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BEFORE THE
UNITED STATES SENATE
COMMITTEE ON INDIAN AFFAIRS

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INTRODUCTION

Mr. Chairman, Mr. Vice Chairman, and Members of the Committee, thank you for inviting me to provide comments on S. 556, the Indian Health Care Improvement Act Reauthorization of 2003.

My name is Steven B. Nesmith, and I am the Assistant Secretary for Congressional and Intergovernmental Relations. As you know, Public and Indian Housing (PIH) is responsible for the management, operation and oversight of HUD's Native American programs. These programs are available to 560 Federally-recognized and a limited number of state-recognized Indian tribes. We serve these tribes directly, or through tribally designated housing entities (TDHEs), by providing grants and loan guarantees designed to support affordable housing, community and economic development activities. Our tribal partners are diverse; they are located on Indian reservations, in Alaska Native Villages, and in other traditional Indian areas.

In addition to those duties, PIH's jurisdiction encompasses the public housing program, which aids the nation's 3,000-plus public housing agencies in providing housing and housing-related assistance to low-income families.

It is a pleasure to appear before you, and I would like to express my appreciation for your continuing efforts to improve the housing conditions of American Indian and Alaska Native peoples. Much progress is being made and tribes are taking advantage of new opportunities to improve the housing conditions of the Native American families residing on Indian reservations, on trust or restricted Indian lands, and in Alaska Native Villages. This momentum needs to be sustained as we continue to work together toward creating a better living environment throughout Indian Country.

OVERVIEW

At the outset, let me reaffirm the Department of Housing and Urban Development's support for the principle of government-to-government relations with Indian tribes. HUD is committed to honoring this fundamental precept in our work with American Indians and Alaska Natives.

On behalf of Secretary Martinez, thank you for the opportunity to provide testimony on S. 556. The Department agrees that the Indian Health Service (IHS), a division of the Department of Health and Human Services, is vital to the well-being of individual Indian families and the Native American community as a whole. Native Americans often have no other means to receive the health care assistance and related activities provided by the IHS.

HUD's Office of Native American Programs continues its ongoing dialog with IHS representatives to coordinate our activities in a manner that supports tribal sovereignty, self-

determination and self-governance. The Department also participates in a federal interagency task force on infrastructure with the IHS, Environmental Protection Agency, Bureau of Indian Affairs and Department of Agriculture. It is within this perspective that the following comments are offered on the bill.

BACKGROUND ON HUD NATIVE AMERICAN PROGRAMS

In 1996, the Native American Housing Assistance and Self-Determination Act (25 U.S.C. 4101 et seq) (NAHASDA) became law. NAHASDA changed the way in which housing and housing-related assistance is provided to Native American families. Prior to the Act, Indian housing authorities and Indian tribes applied for a variety of competitive, categorical grant programs, usually with differing program eligibility and reporting requirements. NAHASDA created the Indian Housing Block Grant (IHBG) Program, which is a non-competitive formula grant made to an Indian tribe or its tribally designated housing entity (TDHE).

Under the IHBG Program an Indian tribe or the TDHE submits to HUD a five-year and a one-year Indian Housing Plan (IHP). The IHP contains information about how the recipient will use its IHBG funds to engage in the six affordable housing activities authorized by NAHASDA. Once the IHP is found to be in compliance with statutory and regulatory requirements, the tribe or TDHE executes a grant agreement to receive its IHBG allocation.

The IHBG formula is based on the housing needs of each tribe and the tribe/TDHE's ongoing operation and maintenance needs for the dwelling units previously developed under the Indian Housing Program authorized by the U.S. Housing Act of 1937, as amended. The IHBG formula is calculated by dividing the total amount appropriated each fiscal year among the number of eligible grant recipients. Formula components and variables are weighted to ensure that the complexities and differences among tribes are taken into consideration. Each tribe's formula allocation reflects these factors.

The NAHASDA regulations (24 CFR 1000.306) require that the IHBG formula be reviewed by calendar year 2003 for possible modification or revision. At present, the Department is engaged in negotiated rulemaking (neg-reg) with a 26-member committee comprised of a broad cross-section of tribal stakeholders. The first neg-reg session was held in April; additional monthly meetings are ongoing and scheduled through this September.

SPECIFIC COMMENTS ON S. 556

Let me turn now to our specific comments on S. 556, the Indian Health Care Improvement Act Reauthorization of 2003.

As you know, the Administration is actively reviewing S. 556 and will provide you with specific details of our analysis very shortly. The Administration has not taken a position regarding the transfer of NAHASDA funds between HUD and HHS. We do, however, have concerns about transferring NAHASDA funds between Federal agencies when NAHASDA now provides for the direct distribution of IHBG funds to tribes and their TDHEs based on a formula negotiated between tribes and the Department.

An affordable housing activity under the IHBG Program is "development," which includes infrastructure such as site improvements and the development of utilities and utilities services for housing. The provision of water and sanitation facilities is included within this category. Tribes or TDHEs may currently enter into agreements with IHS to provide these services, or they may choose another service provider. We believe this is in keeping with the policy of self-determination that is articulated in NAHASDA.

Since 1997, nearly $28 million has been transferred to IHS through TDHEs for offsite sanitation facilities. Tribes and TDHEs continue to make difficult budgetary and management decisions on how to prioritize their IHBGs, which is consistent with tribal self-determination and self-government.

Let me assure the Committee that we will work with you, our Federal partners in HHS and other Federal agencies, tribes and their TDHEs to ensure that the housing infrastructure needs in Native American communities are met in the most efficient manner possible. We are, nevertheless, concerned about any provisions that might erode the self-determination now provided for in NAHASDA.

Thank you for the opportunity to express our views on S. 556.