior to 1997 have shut down. Finally, as HUD interprets NAHASDA to exclude even non-tribal organizations that serve Native youth, several more YouthBuild programs are in financial jeopardy.

In the first three years of HUD funding for YouthBuild, tribes and tribal organizations were eligible to apply for funding. Since the passage of NAHASDA however, HUD has tightened eligibility requirements so that now, any organization—tribal or not—that proposes to serve Native youth is ineligible for HUD YouthBuild funding.

The flaw is that HUD bars participation in its grant program based on an organization's service to Indian youth whereas the rationale for the regulation is the appropriation of NAHASDA funds to tribes. **So the statute should, at most, bar recipients of NAHASDA funds from eligibility, not all organizations that serve Native youth.**

3. Establishing Reserve Accounts: As currently administered by HUD, NAHASDA leaves very little opportunity for Tribes/TDHEs to establish a reasonable amount of reserves for housing programs or projects. HUD's reasoning is based on the requirements that any funds drawn down from the Treasury must be spent within three (3) days before HUD will allow access to the Native American Housing Block Grant (NAHBG). However, Section 203(b) provides that a recipient "shall, using amounts of any grant received under this Act, reserve and use for operating assistance under section 202(1) such amounts as may be necessary to provide for the continued maintenance and efficient operation of such housing." Clearly, the original intent of Congress was to require that the Tribes/TDHEs have sufficient reserve amounts for efficient operation, proper maintenance of its units and completion of its projects. It is unreasonable and an affront to Indian self-determination to have to rely on HUD to be the holder of the reserves. A reserve account is a prudent business practice and can be a necessity to continued operations in times of political pressures, prior to annual Indian Housing Plan approval and other times of emergency including when appropriated funds are not yet available. Therefore, in order to allow Tribes/TDHEs the opportunity to establish, manage and administer a reserve account, NAHASDA should be amended to allow the placement of funds in a reserve account.

The NAHASDA program income amendment passed in 2002, which allows tribes to retain program income when moving on to their next grant, helped larger tribes with the issue of holding reserves because they generate a good amount of program income that can now be held from year to year. Unfortunately, smaller tribes do not generate enough program income to truly allow for reserves. One of the problems this has caused became painfully evident last year when NAHBG allocations for fiscal year 2003 were many months late in becoming available. Many small (and large) programs struggled to keep functioning from week to week because they did not have reserves to pay the bills until the new influx of federal funding. This affects administrative, maintenance, and subsidy services for the housing authorities, as well as affecting their ability to honor construction contracts.

4. Treatment of Program Income: In the NAHASDA amendments package passed in 2002 (P.L. 107-292), an amendment regarding the treatment of program income was incomplete. The amendment in S.1802 is a technical amendment adding four words "restrict access to or" to clarify how the amendment shall be implemented.

5. Replacing the 30% Rule: The 30% Rule requires that NAHASDA recipients charge tenants no more than 30% of their adjusted gross income. Following are reasons NAIHC feels this provision of NAHASDA should be changed, as provided for in S.1802:

- NAHASDA contains no requirement for TDHEs to collect rent at all. Except for the 30% rule, it is a fundamental principle of NAHASDA that tribes will determine for themselves program rules such as how rents are to be charged.
- Under the Public Housing Program (and pre-NAHASDA Indian programs) the difference between rent collected and the actual cost of running a housing program is compensated annually by an additional sum of money. NAHASDA does not draw any such additional subsidy, but is still required to make up the difference, resulting in less housing and housing services.
- The time, effort, and financial resources required to track tenant's income and make sure they certify every year is a huge administrative burden on programs.
- Using the 30% rule creates an incentive for tenants to misreport or under-report their income to avoid paying more rent. The rule unreasonably causes large segments of the tenant population to manipulate their reporting of household income. Sorting out and prosecuting these misrepresentations is a further burden on the administration of the program.
- Using the 30% rule creates competition and interference with other low-income housing programs in the same areas. Most low-income programs require rents of \$100 to \$300, but even though potential tenants can afford such rents, they prefer to stay in the units where rent is capped at 30% of their income.

- Permitting the option of a flat rent system would help a) eliminate the need for tracking income annually and other administrative burdens, b) give a reasonable expectation of payment to both the tenant and the TDHE, and c) help tenants appreciate the value of housing by contributing at least a nominal amount toward rent.
- Tribes should individually determine how much they will charge their tenants. The 30% rule is not imposed on other federal and HUD block grants or similar programs.
- Understanding that the 30% Rule is a protection for the tenant, tribal governments are directly responsible for their members and are unlikely to put them out on the street. As sovereign nations they should not be subject to a federal rule that second guesses their dedication and determination to helping their own people.

ANSWERS TO COMMITTEE QUESTIONS:

I appreciate that the Committee has forwarded questions to me in advance of this hearing. Answering them allows me to really get at the heart of what is happening and what is needed for housing development in Indian Country.

1.) **What initiatives or partnerships have you taken part in or have knowledge of that are designed to contribute to the development of more housing for Native Americans and for tribal areas?**

Indian country stands out in its extreme level of need and warrants the investment of resources that can fund a more aggressive and comprehensive approach to solving its problems. With the federal government's main Indian housing program, the Native American Housing Block Grant, only able to produce about 5,000 new units per year nationally, looking to other partnerships is the only way we as a people can hope to make progress. In fact, the very structure of NAHASDA has a lot to do with an increase in partnerships and leveraging. New initiatives in Indian Country over the past five years are too numerous to record here, but following is a summary of those we feel are having some of the greatest national impact.

1.) First is the **National American Indian Housing Council's** own "**Housing First for First Americans**" campaign: our answer to addressing the backlog of needed housing. The goal of this initiative is to facilitate the development of 100,000 new homes for First Americans over 10 years. This \$10 million, wide-ranging capacity building program will include homeownership and rental units. Approximately 50 percent will be rehabbed and renovated housing.

While many elements of the proposed initiative are already in place through NAIHC's current work, we are developing new components to focus on the following four goals:

- Expanding homeownership in Indian country.
- Capacity-building utilizing the knowledge and skills of Tribal housing managers and providing them the necessary resources.
- Creating a national Indian Housing & Homeownership Center.
- Increasing lending opportunities for Tribal members.

To achieve these goals, NAIHC will launch four initiatives under its Housing First Campaign:

- NAIHC will make its current "Homebuyer Education Program" full-time, as well as launch a new "Native American Homebuyer" Website (nativeamericanhomebuyer.com).
- NAIHC will expand the financial/leveraging skills and knowledge of Indian housing managers through specialized training.
- NAIHC will promote non-predatory lenders, and build awareness of predatory lending practices in Indian country through a public education campaign.
- NAIHC will expand the capacity of Indian housing managers to enact community planning of new housing developments or authorize renovation of older housing.

Some of the activities planned for these initiatives include:

- Expanded involvement in the **Native American Homebuyer Education initiative**, a program supported by the **Ford Foundation, Enterprise Foundation, Neighborhood Reinvestment Corporation, and Fannie Mae Foundation**. This is a national effort to identify and train individuals in Indian Country who will then educate prospective homebuyers on their reservations. The **National Congress of American Indians** and **regional Indian housing associations** will also be an integral part of this initiative.
- The distance learning initiative would facilitate online training and enable students to receive pre-recorded training presentations. NAIHC is partnered with **AMERIND Risk Management Corporation** to launch an **Indian Housing Television Network Service** to be aired via the **Housing Television Network (HTVN)**, which currently offers educational programs to other housing providers. The cost-effective interactive technology minimizes the time and money spent on traveling to trainings, particularly since many Tribes are located in remote areas.
- NAIHC will develop a **“List of Reputable Lenders”** it deems to be reliable and honest, for our members to consult. By establishing the reputations of these lenders in Indian country, the list will help tribes feel at ease when choosing lending partners.
- Members and tribes will be able to access an **“Affordable Housing Architectural Plans”** Website for affordable housing designs.

For further information on Housing First Campaign initiatives, please contact NAIHC.

NAIHC is targeting a number of organizations and foundations to raise the funds for “Housing First.” To really have a substantial impact on the housing situation in Indian Country, we must utilize non-traditional sources. A lot of prominent people and entities care about social and economic injustice. What we want to do is bring our housing issues in Indian Country to the attention of these people and entities with the financial resources and commitment to help us help ourselves. While still in its infancy, the campaign has received support from some enterprising companies, banks and other financial institutions, including **Fannie Mae, GreenPoint Mortgage, and Washington Mutual**.

2.) **PMI Mortgage Insurance Co. and Fannie Mae** have joined to launch a revolving fund that will be used for new construction and rehabilitation of housing stock for the Pueblo of Acoma in New Mexico. Through the **Gateway Cities Initiative Fund**, Pueblo of Acoma will receive \$150,000 from PMI and \$25,000 from Fannie Mae. As each housing unit is completed, the Fund will be reimbursed from the proceeds of the sale.

3.) **Fannie Mae’s** goal for the third and final phase of its multi-billion-dollar **“Expanding the American Dream Commitment,”** partnering with the **National Association of Home Builders**, is to expand the stock of housing affordable to working families and to assist in the revitalization or development of 1,000 communities. This plan includes a focus on rural and tribal housing needs: over the next decade, an increase in mortgage financing to low and moderate income borrowers in rural areas by 30% or \$30 billion, as well as plans to join with tribal leaders to create a new **Native American Strategic Partnership** to bring capital to Indian Country. Fannie Mae announced that it will increase investments to at least **\$1.25 billion to support tribal housing initiatives**, working with tribal governments, the U.S. government, and lenders to simplify current processes that impede the development of homeownership opportunities in Indian Country. As part of its overall initiative, Fannie Mae has also funded NAIHC’s **“Housing First for First Americans”** campaign.

4.) The **Northwest Area Foundation** is identifying at least 12 communities, including Indian reservations, with which to work intensively for up to 10 years to reduce poverty. The Foundation forms partnerships with these communities and encourages them to identify what they need and how they want to accomplish their goals.

5.) **NAIHC’s Infrastructure Task Force** was formed last year to work on ways of dealing with housing infrastructure development in tribal areas, including water, sewer, telephone, roads, and other infrastructure taken for granted in most American communities. Infrastructure is more expensive for tribes because of the remote location of most reservations. No single agency has been able to provide adequate funding for tribal housing infrastructure programs, so the task force is seeking greater cooperation between the agencies to do combined projects. Participants in the task force include the **Departments of Housing and Urban Development, Agriculture, Indian Health Service, Environmental Protection Agency, Commerce,**

Economic Development Administration, and Treasury, as well as numerous tribes and organizations such as the **Rural Community Assistance Program**.

6.) **NAIHC, AMERIND Risk Management Corporation**, and the **Enterprise Foundation** have partnered to provide **Small Tribes Grants** to increase expertise to leverage and finance both rental and homeownership units for smaller tribal housing programs who often lack the capacity of their larger counterparts.

7.) For two years, the **Housing Assistance Council** has partnered with NAIHC on a conference geared to non-profit rural developers. The conference, **“Building Capacity, Building Homes: A Practitioner’s Workshop on Native American Housing and Economic Development,”** focuses on three subject areas: infrastructure, housing development and economic development. The training event is sponsored by a grant from the **Ford Foundation**.

NAIHC has been working in concert with many other partners with the goal of finding resources – either human or financial – to assist the Tribes. Those partners include:

- Fannie Mae Partnership Offices
- Federal Reserve Banks
- First Nation Oweesta Institute
- State Housing Finance Agencies
- Federal Home Loan Banks
- USDA Rural Development
- Bureau of Indian Affairs
- Veterans Affairs
- Housing and Urban Development
- Indian Health Service
- Housing Assistance Council
- National Congress of American Indians
- Ford Foundation
- Enterprise Foundation
- Fannie Mae Foundation
- Local lenders

Here are some examples of what these partnerships accomplish:

- When we provide financial literacy training we also invite local lenders. We try to build the ladder to keep everyone informed and keep relationships ongoing so no partnership produces only a single project.
- First Nation Oweesta Institute was the original creator of the instructor and participant manuals used in the “Pathways Home: A Native Guide to Homeownership” program.
- Some tribes are unaware that many of the Rural Development programs at USDA can be used to lend on trust land, as long as certain documents in place. We facilitate that learning process and help tribes tap into Rural Development’s many other resources for housing, sewer/water, community facilities, etc. by connecting the tribes with the USDA state office Native American coordinators.
- The Federal Home Loan Banks have a \$250,000 nationwide program for down-payment and closing costs assistance that tribes are usually not aware of. NAIHC field staff are working to make that connection for better utilization of the program.
- The Enterprise Foundation, working closely with the New Mexico State Housing Finance Agency, has created a Coalition of Lenders in New Mexico to help tribes get tax credits and other housing financing.

In addition to the numerous national initiatives and programs already in place, underserved communities still have a need for lenders and other financial institutions to step up their mortgage loan activity to underserved areas, especially tribal areas. Furthermore, Native Americans often are unable to access financial institutions, many of which are not convenient to tribal areas. Much of the Native community is in need of homebuyer training, financial literacy skills or credit counseling. This leaves some Native homebuyers with little choice

than to accept loans with high interest rates, excessive fees, and discriminatory or unscrupulous practices. NAIHC will continue to seek partnerships like those referenced above and others to defeat these challenges.

2.) The BIA, the Federal Housing Administration, the Rural Housing Service, and the Veterans Administration are party to the One-Stop Mortgage initiative under which uniform documents are developed for leases, mortgages and foreclosure procedures for loans on trust land. Are you familiar with this initiative? How has this program contributed to greater homeownership initiatives?

The objectives of the One-Stop Mortgage Center Initiative were to simplify and shorten the mortgage lending process, build capacity of tribal communities, institutionalize programs and increase access to mortgage loans in Indian Country. As evidenced by the list of initiatives above and many others, we have seen a tremendous response to the needs of Indian Country, as laid out by this One-Stop program, including homebuyer education, capacity building, financial literacy, expansion of Individual Development Accounts, and creation of an interagency infrastructure roundtable.

The One-Stop Mortgage initiative has become an important resource for those tribes and Alaska Native Villages who want to pursue a homeownership program for their communities. The legal documents that have been developed for this initiative can be modified to meet each tribe's unique needs. In addition, it eliminates the requirements of waiving their Sovereign Immunity. Before One-Stop, Federal agencies had different applications and guidelines, but there was a big push to work on trust land. The complications of all the different guidelines caused many tribes to become disenchanted. One-Stop put together one-stop shopping with some generic documents so tribes did not have to continually reinvent the wheel or abide by a new set of rules for each agency. It has made it easier for a tribe that may not be sophisticated legally to do financial transactions once too complicated for them to attempt.

Based on the requests of our members, NAIHC is working to provide additional standardized documents to help tribes/TDHEs more effectively operate their local housing programs. In 2003, NAIHC developed 5 technical assistance documents. Topics were: A Set of Model Construction Contract Documents, an Executive Directors Orientation Manual, and three sample policies (Collections and Compliance, Procurement, and Real Property Acquisition). All of these are approved by HUD/ONAP (or will soon be approved) and will be reproduced and distributed free to tribes/TDHEs.

Another result of One-Stop was the eventual ability to refinance Section 184 loans, a welcome development for increasing use of that program. However, the momentum started with One-Stop needs to go a step further to create a cross-agency environmental review. In mixed-funding programs, doing multiple environmental reviews for each involved agency can be cost- and time-prohibitive for tribes.

3.) Much of the Native American land is held in a trust. The trust status creates unique challenges for those wishing to develop the private market. Tribes have limited sovereignty over their lands, but the BIA holds much of the land in trust. The trust status limits the type of economic activity allowed on Native American lands. How does this affect the private sector's ability to provide housing assistance to Native Americans? What action do you believe must be taken to encourage greater homeownership opportunities for Native Americans?

Bureau of Indian Affairs: Potential Native homebuyers seeking homes on trust or allotted land on reservations must have their leases recorded by their local Bureau of Indian Affairs (BIA) regional office in order to complete the home buying process. However, due to underused technology and various inefficient procedures, the BIA has a backlog of 332,448 documents that the General Accounting Office estimated would take more than 110 years to eliminate. Records are being maintained in antiquated ways, causing long delays that can extend the home buying process from weeks to years simply to obtain the title to tribal land. This problem alone is a major barrier to Native American homeownership and economic development opportunities.

Just like with the One-Stop Initiative, the BIA needs to standardize the land lease and title recordation process for all of its regional and local offices around the country to eliminate the problem of delays in mortgages being processed. All Title Status Reports (TSR) should be processed the same way in a timely manner within each BIA Area Office, facilitated by well-trained staff. For one family in Michigan it took three years to get a TSR. The Round Valley Indian Housing Authority in California is currently in its seventh year of waiting for recordation of titles for 30 homeownership units. There is no uniform system and lenders will just not wait that long.

In an attempt to deal with this issue, Congress authorized in 2000 and funded in 2002 an “Indian Land Title Report Commission” whose goal is to make recommendations to the Bureau for how to better facilitate home loan mortgages on trust land. The Commission is charged with analyzing the BIA’s maintenance of land ownership records and title documents and issuing certified title status reports, then determine how best to improve or replace the system. Unfortunately, of the twelve Commissioners, only eight have been named. We urge the Administration to name the last four members so the Commission can work on solutions in this area that is so crucial to tribal development.

Lenders: Dealing with trust land is often an unsavory prospect for many lenders. Once they find out there is an extra step in the mortgage process they are loathe to embark on Native lending ventures, so the process needs to be made as smooth as possible. To help keep lenders interested, NAIHC is recommending that tribes secure the TSR *first*, before approaching a lender. Unfortunately, some lenders still red-line Native American borrowers out of mistrust and uncertainty about dealing with tribal land. However, the situation is sometimes further complicated when using HUD’s loan guarantee programs – which were created as an incentive for lending on trust land – because some lenders simply don’t trust HUD, even with a 100% loan guarantee. These continue to be problems, but some lenders have worked to overcome them.

Need for Education: The greatest need in this area, other than timely TSR processing, is education, first, by bringing tribes and lenders together to teach lenders that there is a profit to be made in Indian country. We must get rid of the idea that lending in Indian country is just to fulfill Community Reinvestment Act (CRA) requirements and that lenders will need to “give away” their products.

Additionally, many lenders are not familiar with Native culture, leading to mistrust of Native Americans. For example, when processing a loan application some lenders inquire about a family’s other expenses, including that for food, then they do not believe what Natives report because in some areas they do a lot of hunting, receive federal commodities, or have combined households.

The education goes both ways. In training sessions, NAIHC tries to have lenders attend to speak with the tribes about what they have available and what the requirements are. Additionally, we try to involve the Federal Reserve Bank in training because if a family is having trouble with a lender they can turn to them as the regulator. For example, most tribal loans are going to be new construction loans because of the small supply of useful housing stock. Sometimes lenders will say they are simply not doing any new construction loans, so the family can take that up with the Federal Reserve. Right now most families, if they have problems, will wind up not doing anything.

Finally, education on the tribal level must include preparing families to be homeowners and changing the “HUD home” or “grant house” mentality. Many times tribal members will be the first generation in their family to own a home or live anywhere that is not federally subsidized. They must adjust from paying \$100 a month to making a mortgage payment. We also must help tribal members understand that low housing costs and widely-subsidized housing is swiftly becoming a thing of the past. As tribes continue to convey mutual help homes from the 1937 Housing Act program there is a decreasing amount of administration funding in NAHASDA for assistance, and once they own a home they can no longer call the housing department to perform maintenance or replace a window. Many families don’t understand that there is a whole new ballgame with NAHASDA’s self-determination and leveraging aspect, and that there will not always be subsidy. While it is easier for many families to stay in a low-rent unit, that funding stream is dwindling, so we need to move into a variety of

products that we can take a family and look at where they are at financially, what are their dreams, and what can they afford, and offer them options. Education is not just to get every family a mortgage – we educate to make sure they know their options and there is someone there to help.

Loan Guarantees: The Section 184 Program and Title VI program at HUD were both very good ideas for helping tribes draw lending to trust land. Unfortunately, these programs have been largely underutilized for many reasons. One of the biggest reasons is how long it takes to get a TSR for the transaction. Another is how cumbersome the paperwork is. Many tribes who have done a successful 184 loan are unwilling to try to do another for both of these reasons. The backlog in credit authority is being targeted for rescission in this year's budget. It would be unfortunate to lose so much credit for loan guarantees, but until the BIA can process a timely TSR and the programs become more user-friendly, they are not going to be widely used by the tribes.

We would like to see HUD begin working more closely with the tribes on how to improve the programs in to allow easier access. Unfortunately we recently learned that HUD has moved in the other direction. Since its inception, the Title VI loan guarantee program provided a 95% guarantee. That was recently reduced to 80%. If Tribes were already struggling to finance Title VI projects, this certainly doesn't improve matters. In fact, we fear that the interest in this program could drop substantially so that any progress HUD hoped to make in increasing usage is unlikely to be realized. We understand that the guarantee perhaps should not have been set at 95% in the first place, but now the precedent has been set and we hope HUD will make every effort to address this situation.

4.) In 1997, the GAO reported that only 92 conventional home mortgages were made in tribal areas during the 5-year period from 1992 until 1996, and half of those were made on a single reservation where the tribe owned the bank. What changes or initiatives are necessary to encourage private mortgage market investment in Native American areas?

In order for tribes and housing entities to provide housing for their tribal members, they must have the support of more than just the federal agencies who are currently involved.

- Mortgage lenders, financial institutions and companies that manufacture goods for housing development must take a proactive role in Indian housing.
- Financial institutions need to step up their mortgage loan activity to underserved areas, especially tribes.
- If predatory lending is addressed, it will be easier to provide affordable housing because Native applicants will no longer be subject to high interest rates, excessive fees, and discriminatory or unscrupulous practices.
- NAIHC has kept a close watch on the recent flurry of bank mergers, notably the one between Bank of America Corporation and FleetBoston Financial Corporation. Before the second largest bank merger ever takes place, we are seeking concrete commitments that the Bank will serve the Native community.
- We encourage Federal Reserve to diligently continue overseeing not only Bank of America, but other financial institutions, ensuring that they meet their obligations to adequately serve all communities and in particular, those that are underserved.

One area that is vital for encouraging private mortgage market investment is to provide **basic banking services** in tribal areas. How can a mortgage market prosper when there is one bank branch in an area of several hundred square miles? Some tribal areas do not have any banking services whatsoever. After being targeted in the press for providing inadequate banking hours and services for the Navajo Nation, Wells Fargo recently agreed to expand banking hours of current branches on the reservation by two hours a day. The bank will also start cashing Social Security checks of tribal members, which they had not done previously. Navajo currently has one bank branch and four ATM machines to service more than 180,000 tribal members.

NAIHC also encourages the expansion of the use of **Individual Development Accounts (IDA)**, for putting tribal members on the road to homeownership. Some Federal Home Loan Banks have set up IDAs where deposits from the family are matched by the bank in anticipation of a down-payment on a future mortgage. The matching funds create an incentive to save and give the family a stake in their own future. More banks should

be providing the same service. IDAs are still a form of subsidy, but without it most will not take the risk and would rather continue to rely on tribal housing departments. IDAs make it easier to get into a home, but at the same time, not too easy. Tribes have the challenge of seeing so many families they want to put into a new home, but know they are not ready to be homeowners. IDAs can begin to bridge that gap.

One possible new initiative would be to create an **incentive for tribes** to cultivate private investment. Right now, most incentives are for the lender in the forms of guarantees or the ability to meet CRA requirements. Other than the desire to put their members in homes, there is no real incentive for tribes to do private lending. Perhaps there could be some monetary incentive to reward leveraging. For example, if a tribe combines its own funds with NAHASDA funds, at some point they could get some of it back. The opposite currently exists at HUD – you get more money because you have fewer resources. You are rewarded for having a depressed economy. There is not a solid incentive to improve that economy.

Leveraging made possible under NAHASDA is a great opportunity that many tribes are taking advantage of, but it is still developing in Indian Country. Those who are positioned well to be successful are successful. But those with poor economies, a lack of jobs, or a poor location are not well positioned and will continue to struggle under NAHASDA until their situation improves.

With the development of private sector lending, time is required for tribes to ramp up to the sort of volume lenders need for it to be cost-effective. The volume will be created by educated homebuyers. However, the sort of volume lenders get from lending to clean-credit homebuyers in American suburbia is just not going to be there in remote tribal locations. We need to meet somewhere in the middle.

Homebuyer education is a critical component of any homeownership initiative in Indian Country. To help speed up the “ramp up” of tribal communities, NAIHC has embarked on a new Homebuyer training program, mentioned earlier. The partnership and program, called “**Pathways to Homeownership,**” trains trainers to implement homebuyer education programs on a local level. Lenders and others involved in the mortgage process will be a part of this certified program. NAIHC feels very strongly that the more we involve the people who are a part of the mortgage lending process, the better responses and relationships will be formed and nurtured.

NAIHC receives a yearly appropriation from Congress to provide technical assistance and training to Tribes to implement federal housing programs, but we also last year received a grant from HUD to develop the housing counseling manual used in Pathways (above). Many local, regional, and national Native American homebuyer educational products exist. However, none are culturally specific enough for Native Americans and they are not provided in a user-friendly format, such as providing participant’s guides and instructor’s guides. In addition, other national non-Native products are available; however, they are not, for the most part, relevant to the mortgage issues that confront Native land issues. Prior to the inception of NAHASDA and the development of the FHA 248 and HUD 184 Indian Loan Guarantee Programs, tribal trust land was not securable under conventional mortgage financing. Financing was unavailable to Native people wanting to build, purchase, or rehabilitate homes on their own tribal land. However, since NAHASDA, home loans can now be secured by way of a leasehold mortgage. Mortgage financing is finally a viable resource for qualifying members of the Native American and Alaskan Native communities. Tribal people need to become aware of these opportunities.

In most cases Native families are either first generation mortgage loan recipients or first-time mortgage loan recipients. Tribal families often seek assistance to learn about homeownership, its benefits, and requirements because it is unfamiliar territory. In some instances, they may have less than good credit or no credit history at all, or they may not be familiar with the mortgage lending process and required home maintenance activities. Education and counseling is imperative in helping a Native American individual or family become a successful homeowner.

The more sophisticated and knowledgeable our people get in the area of housing finance the more likely they are to be successful.

CONCLUSION:

In closing, we understand there are always going to be prevailing issues that will tend to overshadow tribal needs, but we urge you to not forget the desperate housing conditions Native Americans are enduring day after day. Consistent growth in the housing industry has been one of the brightest spots in our lagging economy. Don't allow Tribes to be left behind just when they are making headway in building sustainable tribal communities.

I would again like to thank all the members of this subcommittee, in particular Chairman Ney, for holding this hearing today. NAIHC looks forward to working with each of you in the rest of this session of Congress and I am happy to answer any questions you may have.

The National American Indian Housing Council is a 501(c)(3) organization representing tribes and tribal housing organizations nationwide. It operates a national technical assistance and training program as well as the Native American Housing Resource Center in Washington, DC through an appropriation from the Congress administered by HUD. NAIHC's offices are at 900 Second Street, NE, Suite 305, Washington, DC 20002; phone: (202) 789-1754, fax: (202) 789-1758; <http://www.naihc.net>.

Biography Russell Sossamon Chairman, National American Indian Housing Council

Russell "Rusty" Sossamon is presently serving as the Executive Director for the Housing Authority of the Choctaw Nation of Oklahoma. The Housing Authority of the Choctaw Nation is the Tribally Designated Housing Entity of the Choctaw Nation of Oklahoma under the Native American Housing Assistance and Self-Determination Act. The Housing Authority's mission is to provide the Choctaw people with the opportunity for decent, safe, and sanitary housing while building stronger, healthier communities and promoting economic independence.

Prior to being promoted to the position of Executive Director in August of 1997, Mr. Sossamon served as the Deputy Director for the Housing Authority. Mr. Sossamon held the positions of Job Developer, Senior Counselor and Assistant Director for the Choctaw Nation Vocational Rehabilitation Program based in Hugo, Oklahoma before joining the Housing Authority staff.

Mr. Sossamon served as President of the Southern Plains Indian Housing Association, Region IV, and as Board Member for the National American Indian Housing Council (NAIHC) prior to being elected the Chairman of NAIHC in June, 2002. He has served as a delegate with Oklahoma Partnerships Revitalizing Affordable Housing. Speaker Loyd Benson appointed him as a member of the Rural Housing Incentive Study Task Force representing Congressional District #3 in July 2000. He serves as a founding Board Member of the Tribally-sponsored Boys and Girls Club. He also serves as a member of the Southwest Regional Fannie Mae Advisory Board.

Mr. Sossamon has worked extensively under the direction of Choctaw Chief Gregory E. Pyle in developing programs to enable Choctaw Tribal members in other states the opportunity to become homeowners.

He attended Southeastern Oklahoma State University in Durant, Oklahoma graduating in May of 1987 where he received a B.S. in Economics with a minor in Business Administration and Political Science. He ventured into the field of retail for a short time before beginning his service with the Choctaw Nation.

Mr. Sossamon is a Choctaw Tribal member. He and his wife Laura have two sons, William and Aaron. They reside in Hugo, Oklahoma.

FACT SHEET: NATIVE AMERICANS AND HOUSING

- ◆ **Housing Needs:** An estimated 200,000 housing units are needed immediately in Indian country. (U.S. Commission on Civil Rights, "A Quiet Crisis: Federal Funding and Unmet Needs in Indian Country," 2003)
- ◆ **Homeless:** Approximately 90,000 Native families are homeless or under-housed. (U.S. Commission on Civil Rights, "Quiet Crisis," 2003)
- ◆ **Overcrowding:** In tribal areas, 14.7 percent of homes are overcrowded, compared to 5.7 percent of homes of the general U.S. population. (Census Bureau, 2000)
- ◆ **Plumbing:** On Native American lands, 11.7 percent of residents lack complete plumbing facilities, compared to 1.2 percent of the general U.S. population. (Census Bureau, 2000)
- ◆ **Telephone Service:** Compared to the 2.4 percent of the American population, 16.9 percent of Native Americans in tribal areas lack telephone service. (Census Bureau, 2000)
- ◆ **Indian Housing Funding:** Approximately \$650 million a year has been appropriated towards Native housing over the last few years. Funds are distributed to 575 housing entities, amounting to an average of \$1.1 million per tribe. Of that funding amount, about 40 percent, or (\$440,000 per tribe) goes towards new housing construction. (U.S. Commission on Civil Rights, "Quiet Crisis," 2003)
- ◆ **Cost of New Homes:** The average cost of a new home on a reservation is \$125,000. (U.S. Department of Housing and Urban Development (HUD), 2003)
- ◆ **Tribes:** There are 562 federally-recognized tribes, of these, 229 are Alaska Native Villages. (Federal Register, 12-05-03; Vol. 68, No. 234)
- ◆ **Total Population:** There are 2.5 million Native Americans and Alaska Natives in the United States (single race), accounting for 0.9 percent of the total population. There are 4.3 million people (mixed race), totaling 1.5 percent of the entire U.S. population. (Census Bureau, 2000)
- ◆ **Location:** A total of 34 percent of the Native population resides in rural areas, where many reservations are located. (Census Bureau, American Indian/Alaska Native Heritage Month, 2003)
- ◆ **Income:** Native Americans have the second lowest median household income, \$32,116, while whites have the highest at \$46,305. (Census Bureau press release, 9-24-2002)
- ◆ **Poverty Rate:** The poverty rate for Native Americans is approximately 26 percent—2.6 times higher than that for whites and more than twice the average for all Americans, at approximately 12 percent. (Census Bureau, 2000)
- ◆ **Unemployment Rate:** Compared to 5.8 percent of the general U.S. population, 13.6 percent of the workforce on reservation areas is unemployed. (Census Bureau, 2000)
- ◆ **Employment Data:** A total of 56.5 percent of the population of trust lands and reservations is in the workforce (16 years of age and older). (Census Bureau, 2000)
- ◆ **Tribes and Economic Development:** The majority of tribes, a total of 361, are without gaming. (National Indian Gaming Association website, 2003)
- ◆ **Mortgages Made On Trust Lands:** In 2002, 354 loans were made for Section 184, 760 loans for Section 248 and 153 loans for the Rural Housing Service Section 502 (Direct Loans). (General Accounting Office Report, "Native American Housing: VA Could Address Some Barriers to Participation in Direct Loan Program," 2002)
- ◆ **Loan Foreclosure and Delinquency Rates:** The foreclosure rate for Native Americans on Section 184 loans is .011 percent, while the delinquency rate is 7.7 percent. (HUD as of 4-21-2004)

Denial rates for conventional home purchase loans:

	<u>In 2001</u>	<u>In 2002</u>
◆ Native American	35 %	23 %
◆ White	16 %	12 %
◆ Hispanic	23 %	18 %
◆ Black	36 %	26 %
◆ Asian	11 %	10 %

The number of conventional/government-backed home purchase loans made to Americans:

	<u>In 2001</u>	<u>In 2002</u>	<u>% change</u>
◆ Native American	15,279	18,752	23%
◆ White	3,257,542	3,341,732	3%
◆ Hispanic	405,809	449,893	11%
◆ Black	285,243	291,491	2%
◆ Asian	175,151	206,909	18%

(All loan data from: Federal Financial Institutions Examination Council for institutions covered by the Home Mortgage Disclosure Act, August 2003)