



September 8, 2011

The Honorable Tom Latham  
Chairman, Subcommittee  
Transportation, Housing and  
Urban Development, and  
Related Agencies  
Committee on Appropriations  
U.S. House of Representatives

The Honorable John W. Olver  
Ranking Member  
Transportation, Housing and  
Urban Development, and  
Related Agencies  
Committee on Appropriations  
U.S. House of Representatives

Dear Congressman Latham and Olver:

I am writing this letter on behalf of the National American Indian Housing Council (NAIHC) Board of Directors and its 270 members representing 480 Indian tribes throughout the United States. The NAIHC was established in 1974 and has supported American Indians, Alaska Natives and native Hawaiians in their efforts to provide culturally relevant and quality affordable housing for native people during the past 37 years.

The NAIHC Board and Membership is concerned that fiscal year (FY) 2012 appropriations language may include provisions that would:

- prohibit tribes from receiving fiscal year (FY) 2012 funding if their current Indian Housing Block Grant (IHBG) "unspent" funding balance is \$10 million or more;
- require tribes to spend their FY 2012 appropriated funds within 3 years of receiving the FY 2012 IHBG allocation;
- not address the serious training and technical assistance needs of tribes and their housing programs.

NAIHC respectfully wishes to express our disagreement with such language. The Native American Housing Assistance and Self-Determination Act (NAHASDA) authorizes funding for the IHBG, and requires that funding be based on (1) the costs of operating and modernizing 1937 Housing Act units owned by the tribe when NAHASDA became law and (2) the need to provide affordable housing activities, referred to as the need portion. As you know, Indian tribes have

varied profiles in terms of population, needs within their population, and the number of units that, by statute, must be operated and maintained.

The Department of Housing and Urban Development's (HUD) most recent formula estimation analysis shows tribal populations for housing funding assistance purposes range from 12 to 200,000. Funding for the needs component ranges from the statutory minimum of approximately \$50,000 to more than \$65 million. Existing housing stock ranges from zero for many tribal housing programs that received no 1937 Housing Act funding to more than \$30 million for tribes with significant housing stock when NAHASDA was enacted. Given these facts, we believe a threshold for unexpended funds is inappropriate given the far-reaching differences among tribal communities.

It is important to note that both IHBG provisions cited above do not take into account the long-held tradition of self-determination under NAHASDA, nor the negotiated rulemaking process. NAHASDA declares in part that Federal housing assistance "...shall be provided in a manner that recognizes the right of Indian self-determination and tribal self-governance...." The statute further notes that "...all regulations required under this Act [NAHASDA], including any regulations that may be required pursuant to amendments made to this Act after the date of enactment of this Act, shall be issued according to a negotiated rulemaking procedure under subchapter III of chapter 5 of title 5, United States Code." Notably, NAHASDA requires that the negotiated rulemaking process include consultation with Indian tribes "Not less frequently than once every 7 years."

HUD issued a final rule on April 20, 2007, announcing that the IHBG formula "...shall be reviewed not later than May 21, 2012, to determine if a subsidy is needed to operate and maintain NAHASDA units or if any other changes are needed in respect to funding under the Formula Current Assisted Stock component of the formula." It is the NAIHC position that the distribution of funding under the IHBG should continue to be, as HUD has clearly recognized, a matter of negotiation among the tribes and the Federal Government.

Similarly, using a 3-year spend out requirement undermines long-range housing development for many tribes that have large population bases and disproportionately high housing needs. It is not unusual for a housing development project, which can include land purchases and infrastructure development, to take more than 3 years to complete regardless of the tribe's population base. The problem is simply exacerbated with larger tribes and larger housing projects. The NAIHC is concerned that the 3-year spend out requirement fails to take into account these realities.

As to training and technical assistance, the NAIHC membership has voted unanimously during each of their annual conventions since 2006, in support of a set-aside of funding from their IHBG appropriations in order to fund NAIHC's Training and Technical Assistance (T/TA) program. In addition, NAIHC members have expressed concerns about the quality of training provided by HUD contractors. To ensure high-quality T/TA, NAIHC requests that appropriations include funding for the NAIHC training and technical assistance program at no less than the \$3.5 million that Congress has approved for the past 3 years.

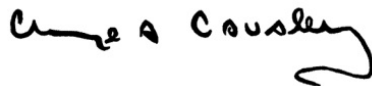
[The NAIHC membership also supports funding level of \$700 million for the IHBG in FY 2012. This is the same amount of funding that Congress appropriated in FY 2011. While nowhere near the amount needed to address the actual housing need in Indian Country, the NAIHC Board and Membership understands that spending constraints are an important component of getting the Nation's economic house in order.]

Finally, NAIHC respectfully requests that Congress commission the Government Accountability Office (GAO) to undertake a study of unexpended housing funds. We request that GAO prepare and submit to the Committees on Appropriations in the House of Representatives and the Senate a report that details the distribution of funds by the HUD to public housing authorities (PHAs) and Indian tribally-designated housing entities (TDHEs), and the disbursement of funds by the PHAs and TDHEs for housing construction and housing repair projects.

Attached to this letter is language that, if enacted, would direct the GAO to prepare and submit such a report. We believe such a report could review the history of fund disbursement for the previous five fiscal years and review both HUD's internal processes making funds available to these housing authorities as well as the internal processes of PHAs and TDHEs. It should also examine temporal, regulatory, or structural impediments that result in delays in the disbursement of funds, and whether those impediments are attributable to the department, PHAs, or TDHEs. Finally, the report could include recommendations on ways to improve the disbursement of funds to ensure the funds are used in an effective and timely manner as well as identify any capacity building needs that are identified during the study.

On behalf of the NAIHC Board and Membership, I want to thank you for considering our request and for sharing our aspirations for improved housing for Native Americans.

Sincerely,

A handwritten signature in black ink that reads "Cheryl Causley". The signature is written in a cursive style with a long, sweeping tail on the final letter.

Cheryl Causley  
Chairwoman

DRAFT

AMENDMENT NO. \_\_\_\_, to be offered by Mr. \_\_\_\_\_

*On page 72, line 15, after the word “amounts” insert the following: “That of the amount provided under this heading, \$3,500,000 shall be to support training and technical assistance provided by a national organization dedicated to assisting Indian tribes with housing and related activities,”*

*On page 72, lines 15-18, strike the phrase “Provided further, That no funds shall be awarded to a tribe that has over \$10,000,000 in unexpended balances at the beginning of the fiscal year, excluding balances from fiscal year 2011; “*

*On page 120, line 13, insert the following:*

“SEC.234. Not later than April 1, 2012, the Government Accountability Office shall prepare and submit to the Committees on Appropriations in the House of Representatives and the Senate a report regarding the distribution of funds by the Department of Housing and Urban Development to public housing authorities (PHAs) and Indian tribally-designated housing entities (TDHEs), and the disbursement of funds by the PHAs and TDHEs for housing construction and housing repair projects.

The report shall review the history of fund disbursement for the previous five fiscal years and review both the department’s internal processes making funds available to these housing authorities as well as the internal processes of PHAs and TDHEs. It shall also examine any temporal, regulatory, or structural impediments that result in delays in the disbursement of funds, whether those impediments are attributable to the department, PHAs, or TDHEs. The report shall include recommendations on ways to improve the disbursement of funds to ensure the funds are used in an effective and timely manner.”