

**STATEMENT OF SECRETARY SHAUN DONOVAN
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT**

**JOINT HEARING BEFORE THE
SENATE COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS AND
THE SENATE COMMITTEE ON INDIAN AFFAIRS**

“INNOVATIVE SOLUTIONS TO HOUSING NEEDS IN INDIAN COMMUNITIES”

AUGUST 25, 2010

Good morning Chairman Johnson, and Members of the Committees. Thank you for inviting me today to testify before you on innovative solutions to housing needs in Indian Country. There are many challenges to providing safe and stable housing in Indian communities, and today I would like to discuss what HUD and this Administration are doing to tackle those challenges through innovation, and how, going forward, we can be a better partner.

And I am pleased to be here in South Dakota – my third trip to Indian Country since becoming Secretary last year. Each of my trips has opened my eyes further to the unique challenges faced in these communities – but also how HUD investments could spark community transformation.

In Montana, I saw firsthand some of the most severe cases of families living in overcrowded and substandard housing conditions.

In Alaska, I witnessed how one neighborhood in decline—with the lowest incomes in all of Anchorage, the highest crime rates, and deteriorating homes—could rise from the ashes with just a little help. From an investment of \$14 million, I saw a regional housing authority that leveraged public and private commitments to the tune of \$100 million, reducing crime, improving schools and creating opportunity for families.

The lessons from these trips were clear: by bringing federal and state agencies together with tribal governments and private-sector stakeholders, we can leverage the resources and partnerships we need to create economic stability and opportunity in Indian Country.

As such, today I will describe HUD’s efforts to do just that. I will provide an overview of the programs HUD’s Office of Native American Programs (ONAP) has available to address the housing needs and challenges in Indian Country. I will also discuss the positive impact that President Obama’s American Recovery and Reinvestment Act has had in these areas; provide an update on the progress of negotiated rulemaking with tribal members to implement recent statutory amendments to HUD’s Native American housing programs; describe the upcoming Native American Housing Needs Study and workshops; and illustrate how the Department is

seeking to improve the delivery of housing and housing-related services to the families we serve.

A Commitment to Native Communities -- ONAP Programs

Let me review with you the programs HUD has that are specifically geared toward Native Americans.

HUD administers four programs specifically targeted to American Indian and Alaska Native individuals and families. In implementing these programs, the Department recognizes the right of tribal self-governance and the unique relationship between the Federal Government and the governments of Indian tribes, established by long-standing treaties, court decisions, statutes, Executive Orders, and the United States Constitution. There are 564 federally recognized tribes in the nation today, each with its own culture, traditions, and government. The Department strives to balance respect for these individual tribes with regulations and procedures that ensure accountability and consistency nationwide.

HUD also administers two programs specifically targeted to Native Hawaiians eligible to reside on the Hawaiian Home Lands. The block grant program for Native Hawaiians is administered through the State Department of Hawaiian Home Lands and is augmented by a home loan guarantee program.

Indian Housing Block Grant

The Indian Housing Block Grant (IHBG) is ONAP's largest program, both in terms of dollars appropriated and population served. It was authorized by the Native American Housing Assistance and Self Determination Act (NAHASDA) in 1996. The block grant approach offers each tribe the flexibility to design, implement, and administer unique, innovative housing programs, based on local need. Some of these local programs would not have been eligible activities under the 1937 Housing Act, such as down-payment and other mortgage assistance programs, transitional housing, construction of domestic abuse shelters, and the creation of revolving loan funds.

From Fiscal Year (FY) 1998 through FY 2009, the IHBG program received slightly more than \$7.58 billion, or an average of about \$632 million annually. During that time, more than 25,000 affordable housing units have been constructed or acquired, and more than 52,000 housing units have been rehabilitated.

Annual IHBGs are awarded to eligible Indian tribes or their tribally designated housing entities (TDHE) for a range of affordable housing activities that primarily benefit low-income Indian families living on Indian reservations or in other Indian service areas. The amount of each grant is based on a formula that considers local needs and the number of units developed with 1937 Housing Act funding and currently managed by the tribe or its tribally designated housing entity (TDHE).

In FY 2010, more than \$701 million was distributed through the IHBG program to about 360 recipients, representing more than 540 tribes, including the Oglala Sioux which received \$11.5 million in IHBG funds. In total, South Dakota received over \$38 million of IHBG funds in FY2010. The minimum IHBG in FY 2010 was \$54,019, awarded to 90 tribes. In FY 2010, as of July 29, 2010, IHBG recipients had built or acquired more than 1,400 affordable housing units and rehabilitated more than 1,700. The goal for FY 2010 is to build or acquire 2,028 units and rehabilitate 3,767.

Title VI – Loan Guarantees

NAHASDA also authorized the Title VI program, which offers recipients of the IHBG (tribes and their TDHEs) a loan guarantee program that encourages long-term projects and the leveraging of a variety of funding sources. Under Title VI, HUD can guarantee 95 percent of a loan for affordable housing activities. Borrowers pledge a portion of their current and future IHBG funds as security. This program has provided an incentive for lenders to get involved in the development of tribal housing.

Since the program began in 2000, ONAP has issued 59 Title VI loan guarantees, totaling more than \$137 million. The eligible activities are the same as for the IHBG program: Indian housing assistance, housing development, housing services, housing management services, crime prevention and safety activities, and model activities as approved by HUD. The predominant use of Title VI loans has been the construction of housing units—more than 2,000 since the program began—and housing infrastructure.

Section 184 – Single Family Home Loan Guarantees

The Section 184 program was authorized by the Housing and Community Development Act of 1992, as amended. It is a single-family mortgage loan program that provides a 100 percent guarantee for private mortgage loans issued to eligible borrowers. Eligible borrowers include American Indian and Alaska Native families and individuals, Indian tribes, and TDHEs. There are no income limits. Loans are used to purchase, construct, rehabilitate, refinance, or purchase and rehabilitate a home located on a reservation or within an Indian area. A one-time, one percent guarantee fee is charged; it can be financed or paid in cash at closing. The maximum mortgage term is 30 years.

In FY 2003, 271 Section 184 loans were guaranteed for \$27 million. Six years later, in FY 2009, 2,401 Section 184 loans were guaranteed for \$395 million. Since the program's inception in 1995, through June 30, 2010, 11,064 loans were guaranteed, for more than \$1.6 billion. The foreclosure rate has consistently remained low with a historical default rate under 4 percent.

Native Hawaiian Housing Block Grant (NHHBG)

The NHHBG program, Title VIII of NAHASDA, was authorized by the Hawaiian Home Lands Homeownership Act of 2000. The Department of Hawaiian Home Lands (DHHL) is the sole recipient. The NHHBG is designed to primarily benefit low-income Native Hawaiians who

are eligible to reside on the Hawaiian Home Lands. Eligible activities are the same as for the IHBG program. DHHL provides many housing services, including counseling and technical assistance, to prepare families for home purchase and ownership. DHHL is also using NHHBG and other funds to invest in infrastructure for future housing development.

FY 2002 was the first year the DHHL received funding. Since that time more than 300 units have been constructed, acquired or rehabilitated with NHHBG funds. The program has an average annual appropriation of approximately \$9 million. For FY 2010, the appropriation was \$13 million. In FY 2009, 49 affordable homes became available to eligible Native Hawaiian families through construction (34), acquisition (14), and rehabilitation activities (1).

Section 184A – Native Hawaiian Loan Guarantee Program

Section 184A was established by Section 514 of the American Homeownership and Economic Opportunity Act of 2000, which amended the Housing and Community Development Act of 1992. The program is similar to Section 184, but is intended for Native Hawaiians eligible to reside on the Hawaiian Home Lands. Appropriations have ranged from \$956,000 in FY 2002, to \$1 million in FY 2009. As of June 2010, the program had guaranteed a total of 87 loans for almost \$20 million.

Indian Community Development Block Grant Program (ICDBG)

This program was authorized by the Housing and Community Development Act of 1974. ICDBG is a competitive program, open to federally recognized tribes and certain tribal organizations. Each year, approximately one percent of the Community Development Block Grant appropriation is set-aside for ICDBG. In FY 2010, the ICDBG set-aside is \$65 million. Funding in recent years has ranged from \$71 million to \$65 million. About \$4 million is set aside each year from the ICDBG fund for imminent threats to health and safety.

Some examples of ICDBG projects include construction of health clinics and other public facilities including gymnasiums and cultural centers; housing rehabilitation; health and education facilities; infrastructure, including roads, power, water, and phone lines; and waste water systems.

Recovery Act Impacts in Indian Country

On February 17, 2009, President Obama signed the American Recovery and Reinvestment Act (ARRA) into law. I would like to thank the members of the Committees for their role in providing funds to tribal areas as part of that law. As a result, HUD has made a historic investment in Indian Country, including \$510 million in American Indian, Alaska Native, and Native Hawaiian communities across the country. Of that amount:

- \$255 million was distributed to eligible IHBG recipients using the IHBG formula. There were 362 primary recipients, representing 542 tribes.

- \$242,250,000 was awarded to 102 IHBG recipients out of 327 applicants who applied through a Notice of Funding Availability (NOFA).
- \$10.2 million was awarded to the Department of Hawaiian Home Lands (DHHL) to be distributed through the NHHBG program.
- An additional \$10 million was provided for the ICDBG program through the Community Development Fund. The entire amount was awarded to 19 grantees.

Nationally, as of August 7, 2010, tribes had expended 59 percent of their Recovery Act formula funds, and 42 percent of the competitive funds. The Department of Hawaiian Home Lands had spent 35 percent of its Recovery Act grant. A number of tribes have already completed and closed out their Recovery Act Grant.

Impact on South Dakota Tribes

The tribes of South Dakota received \$12.9 million in Recovery Act formula funds, and \$8 million in competitive funds (two tribes). Tribes have expended 68 percent of the formula funds, well before the deadline. One tribe in South Dakota has expended its entire grant, and completed its project. More than 200 jobs have been created by ARRA projects in the state.

Allow me to briefly describe how this funding is being used in various communities – and how it reinforces that while HUD may be seen as an “urban” agency, we have a broad reach in some of America’s smallest, most rural places, including Indian Country.

Cheyenne River Housing Authority, Eagle Butte, South Dakota, received \$2,116,518 in Recovery Act formula funds. The grantee plans to substantially rehabilitate 143 units, moderately rehabilitate 57 units, replace the roof of the maintenance building, complete site work (fencing and sidewalks) on its maintenance building, and create temporary construction jobs. To date, renovation of 28 units is underway, with a total of 23 units in progress, and 4 units completed. Furnace replacement for 115 units is occurring, with 59 units in progress and 55 units completed. The fencing and sidewalk project is underway.

The Crow Creek Sioux Tribe, Fort Thompson, South Dakota, received \$618,031 in Recovery Act formula funds. The grantee plans to rehabilitate 13 rental units with Energy Star materials in order to make the units more energy efficient. Two units have been completed to date.

The Flandreau Santee Sioux Housing Authority in Flandreau, South Dakota, received \$159,011 in Recovery Act formula funds. The grantee plans to provide down payment assistance. This project will provide homeownership opportunities to eight low-income families in the community. To date, seven families have received down-payment assistance.

The Lower Brule Housing Authority, Lower Brule, South Dakota, received \$511,735 in Recovery Act formula funds. The grantee plans to substantially rehabilitate nine rental units

with the replacement of Energy Star certified materials and appliances. Seven units have been completed.

The Oglala Sioux Housing Authority, Pine Ridge, South Dakota, received \$4,381,821 in Recovery Act formula funds. The grantee has completed the substantial rehabilitation of 124 units, and roof replacement of 150 units, using Energy Star certified materials and appliances, and plans were completed for future subdivisions and an administration building.

The Oglala Sioux Housing Authority also received a \$4 million competitive Recovery Act grant. The grantee plans to construct 18 units for low-income families using Energy Star appliances and materials, and green building techniques. The grantee also will develop site infrastructure for future housing projects. To date, construction of 13 units is underway.

Sicangu Wicoti Awanyakapi (Rosebud), Rosebud, South Dakota, received \$3,014,581 in Recovery Act formula funds. The grantee plans to upgrade the parking lot of the housing authority, upgrade the parking lot of an elderly complex to improve accessibility, rehabilitate 10 vacant units, construct a centralized propane distribution facility, and develop 10 new rental units. Additionally, solar heat panels will be installed in 100 housing units, and a wastewater treatment facility, serving 90 households, will be upgraded. To date, the parking lot at the housing authority is complete, and the one at the elderly complex is 50 percent complete. The rehabilitation of the 10 vacant units is complete; all have Energy Star materials and appliances. Construction is underway for the centralized propane distribution facility and the wastewater treatment facility. A contract has been signed for the construction of new rental units, and the solar panel project is complete.

Sicangu Wicoti Awanyakapi also received a \$4 million competitive Recovery Act grant. The grantee plans to develop site infrastructure (construct/upgrade wastewater treatment, water, and streets) for 65 new housing units. Construction is underway with excavation and rough grading.

The Sisseton Wahpeton Housing Authority, Sisseton, South Dakota, received \$1,285,646 in Recovery Act formula funds. The grantee plans to rehabilitate 30 rental units. To date, 10 of the 30 units have been completed.

The Yankton Sioux Housing Authority, Wagner, South Dakota, received \$842,392 in Recovery Act formula funds. The grantee plans to rehabilitate 12 units with Energy Star materials, fund the acquisition of 9 mobile homes from FEMA, and replace 18 roofs and 11 furnaces. To date, 10 units have been rehabilitated, 9 FEMA trailers have been acquired, and 10 energy-efficient furnaces have been installed.

National Housing Needs

Despite these unprecedented investments, Mr. Chairman, the truth is that no one fully understands the needs in Indian Country – certainly not in the Federal government. We do know that there are approximately 5 million American Indian and Alaska Native people living in the

United States, slightly less than half of whom live on Indian lands. According to the Millennial Housing Commission's 2002 report, welfare reform has led to many Native Americans moving back to their reservations, creating even more of a demand for housing and other basic services.

Within the last decade, numerous studies have attested to the critical housing and economic development needs on tribal lands – though most were limited in scope. HUD's Office of Policy Development and Research, using 2000 Census data, determined that, nationwide, almost 543,000 American Indian and Alaska Native households have "severe housing needs," which are defined as living in conditions that are overcrowded, substandard, or cost-burdensome.

And we know that in many Indian communities, when housing is scarce, instead of homelessness, we see overcrowding. Extended families doubling and tripling up in modest housing, rather than leaving family members to fend for themselves. According to a Harvard University study in 2002, approximately 40 percent of on-reservation housing is considered inadequate, as compared with roughly 6 percent nationwide. The Community Development Financial Institutions (CDFI) Fund, in its *Native American Lending Study*, published in 2001, identified 17 major barriers to capital access, relating to legal infrastructure; government operations; economic, financial, and physical infrastructure; and education and cultural issues. A decade later, many of these barriers remain. It is generally accepted that at least 90,000 Indian families live in either overcrowded or substandard conditions, and there is a need for 200,000 new housing units.

For the last 6 years (FY 2004 – FY 2009), with average annual funding of about \$622 million, the IHBG program has assisted approximately 7,500 families each year by providing the funds for a new home, or substantially rehabilitating an existing home. At the current rate of assistance, it will be decades before the program can "catch up" to the current need.

Housing Need Study

Given these challenges and the lack of current data, HUD is about to conduct a comprehensive housing needs study to help inform future budget requests and improve program implementation. Our objective is to ensure that the study reflects current conditions and needs within Indian Country. The Department's Office of Policy Development and Research will manage the study with input from tribal communities nationwide.

To prepare for this, HUD's Office of Native American Programs will hold outreach meetings in each of its six regions, and in Hawaii, to ensure that key questions, current conditions and needs are considered. A diverse group will be invited to these meetings, including tribal leaders, native housing professionals, and other federal agencies. The meetings are anticipated to start in late fall of this year and continue through spring of 2011.

Through these partnerships, we will work toward developing an economic and community reinvestment strategy – looking not only at housing but at other needs, including access to quality healthcare, schools, transportation and employment.

Revising HUD's Government-to-Government Tribal Consultation Policy

On November 5, 2009, President Obama signed an Executive Memorandum on Tribal Consultation (President's Memorandum) directing all Executive Departments and Agencies to engage in regular and meaningful consultation and collaboration with tribal officials of federally recognized Indian tribes when developing Federal policies that have tribal implications. The President's Memorandum further directed each Federal agency to establish an initial plan of actions to accomplish this by February 3, 2010. By August 2, 2010, and annually thereafter, all Agencies were to report on their progress implementing the action plans.

In 1994, HUD adopted an American Indian and Alaska Native Policy Statement. On June 28, 2001, the Department issued a more comprehensive Tribal Government-to-Government Consultation Policy (66 FR 49784, September 28, 2001) that comports with the enhanced consultation and coordination requirements expressed in Executive Order 13175. HUD is now reassessing this policy in response to the President's Memorandum, and is revising it, after appropriate consultation with tribal government officials.

The guiding principles that originally shaped HUD's 2001 Government-to-Government Tribal Consultation Policy remain viable today. HUD is cognizant of the unique legal and political relationship that exists between the United States and Indian tribal governments, as established by the U.S. Constitution, treaties, statutes, executive orders, and judicial decisions. HUD strives to honor the government-to-government relationship, promote tribal self-determination, and ensure that communication and consultation between the Department and federally recognized Indian tribes is meaningful, and occurs on a regular basis.

In examining the existing policy, it was determined that minor changes were needed to improve it. HUD reached this conclusion based on the comments and recommendations made at the regional Tribal Consultation Policy meetings held throughout the country.

The revised Tribal Consultation Policy will become final after HUD publishes the revised version in the *Federal Register*, reviews all public comments received, and incorporates any additional changes.

Breaking Down Silos to Improve Delivery of Native American Programs

I understand that the committees are interested in how HUD programs can further assist in meeting the continued housing need in Indian Country. At the outset, it is important to acknowledge the reality of the fundamental challenges to housing development that tribes perennially face: the remote, rural location of many tribes; the extreme weather conditions in both northern and southern climates that limit the building season to only a few months; the high costs associated with obtaining and shipping construction materials to remote areas; the dearth of qualified construction companies and skilled labor; the inordinately high cost of infrastructure in

tribal areas; the need to coordinate among several federal agencies to complete a housing project; and the lack of experienced housing staff on some reservations.

But there are opportunities to mitigate these and other challenges, and the Department is working with tribes toward that end. One way HUD is seeking to improve services to Indian Country is to coordinate its rural housing efforts by establishing a rural housing working group. Recently, HUD's Office of Sustainable Communities issued two Notice of Funds Available (NOFAs) for the Regional Planning Grant program and the joint HUD-Transportation TIGER II/Community Challenge Grant program which included a set aside for rural communities. Tribes were eligible to apply for these grant funds.

Additionally, I want to thank you, Mr. Chairman, for securing language in the Livable Communities Act that creates a 15 percent funding set-aside for small communities with populations of no more than 200,000 and specifies that Indian tribes are eligible applicants for the Comprehensive Planning Grant and the Sustainability Challenge Grant programs.

This month, HUD will meet with tribal representatives for its sixth negotiated rulemaking session to implement amendments to NAHASDA enacted in 2008 and earlier. This marks the third time HUD has participated in negotiated rulemaking with tribal representatives to develop program regulations. This process has helped make the programs more flexible, user-friendly and appropriate for Indian Country.

HUD is also increasing collaboration, both internally and externally, to improve program delivery to tribal communities. There are many federal programs that support housing, health, and social and economic development for Native people. Although short- and long-term cost savings are impossible to project at this time, economies of scale should result from enhanced coordination and collaboration. Increasing the dialogue between and within agencies will help ensure that Native Americans are truly receiving the support they need from these programs.

I have partnered with heads of other federal agencies to visit tribal communities in Montana and Alaska. We have met with community leaders to look at issues related to housing, education, transportation, energy, communication infrastructure, and agriculture. The ultimate objective is to foster a holistic approach to community and economic development.

The Office of Native American Programs, under the direction of Public and Indian Housing Assistant Secretary Sandra Henriquez, continues to collaborate with the Bureau of Indian Affairs (BIA) to streamline its Title Status Report (TSR) process. Lengthy delays in obtaining a TSR from BIA have hampered the Section 184 Loan Guarantee program. HUD and BIA have worked together to streamline activities related to mortgage processing, as well as provide regional trainings to HUD and BIA staff. The goal is to create a more efficient TSR system, which would dramatically increase Section 184 activity on trust lands.

This may seem like a technical issue. But streamlining the title process will directly impact homeownership and housing construction, leading to increased community development and an environment more conducive for lending on reservations.

Mr. Chairman, the Federal government's ability to work across agency silos is essential to our ability to promote more sustainable economic development on Indian lands – whether it is the interagency Infrastructure Task Force, or our work with the Departments of Agriculture, Health and Human Services and Energy, and the EPA to improve financial literacy, use housing as a platform to address health care and domestic violence, and weatherize homes to increase energy efficiency.

In all of these efforts, success won't be measured simply by what HUD does – but whether we're able to work collaboratively to break down federal silos that for too long have kept federal funds from reaching the tribal communities that need the most help.

A New Era of Partnership and Consultation

And so, thank you again, Mr. Chairman, and members of the Committees, for the opportunity to appear before you today to discuss the unique challenges in Indian Country. I look forward to working with you on these issues now and in the future.

I recognize that these are difficult times – and that fostering relationships isn't easy after years of neglect. But together, with a clearer understanding of what works, what doesn't, and how we can break down barriers, I believe we can make a difference.

We can build more sustainable reservation economies and ensure that all Native Americans have a decent, safe, affordable place to call home.

And perhaps most importantly of all, we can remove barriers to opportunity for tribal communities across the country.

That is our goal today. And with that, I would be happy to answer any questions you may have. Thank you.