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March 2014

# NATIVE AMERICAN HOUSING

## Additional Actions Needed to Better Support Tribal Efforts

## Why GAO Did This Study

More than 570 federally and state-recognized Indian tribes receive about \$667 million in housing assistance annually under the IHBG program. The IHBG program recognizes the tribes' right to self-determination and self-governance in addressing their affordable housing needs. Conference Report 112-284 mandates that GAO study tribal housing challenges. Building on past work that raised discussion about some challenges, this report examines common housing challenges tribes face and actions that could address them. GAO interviewed HUD and other agencies, a tribal advocacy group, and 23 tribal entities that were selected using input from HUD and other factors such as tribe funding, and conducted two site visits where challenges appeared to be unique.

## What GAO Recommends

Agencies involved in Native American housing should develop and implement a coordinated environmental review process. HUD should also seek input from all tribes about the new training and technical assistance procedures. Finally, HUD should share promising housing approaches among tribes. The agencies generally agreed with GAO's recommendations, but HUD disagreed with the recommendation about creating a feedback mechanism because it said it already had one. However, HUD's existing mechanism does not include outreach to tribes that have yet to use the new procedures.

View [GAO-14-255](#). For more information, contact William Shear at (202) 512-8678 or [shearw@gao.gov](mailto:shearw@gao.gov).

## NATIVE AMERICAN HOUSING

### Additional Actions Needed to Better Support Tribal Efforts

#### What GAO Found

Indian tribes and tribally designated housing entities face both external and internal challenges in carrying out affordable housing activities under the Indian Housing Block Grant (IHBG) program, which was authorized by the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA). The most commonly identified external challenges included the often remote location of tribal lands and lack of infrastructure such as running water and sewer systems. Meeting these challenges can significantly increase development costs. For example, one Arizona tribe saw its costs double because materials had to be brought in by helicopter. Tribes also identified differing federal agency requirements, particularly for environmental reviews, as a challenge that delayed projects and increased costs when IHBG and other funds were combined. Further, tribes were concerned that recent changes in federally authorized training and technical assistance could reduce their quality and frequency, in part because of the reduced role of a longstanding provider. The most commonly identified internal challenges were recipients' limited administrative capacity, conflicts within tribes that impact housing priorities and planning, and cultural preferences for certain types of housing. The Navajo Nation's housing entity, the largest IHBG recipient, has experienced all of these challenges and had a backlog of nearly \$500 million in unspent IHBG funds, which it has begun to address.

Opportunities exist to support tribes' affordable housing efforts. First, a federal infrastructure task force focused on facilitating tribes' water and wastewater projects has recommended that participating agencies, including Housing and Urban Development (HUD), develop a coordinated environmental review process to address the issue of inefficient and costly multiple reviews. A similarly coordinated process specific to tribal housing would help tribes to plan and build affordable housing more quickly and efficiently. Until such an effort is developed and implemented, tribes will continue to lose valuable time and spend IHBG resources completing overlapping reviews. Second, HUD instituted new training and technical assistance procedures according to revised language in the NAHASDA appropriation legislation, which changed the way that HUD makes funds available to provider organizations. HUD has solicited feedback from tribes that have received training and technical assistance under the new system, but opportunities remain to reach out to tribes that have not used the new system and remain concerned that their needs will not be met. Third, IHBG recipients could also benefit from having HUD disseminate promising approaches that other tribes have used to address housing challenges. In May 2013, HUD recognized 22 tribes that were incorporating resource-efficient elements into their affordable housing projects. However, HUD has not shared promising housing practices more generally across tribes in a way that would make them easily accessible. Information about successful approaches could help tribes use their IHBG funding in the most efficient and effective ways to provide affordable housing in their communities.

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### Abbreviations

BIA	Bureau of Indian Affairs
CEQ	Council on Environmental Quality
FEMA	Federal Emergency Management Agency
HEARTH Act of 2012	Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012
HHS	Department of Health and Human Services
HUD	Department of Housing and Urban Development
IHBG	Indian Housing Block Grant
IHS	Indian Health Service
NAHASDA	Native American Housing Assistance and Self-Determination Act of 1996
NAIHC	National American Indian Housing Council
NEPA	National Environmental Policy Act of 1969
NHA	Navajo Housing Authority
ONAP	Office of Native American Programs
TDHE	tribally designated housing entity
USDA	U.S. Department of Agriculture
VA	Department of Veterans Affairs

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March 27, 2014

The Honorable Patty Murray  
Chairman  
The Honorable Susan Collins  
Ranking Member  
Subcommittee on Transportation, Housing and Urban Development, and  
Related Agencies  
Committee on Appropriations  
United States Senate

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

Native American tribes primarily receive assistance for low-income housing through the Indian Housing Block Grant (IHBG) program under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) program. Tribes largely view NAHASDA and the IHBG, which has provided tribes on average about \$667 million annually from 1998 through 2013 (funding varied from \$600 million to about \$1.15 billion over this period), as a success because the program has given them the ability to identify and address the housing needs of their low-income members in a manner that recognizes tribal priorities and tribes' unique government-to-government relationship with the United States. But housing activities on tribal lands, including those designed to provide affordable housing, involve overcoming a number of challenges. These include external factors such as the location and characteristics of tribal lands, which are frequently remote and lacking in infrastructure, such as water and sewer lines. Some challenges specifically affect tribes' affordable housing activities, including issues related to requirements for federally funded housing projects, conflicts among tribal members with differing perspectives, and cultural preferences for certain types of housing.

We last reported on the IHBG program in February 2010 in response to the 2008 reauthorization of NAHASDA. That report looked at the

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program's effectiveness in meeting the needs of tribes of various sizes, especially relatively small tribes and those receiving the smallest grants.<sup>1</sup> Conference Report 112-284 requires that we study challenges associated with tribal housing activities, including those faced by tribes that are struggling to spend their funds in a timely manner.<sup>2</sup> In this report, we examine (1) the kinds of challenges that Indian tribes have faced in administering housing activities under the IHBG program and (2) federal or tribal actions, if any, that could help to address these challenges.

In conducting this work, we reviewed NAHASDA and its implementing regulations, studies, testimonies, prior GAO reports, and other relevant sources. We reviewed budget data from the Department of Housing and Urban Development (HUD), which administers NAHASDA through its Office of Native American Programs (ONAP), showing NAHASDA recipients' annual IHBG allocations and expenditures through 2013. On the basis of our analysis of the funding data and explanations that HUD provided, we determined that the data were sufficiently reliable for the purposes of this report. We interviewed representatives of the National American Indian Housing Council (NAIHC), a nonprofit housing advocacy organization that represents American Indians, Alaska Natives, and Native Hawaiians. Our interviews included NAIHC executives and members of NAIHC's board who served as housing officials for individual tribes and tribally designated housing entities (TDHE) participating in NAHASDA. We interviewed housing officials from 23 tribes or TDHEs participating in NAHASDA that we selected primarily on the basis of housing challenges identified by ONAP or the tribe or TDHE. We interviewed 21 of these recipients by telephone and made two site visits, one to the Navajo Nation's reservation and one to the Hopi Tribe's

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<sup>1</sup>GAO, *Native American Housing: Tribes Generally View Block Grant Program as Effective, but Tracking of Infrastructure Plans and Investments Needs Improvement*, [GAO-10-326](#) (Washington, D.C.: Feb. 25, 2010). This report focused on tribes' use of the IHBG program to address their communities' affordable housing needs. In the report, we highlight the importance of HUD's collecting information on tribes' use of grant funds to develop housing-related infrastructure. HUD has taken actions to address our recommendations on helping tribes identify and address infrastructure deficiencies and report on addressing them.

<sup>2</sup>Conference Report 112-284 accompanied the Consolidated and Further Continuing Appropriations Act of 2012, Pub. L. No. 112-55.

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reservation, in part because they are in close proximity to each other.<sup>3</sup> The Navajo Nation's TDHE, the Navajo Housing Authority, was the largest recipient of IHBG funds and was one of several recipients that had contributed to a large backlog of unexpended IHBG funds. The Hopi Tribe remains a highly traditional and independent tribe.

In addition, we interviewed and obtained relevant documents from officials in ONAP. We contacted HUD staff with responsibility for an ongoing study on Indian tribes' housing needs and interviewed officials at four other federal agencies whose programs targeted or served Indian tribes and their members.<sup>4</sup> In general, we asked HUD and other agency officials about housing challenges they had identified among Indian tribes. We used our prior work on NAHASDA and other sources to inform this effort.<sup>5</sup> For example, we attended NAIHC's 2013 convention, where representatives from NAIHC, tribes and TDHEs, and federal agencies provided perspectives on tribal housing. We considered input from the tribes, federal agencies, and other sources and existing knowledge. We analyzed this information to determine actions, if any, which could potentially address the challenges identified. See appendix I for a more detailed discussion of our scope and methodology.

We conducted this performance audit from March 2013 to March 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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<sup>3</sup>ONAP regional offices identified tribes and TDHEs facing certain challenges and NAIHC helped with outreach to tribes and TDHEs that self-identified challenges. The non-representative sample of 23 recipients included tribes and TDHEs from HUD's six ONAP regions that varied in size and amount of annual NAHASDA grant funding.

<sup>4</sup>These agencies included the U.S. Department of Agriculture (USDA) Rural Development, Bureau of Indian Affairs (BIA) within the Department of the Interior, Indian Health Service (IHS) within the Department of Health and Human Services, and the Department of Veterans Affairs (VA). We met with VA officials to discuss the department's efforts to increase access for Native American veterans to assistance under VA's home loan and housing programs.

<sup>5</sup>See [GAO-10-326](#).

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## Background

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### Native Americans’ Housing Needs

Historically, Native Americans in the United States have faced worse housing conditions than other socioeconomic groups. Native Americans disproportionately experience socioeconomic challenges, including high unemployment and extreme poverty that impact housing conditions on Indian reservations and in other Indian areas. The U.S. Census Bureau reported in 2013 that American Indians and Alaska Natives were almost twice as likely to live in poverty as the rest of the population—27 percent compared with 14.3 percent.<sup>6</sup> Over 40 percent of Native Americans in North Dakota and South Dakota live below the poverty line, and in seven other states (Arizona, Maine, Minnesota, Montana, Nebraska, New Mexico, and Utah) Native American poverty rates are about 30 percent or more. In addition, overcrowding, substandard housing, and homelessness are far more common in Native American communities. For example, a Housing Assistance Council analysis of 2010 U.S. Census and 2005-2009 American Community Survey data found that 5.3 percent of homes on Native American lands lacked complete plumbing and 4.8 percent lacked complete kitchens. The comparable nationwide figures were 0.5 and 0.7 percent, respectively.<sup>7</sup> The Housing Assistance Council also noted that household crowding in rural areas, such as most Native American communities, tended to be invisible, with households moving in with relatives or friends in reaction to adverse economic or social conditions or to escape substandard housing conditions. HUD officials noted that such “doubling up” and subsequent overcrowding in Native American communities was often tied to a tradition of extended family dwellings and made it difficult to quantify homelessness in Native American communities.<sup>8</sup>

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<sup>6</sup>The terms Native American and Indian generally refer to American Indians and Alaska Natives. In this report, we use Native American and Indian interchangeably.

<sup>7</sup>Housing Assistance Council, *Housing on Native American Lands* (Washington, D.C.: September 2013). The Housing Assistance Council is a nonprofit corporation that supports the development of rural low-income housing. HUD contributed to the funding for this study.

<sup>8</sup>HUD officials told us that individuals living with family members in overcrowded conditions were considered to be at risk for homelessness rather than homeless. The officials added that this status prevented these individuals from qualifying for most homeless programs.

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## Federal Role in Native American Housing Assistance

The U.S. government's relationship with Native American tribes has historically been troubled, making it difficult to address the needs of low-income Native Americans. Since 1961, the government has sought to address the need for safe, decent, and affordable housing for Native Americans by allowing tribes access to several housing programs, including those authorized under the U.S. Housing Act of 1937 (1937 Act) and administered by HUD.<sup>9</sup> In October 1996, Congress created a housing program for Native Americans that recognized the tribes' right to self-determination and self-governance (see fig. 1). NAHASDA reorganized the system of housing assistance that HUD provided to Native Americans by eliminating or incorporating several separate programs into a single block grant program—known as the IHBG program—and created the Title VI Loan Guarantee (Title VI) program to assist grant recipients with private market financing.<sup>10</sup> As figure 1 indicates, NAHASDA was first funded in fiscal year 1998. Today, 566 federally recognized and 5 state-recognized Indian tribes with membership levels ranging from a few hundred to a few hundred thousand are eligible to receive IHBG funds annually to provide their members with adequate and affordable housing.

Size, operation, and land jurisdictional authority vary among Indian tribes. As of December 2013, there were more than 300 reservations in the lower 48 states and 1 in Alaska. Tribes sometimes lack clearly defined land areas, however, and may have more than one reservation or share a reservation with another tribe.<sup>11</sup> The remaining more than 200 Indian tribes do not have reservations or other lands. For example, the majority of Alaska's more than 200 federally recognized tribes—the largest

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<sup>9</sup>The 1937 Act, as amended, created programs to provide decent, safe, and sanitary housing for low-income families. Native American housing entities did not receive federal housing funds under the 1937 Act until 1961.

<sup>10</sup>Title VI of NAHASDA enables HUD to provide a 95-percent loan guarantee to private lenders or investors that make loans to NAHASDA grant recipients to develop housing and community facilities. A Title VI loan is secured by a recipient's pledge of its current and future IHBG funds.

<sup>11</sup>A federal Indian reservation constitutes land that has been reserved for a tribe or tribes under treaty or other agreement with the United States, executive order, or federal statute or administrative action as a permanent tribal homeland.

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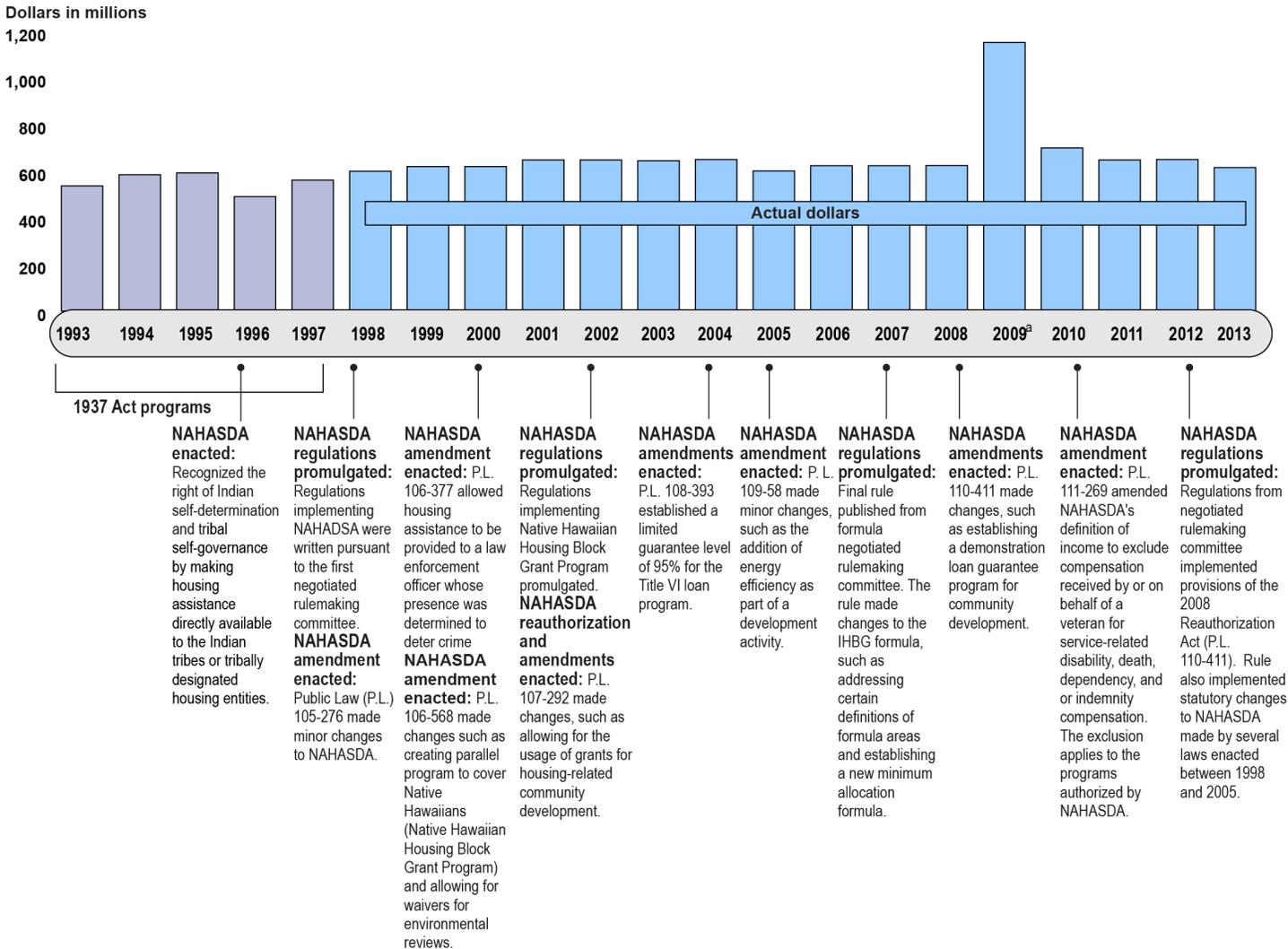
number in any U.S. state—reside in rural villages.<sup>12</sup> According to the 2010 Census, of the 2.4 million people in the United States who reported their sole race as American Indian or Alaska Native, 23 percent lived on Native American lands.<sup>13</sup> NAHASDA allows tribes to serve members of other tribes residing within their service area.

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<sup>12</sup>In December 1971 the Alaska Native Claims Settlement Act was enacted to resolve longstanding aboriginal land claims and foster economic development for Alaska Natives. Among other objectives, the act was intended to conform with the economic and social needs of Alaska Natives without creating a reservation system. Pub. L. No. 92-203, 85 Stat. 688 (1971), *codified as amended at* 43 U.S.C. §§ 1601-1629h.

<sup>13</sup>According to HUD, single-race population figures significantly underreport the number of American Indians and Alaska Natives in the United States because these counts exclude persons who are Native American and another race and identify as such.

**Figure 1: Funding for Indian Housing from Fiscal Year 1993 to 2013 and Key Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) Program Legislative and Regulatory Changes from Implementation to Present**



Source: GAO analysis of NAHASDA statute and regulations.

<sup>a</sup>Includes supplemental funding under the American Recovery and Reinvestment Act of 2009.

Funding levels include rescissions.

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## Indian Housing Block Grant Program

The IHBG program, authorized under NAHASDA, is a formula grant program that provides funding for affordable housing activities to Native American tribes or TDHEs. With the enactment of NAHASDA, federally recognized Indian tribes or their TDHEs and a limited number of state-recognized tribes that were funded under the 1937 Act became eligible for the IHBG program. Tribes may choose to receive housing funds directly or may designate a TDHE to administer the housing program on their behalf.<sup>14</sup> Families eligible for NAHASDA-funded assistance must be low-income Indian families—those whose income does not exceed 80 percent of the area median income—residing on a reservation or in an Indian area.<sup>15</sup>

The amount of IHBG funding that Indian tribes receive is based on an allocation formula that has two components: (1) the costs of operating and modernizing pre-NAHASDA, HUD-funded units and (2) the need to provide new affordable housing. Need is based on seven factors that include the grant recipient's American Indian/Alaska Native population and the number of households within that population that fall in certain low-income categories. Allocation amounts are adjusted for local construction costs and rents. Because population impacts all need factors in the IHBG allocation, larger recipients (larger tribes operating their own housing programs or the TDHEs representing those tribes) receive larger allocations. Recipients that own and operate pre-NAHASDA housing units and that have existing housing needs receive both portions of the IHBG, while those without such units receive only the need portion.

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## Self-Determination for Indian Tribes

In creating NAHASDA, Congress recognized Indian tribes' right to self-determination and self-governance through (1) negotiated rulemaking, (2) direct funding (to the tribes or their designated entities), and (3) authority to determine the details of their housing programs. Negotiated rulemaking takes place when an agency that is considering drafting a rule brings

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<sup>14</sup>A TDHE is either (1) a former Indian Housing Authority that managed Native American housing programs under the 1937 Act that continued operations to meet the requirements of NAHASDA or (2) a new nontribal government entity authorized by one or more tribes to receive grants and provide affordable housing assistance for Native Americans under NAHASDA.

<sup>15</sup>Under specific circumstances, Indian and non-Indian families that are not low income and that reside on a reservation or in an Indian area are also eligible to receive assistance.

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together agency representatives and affected parties for consultations. In accordance with Section 106 of NAHASDA, HUD developed the regulations with active tribal participation, using the procedures of the Negotiated Rulemaking Act of 1990, as amended.<sup>16</sup> ONAP consults with tribes on various matters, and in conducting past work on NAHASDA, we learned that a primary reason for recipients' positive views of the program was its recognition of self-determination.<sup>17</sup>

Under NAHASDA, tribes are able to determine (1) whom they serve (for example, giving preference to members of the participating tribe); (2) the types of eligible activities they offer; and (3) the method of delivering their programs and projects. Those programs and projects must fall under one of several eligible activities, including:

1. Indian housing assistance (i.e. modernization or operating assistance for 1937 Act units);
2. housing development, including the acquisition, new construction, and reconstruction or rehabilitation of affordable housing;
3. housing services, such as housing counseling and assistance to owners, tenants, and contractors involved in eligible housing activities;
4. housing management services for affordable housing, including loan processing, inspections, and tenant selection;
5. crime prevention and safety;
6. model activities that provide creative approaches to solving affordable housing problems; and
7. reserve accounts for administrative and planning activities related to affordable housing.

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<sup>16</sup>5 U.S.C. 561-570a.

<sup>17</sup>See [GAO-10-326](#). For this review, we interviewed 12 NAHASDA recipients (two in each of HUD's six ONAP regions) and surveyed all tribes and TDHEs that received a grant in fiscal year 2008, obtaining a 66 percent response rate.

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## Indian Tribes Face External and Internal Housing Challenges

We used a number of sources to identify common housing challenges that tribes were facing, including our interviews with NAIHC executives, tribal housing officials on NAIHC's board and at the 23 selected tribes and TDHEs, HUD and other agency officials, and our prior work on NAHASDA.<sup>18</sup> Those challenges were largely related to remoteness and other geographical factors, land use regulations, lack of adequate infrastructure, differing federal agency requirements, potential reduction in training opportunities and program support, limited administrative capacity, conflict within tribes, and cultural factors. Some IHBG recipients, such as the Navajo Housing Authority (NHA), faced a combination of these challenges (see app. II).

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### External Challenges

#### Remoteness and Other Geographical Factors

Many of the tribal housing officials we interviewed told us that tribes' remote locations or lack of adequate infrastructure to support housing led to higher development costs. For example, officials from a Utah tribe explained that there was no airport service to the area and that driving to a nearby town for needed materials required at least a 60-mile trip each way, mostly on maintained but rugged dirt roads. The officials said that purchasing major housing construction supplies from other areas, some of them a few hours away, drove delivery costs up to as much as \$1,000 per trip, in addition to the cost of the materials.

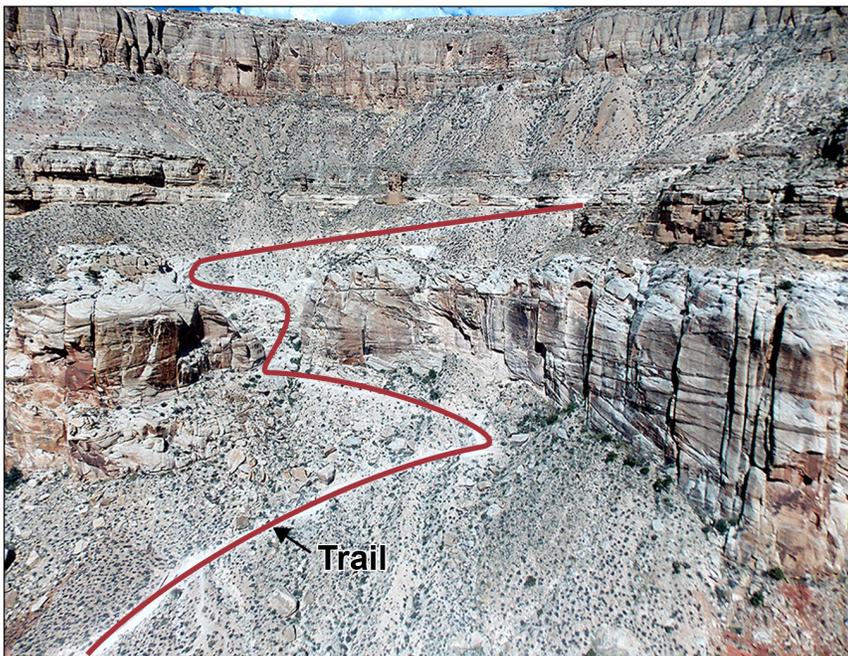
The remoteness of some Indian reservations and other tribal lands has contributed to poor socioeconomic conditions that underscore the need for affordable housing. Limited economic activity in tribal areas can hinder the potential of tribal members to find gainful employment and earn livable wages that would allow them to rent or purchase market-rate housing. A representative of a nonprofit that had partnered with NHA to provide financial and homebuyer education pointed out that having an economy that was dependent on tribal enterprise stifled the potential of tribes to grow through entrepreneurship and other means.

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<sup>18</sup>We used a standard set of questions to interview housing officials at tribes and TDHEs to ensure that we consistently captured their views. With a few exceptions, the 23 recipients we interviewed responded to all of our questions. To categorize tribal housing officials' views throughout this report, we defined modifiers to quantify the housing officials' views. For example, "most" represents 15 to 19 housing officials, "many" represents 10 to 14 housing officials, "several" represents 8 to 9 housing officials, and "a few" represents 2 to 4 housing officials.

Some remote areas where tribal lands are located can present unique logistical challenges, including a lack of buildable land and infrastructure. For example, the housing coordinator of an Arizona tribe whose reservation is located along the Grand Canyon in an area vulnerable to floods explained that having a limited amount of land that could be developed had led to overcrowding in the tribe's village. According to the housing official, the tribe had about 700 enrolled members, 500 of whom lived at the base of the canyon in 112 housing units. In lieu of development, the housing department had focused on rehabilitating members' homes, some of which were 40 and 50 years old. However, these projects had to factor in the cost of having construction materials dropped by helicopter into the canyon where the village was located. The housing official told us that these deliveries could add \$30,000 to the cost of a typical \$20,000 rehabilitation project (see fig. 2).

**Figure 2: Two Ways into the Havasupai Tribe's Village in a Side Canyon of the Grand Canyon, 8-Mile Trail or Helicopter**



Source: Havasupai Tribe.

At another tribe in Washington state, the housing director told us that the tribe had a moratorium on expanding water use on the reservation except to serve new development. However, buildable land in the tribe's main residential area was lacking, pushing new development into remote timberland where expensive infrastructure, such as running water and

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Lack of Adequate  
Infrastructure

utilities, would need to be developed. Further, she stated that it was difficult to recruit qualified and affordable contractors because of the limited housing activity in the area. According to the official, the housing department's waiting list has had hundreds of names on it since the 1970s because of the lack of land that can be developed and the cost of providing infrastructure.

In some regions, tribes faced challenges related to both remoteness and lack of adequate infrastructure, such as roads and water and sewer systems. For example, officials from a Nevada tribe told us that the tribe's land base was undeveloped, requiring them to invest resources to put infrastructure in place before building homes for tribal members. According to the officials, sewer pipes in one of the tribe's communities were failing and in need of upgrades. They said that another community had significant bedrock that likely would require blasting before infrastructure could be added to the area and that the nearest main road was 5 miles away. The housing director for a North Dakota tribe told us that the tribe would need to build new sewer facilities and add on to the existing water systems to support additional development.

In our past work on Native American housing, we highlighted the importance of tribes' ensuring that housing was supported by adequate sanitation facilities such as running water and sewer systems.<sup>19</sup> During our current review, it was apparent that some of the housing officials we met with were focused on providing homes with access to adequate infrastructure. More specifically, some housing officials indicated that they did not intend to start housing construction without first having basic infrastructure systems in place to support the homes.

Housing officials from all of the seven Alaska recipients we spoke with told us that they paid expensive transportation, fuel, or labor charges because of their remote locations and cold climate. Three housing officials also described their villages' inadequate infrastructure. One housing director told us that construction costs were significantly impacted by the area's remoteness and long and severely cold winters, when temperatures could reach 70 below. He said that high fuel costs impacted charges for freight and subsequently for lumber and other building materials. He observed that winters had been lasting longer and

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<sup>19</sup>See [GAO-10-326](#).

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that weather had been less predictable in recent years. Similarly, another housing director stated that, on average, there were 230 days out of the year when temperatures fell below freezing, limiting outdoor construction to only 3 or 4 months. A third housing official explained that construction costs were already high for properties with existing infrastructure and that building infrastructure on an undeveloped property—that is, properties lacking basic amenities such as roads and running water—could add \$1 million to the costs. He said that because his TDHE received just over \$1 million annually from the IHBG, such a project would require that grant funds be accumulated over several years.

One of the Alaska housing officials we interviewed expressed frustration that federal officials in Washington, D.C. generally did not understand the realities of construction in remote areas of Alaska and were skeptical of the region's high construction costs. He explained that his construction materials were delivered by barge and that he needed to place orders for materials 2 to 3 months in advance. Missing the barge meant flying materials in at a higher cost. He noted that, with one exception, all of the villages served by his TDHE lacked connecting roads, and several villages lacked running water and sewer facilities.

## Land Use Regulations

Having a land base is essential for tribal economic development activities, including agricultural, energy-related, and housing activities. Since the late 1800s, Indian lands have diminished significantly, in large part because of federal policy.<sup>20</sup> The Indian Reorganization Act of 1934 changed the government's Indian policy to encourage tribal self-governance, and Section 5 of the act provided the Secretary of the Interior with discretionary authority to take land in trust on behalf of tribes or their members. Under the Bureau of Indian Affairs' (BIA) trust regulations, tribes or tribal members who purchase or own property on which they pay property taxes can submit a written request to the

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<sup>20</sup>Congress enacted the General Allotment Act of 1887, which divided some reservation lands among individual Indian tribal members, with other lands sold as surplus. The resulting individual allotments made to tribal members are commonly referred to as "individual Indian trust lands" or "individual allotted lands". Many Indian lands were dramatically reduced through various transactions in subsequent years and during the allotment period from 1887 to 1934, American Indian land holdings in the lower 48 states decreased from 138 million acres to 48 million acres, leaving many reservation Indians in poverty. The Indian Reorganization Act of 1934 halted further allotment of tribal lands. Today, under this and other legislation, tribal governments are working to consolidate or rebuild their tribal land base.

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Secretary of the Interior to have the land taken in trust. If approved, the ownership status of the property is converted from taxable status to nontaxable Indian trust status. In addition, tribes or their members seeking to lease land that is held in trust status to pursue residential, commercial, or energy activities on the land must receive approval from BIA.

However, in a 2006 report, we found that BIA did not have deadlines for making decisions on land in trust applications, and in 2010 we found that lease approval decisions could take several years.<sup>21</sup> BIA officials told us that every land trust transaction was unique and that localities with jurisdiction over the land—such as counties and townships—often scrutinized and opposed the transactions. ONAP officials also stated that the process of applying to BIA to have land taken into trust could be complicated and contentious and that there was no guarantee of approval. They agreed with BIA that localities often scrutinized and opposed the transactions because of concerns about how tribes would use the converted land. We later found that the often complicated ownership status of Indian trust lands was partly the reason that BIA often takes several years to process lease approvals for land parcels identified for development.<sup>22</sup> For example, a land parcel may be held in trust for multiple descendants of the tribal member to whom the land was originally allotted. When the allottee dies, the allotment passes to the heirs. Ownership of some allotted land has been divided among generations of heirs, so that large numbers of individuals hold interest in the land. In some cases, such “fractionated lands” have up to several hundred ownership interests that have different ideas about how the land

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<sup>21</sup>See *Indian Issues: BIA's Efforts to Impose Time Frames and Collect Better Data Should Improve the Processing of Land in Trust Applications*, [GAO-06-781](#) (Washington, D.C.: July 28, 2006) and [GAO-10-326](#). BIA's process for reviewing land in trust applications includes notifying affected state and local governments and providing a 30-day comment period for them to submit information on potential tax and jurisdictional impacts.

<sup>22</sup>See GAO, *Flood Insurance: Participation of Indian Tribes in Federal and Private Programs*, [GAO-13-226](#) (Washington, D.C.: Jan. 4, 2013).

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should be used.<sup>23</sup> In addition, BIA officials explained that actions on trust lands were subject to requirements such as environmental reviews that added to BIA's processing time. The officials said that because of the federal government's fiduciary trust in managing these lands, BIA took a conservative approach to managing them.

The legal restrictions associated with trust lands have acted as an impediment to individuals seeking a mortgage and to lending institutions that might otherwise promote homeownership to Indian tribes—a challenge that affects both market-rate and affordable housing. In a February 2010 report, we found that banks were reluctant to do business on tribal lands because of cumbersome procedures, such as BIA's process of issuing land title or trust status reports for mortgages involving trust lands.<sup>24</sup> BIA acknowledged these limitations recently in developing new policies for lease transactions, noting that the regulations were outdated and unworkable in the current economy and hindered homeownership and economic development on tribal lands. In January 2013, BIA began implementing new policies for several of its land leasing procedures that were intended to expedite approvals—for example, establishing separate, simplified processes for different types of leases and adding time limits for BIA to issue decisions.<sup>25</sup> For example, BIA must now provide decisions on residential leases and subleases within 30 days. The practicability of these changes and their impact on housing development have not yet been determined. In addition to BIA's new regulations, in 2012 Congress enacted the Helping Expedite and

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<sup>23</sup>To consolidate ownership of highly fractionated trust lands, in 2012 the Department of the Interior created a land buy-back program for tribal nations to implement the land consolidation component of the *Cobell v. Salazar* settlement. This settlement resulted from a class action lawsuit regarding the U.S. government's trust management of more than 300,000 individual American Indian trust accounts. The settlement provided for a \$1.9 billion fund to be established for the Interior Department to purchase and consolidate fractionated interests in trust or restricted land. Consolidated parcels will be transferred to tribal governments for uses benefiting the tribes. The settlement was confirmed by the Claims Resolution Act of 2010, Pub. L. 2010, Pub. L. 111-291, § 101(c).

<sup>24</sup>See [GAO-10-326](#). Most private landholders in the United States hold title to their land in fee simple status—that is, they own the land outright, with no restrictions, and may mortgage or sell it on their own initiative. Modern real estate transactions have become dependent on land as collateral and the free transfer of title between parties. NAHASDA funds can be used to provide eligible tribal members with down payment assistance to purchase a home.

<sup>25</sup>77 Fed. Reg. 72440 (December 5, 2012).

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Differing Federal  
Environmental Reviews  
and Other Requirements

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Advance Responsible Tribal Home Ownership (HEARTH) Act. The HEARTH Act of 2012 includes a provision that allows tribes to lease restricted lands for public, religious, educational, residential, or business purposes without BIA's prior approval. Its goal is to help expedite the land-lease process for tribes.<sup>26</sup>

USDA officials serving as Native American coordinators in several states agreed that lenders had limited interest in providing mortgages on trust lands using a USDA single-family housing loan guarantee program, even when tribal members sought them. For example, they said that it was difficult to persuade lenders to participate in the program, in part because it is limited to a 90-percent guarantee on all mortgages, including for homes on trust lands. In contrast, HUD's Section 184 Loan Guarantee program provides a 100-percent guarantee.<sup>27</sup> The Section 184 program was one of several legislative actions Congress took to spur the lending market on Indian lands.

Several recipients seeking to combine funding for their housing projects said that differing federal agency requirements, particularly mandatory environmental review requirements, posed a significant challenge. Among the tribes and TDHEs we interviewed for this review, some told us that having to follow different requirements for federal agencies was burdensome and costly. In our past NAHASDA work, which included surveying all tribes and TDHEs that received grant funds in fiscal year 2008, 68 percent of respondents cited incompatible federal funding programs or lack of coordination among agencies, including the environmental review process, as a hindrance to leveraging multiple programs.<sup>28</sup> Several of the housing officials whom we interviewed for this study also cited environmental reviews as a primary area in which

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<sup>26</sup>The HEARTH Act of 2012, Pub. L. 112-55, authorizes federally recognized tribes to develop and implement their own regulations governing certain leasing on Indian lands. Upon approval of these regulations by the Secretary of the Interior, tribes have the authority to process land leases without BIA approval.

<sup>27</sup>The goal of the Section 184 Loan Guarantee program, which was created by the Housing and Community Development Act of 1992, is to provide homeownership opportunities to Native Americans living on trust or restricted lands or land located in an Indian or Alaska Native area. Eligible borrowers include Indian and Alaska Native families, Alaska Native Villages, TDHEs, Indian housing authorities, and tribes.

<sup>28</sup>See [GAO-10-326](#).

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differing federal agency requirements delayed housing development or increased the associated costs.

NAHASDA regulations state that the environmental effects of activities carried out with assistance from the program must be evaluated in accordance with the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. §§ 4321-4347) and related authorities. Under NEPA, agencies evaluate the likely environmental effects of projects they are proposing using an environmental assessment or, if the project is more likely to significantly affect the environment, a more detailed environmental impact statement. Under NAHASDA regulations, an Indian tribe may choose to assume environmental review responsibilities.<sup>29</sup> In addition, when tribes combine IHBG and other federal funds on a project—something NAHASDA allows—they must follow each agency’s separate requirements.<sup>30</sup>

For example, housing officials from one TDHE told us that environmental reviews could cost between \$2,000 and \$4,000 for each agency involved. They observed that various agencies that assisted tribes, including USDA, BIA, Department of Energy, HUD, IHS, and the U.S. Department of the Treasury (for low-income housing tax credits) had different environmental review requirements. The officials said that they considered the multiple reviews to be a communication and coordination deficiency among the agencies and that it would be helpful for the agencies to recognize a single review process. The housing director for another TDHE told us that his TDHE had used funds from USDA, the Economic Development Administration, HUD, and local sources on a project and had completed four separate environmental reviews that took approximately 2 years. Although IHBG recipients can use their grant funds to cover the cost of environmental reviews, paying for multiple reviews can pose a financial obstacle, particularly for recipients with fewer

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<sup>29</sup>Should a tribe decline to accept the responsibilities, HUD will perform the environmental review. In general, a HUD environmental review must be completed for any NAHASDA-assisted activity before a recipient may acquire, rehabilitate, convert, lease, repair, or construct property. Should a tribe assume environmental review responsibilities, no funds may be committed to a grant activity before the tribe’s completion of the environmental review, HUD’s approval of the request for release of funds, and certification by a certifying officer of the tribe that the tribe, among other things, has fully carried out its environmental review responsibilities.

<sup>30</sup>While this practice, known as leveraging, provides recipients with additional funding to meet their housing needs, it can also trigger a complicated and costly exercise for them.

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resources, and reduces the funding available for housing activities. Federal agency officials told us that the cost of environmental reviews varied on a case-by-case basis. For example, an IHS official explained that each review could range from an estimated 1 to 30 percent of the total project cost. According to BIA, an assessment of broad environmental effects for subdivisions and larger multifamily projects could range from \$4,000 to \$50,000, while a survey to identify hazardous chemical deposits on land chosen for development could range from \$1,000 to \$10,000. HUD did not provide cost estimates but said that the agency followed the Council on Environmental Quality's (CEQ) regulations in allowing tribes that were the responsible entities for environmental reviews to adopt other agencies' environmental reviews.<sup>31</sup> HUD also said that it encouraged cooperating agency agreements when multiple federal funding agencies were involved specifically to avoid having multiple reviews for the same project.

A few housing officials explained that the current funding environment made it difficult to develop a housing project without going to several sources and that the agencies' different standards were a hindrance to their housing efforts. For example, one housing director told us that in addition to conducting separate environmental reviews for HUD and the Department of Energy, his TDHE had difficulty with differing qualifications for federal agencies' rural programs. He cited inconsistencies among federal programs' definitions of rural areas, noting that some agencies used only population data, while others incorporated additional factors.<sup>32</sup> Another housing director said that his TDHE had tried to rehabilitate older buildings that had formerly been controlled by the federal government and had found several structural hazards, including dilapidated roofs and lead paint. In attempting to make the buildings usable, the TDHE sought assistance from HUD and the Environmental Protection Agency and faced different requirements for lead paint remediation. Because the

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<sup>31</sup>CEQ is part of the Executive Office of the President and coordinates federal environmental efforts, working closely with agencies and with offices within the White House to develop environmental policies and initiatives.

<sup>32</sup>See GAO, *Rural Housing: Changing the Definition of Rural Could Improve Eligibility Determinations*, [GAO-05-110](#) (Washington, D.C.: Dec. 3, 2004). In this report, we suggested that Congress consider taking certain actions that could improve consistency in defining communities' eligibility for Rural Housing Service programs. A related USDA report that primarily focused on programs authorized through the Farm Bill—non-housing programs—has as one of its key recommendations using a population limit of 50,000 for all non-housing programs targeted to rural businesses and communities.

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Potential Reduction in Training Opportunities and Program Support

TDHE considered HUD's requirements to be cost prohibitive, remediation efforts stalled, and the project was abandoned.

In addition to ongoing external challenges, several housing officials were concerned about changes in the delivery of training and technical assistance they received under the IHBG program. As part of their participation in the program, tribes and TDHEs benefit from training and technical assistance opportunities facilitated by ONAP. Training topics may include, among other things, NAHASDA policies and procedures, housing development basics, procurement, leveraged financing, and partnerships and resources. Technical assistance provides recipients with a more hands-on experience to help them build administrative capacity. Some housing officials told us that training for their staff was essential. For example, one housing official emphasized that such training contributed to the long-term success of tribal housing organizations. Another housing official indicated that frequent political changes within tribes caused housing entities to lose qualified personnel, requiring that new staff be trained quickly. Similarly, two officials said that tribal housing boards and councils could benefit from training tailored to assist them in mitigating conflicts between tribes and their housing entities.

Some housing officials were skeptical about changes that reduced NAIHC's role in delivering training and technical assistance. Until fiscal year 2012, Congress appropriated approximately \$2 million to \$3.5 million annually as part of a set-aside in the NAHASDA appropriation to NAIHC, which served as the primary provider of external training and technical assistance to IHBG recipients. ONAP also provided some training and technical assistance directly and some through contractors, but several tribal housing officials found ONAP's training to be more specific to NAHASDA and less tailored to their individual needs. In fiscal year 2012, Congress stopped appropriating the set-aside to NAIHC and directed HUD to provide grants on a competitive basis to national and regional organizations.<sup>33</sup> HUD awarded eight organizations, including NAIHC, training and technical assistance grants under cooperative agreements in

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<sup>33</sup>NAHASDA authorized funds to be appropriated annually through 2012 to "a national organization representing Native American housing interests to provide training and technical assistance to tribal housing entities." However, starting in fiscal year 2012, Congress changed its appropriation language, and HUD officials told us that they changed the way training and technical assistance funds were awarded on the basis of the new language.

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2012. NAIHC did not receive a training and technical assistance award for 2013. According to ONAP officials, NAIHC attempted to apply for a 2013 award but missed the deadline for consideration. The organizations that enter into cooperative agreements with HUD to provide training and technical assistance become part of a cadre of providers that HUD calls on to fulfill requests from IHBG recipients.

Some housing officials told us that when NAIHC was the primary provider they could request training and technical assistance directly from NAIHC. For example, the housing officials said that the prior procedures allowed them to contact NAIHC and request an individual trainer whom they recognized as having expertise in the area in which they needed assistance. With that input, NAIHC made a determination on the type of training that would be provided at a particular location. NAIHC's leadership told us that the organization's approach was to identify an expert in a given area and send that person where the assistance was needed. Under HUD's new procedures, some housing officials told us that waiting for regional ONAP staff to schedule training could delay training. One official said that she often received notifications about training that ONAP was offering in her region but was not given enough lead time to take advantage of these opportunities. For example, she explained that she received the information about 2 weeks in advance and thus did not have time to obtain approval to attend from the tribe or to make appropriate travel arrangements without paying prohibitively high costs. Yet another housing official noted that tribes' training and technical assistance needs varied within regions and suggested that a more hands-on approach from ONAP and other providers could help identify recipients' needs. According to HUD, under the new procedures, tribes and TDHEs submit a request for training or technical assistance through their regional ONAP offices or directly to headquarters. Once HUD headquarters staff approve the request, the tribes coordinate with the relevant training provider.

Officials at one TDHE said that under HUD's new system, the tribes would have no control over who provided the training or technical assistance, when it would be offered, or whether ONAP headquarters would even agree that it was necessary. The housing officials said that ONAP responded to their training request by offering to deliver the training on-site within 6 months but later postponed the session because of insufficient travel funds. The housing officials told us that they had wanted to have new staff trained on HUD's Section 184 program, which could be used along with the IHBG program, but said that they had so far been unable to get the needed training. ONAP officials stated that ONAP

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had not yet declined a training request under the current procedures but noted that scheduling and finding the right trainers had been challenging. In terms of external providers, ONAP officials said that the new approach was intended to be more streamlined than the federal procurement system in identifying training and technical assistance providers. They explained that ONAP was creating a database of trainers and subject-matter experts that they expected would expedite the process of identifying the right provider to fulfill each request. Regarding the TDHE's example of requesting training on the Section 184 program, ONAP officials said that this involved a misunderstanding. The TDHE had understood that training for non-NAHASDA programs could be requested as part of NAHASDA training and technical assistance procedures, but in fact training for other programs was paid for with a separate set of funds.

A few tribal housing officials expected that the on-site technical assistance that NAIHC had provided to individual tribes and TDHEs upon request would be available less often under the new procedures. A number of tribal housing officials also said that they had previously relied on training scholarships from NAIHC to attend national training events. NAIHC used funds from its annual appropriation to provide scholarships for Indian housing staff that covered tuition, if applicable, and travel costs. NAIHC expected that it would be offering fewer scholarships under the new system because it would no longer be the primary provider of external training and technical assistance to IHBG recipients.<sup>34</sup> Some housing officials told us that without this support, recipients with limited resources would have fewer opportunities to send housing staff to training events, such as national events that one official pointed out allowed tribes to network with and learn from each other. These recipients' concerns largely stemmed from their experience with NAIHC. For example, a few said that the organization's knowledge of tribes and their unique circumstances resulted in training and technical assistance that was relevant and practical for their needs. ONAP officials indicated that under the new procedures, tribes and TDHEs would have more opportunities for regional training events that were located closer to them than national events. In addition, they stated that tribes and TDHEs would still be able to request the technical assistance they needed and have it delivered by a knowledgeable provider on-site. ONAP officials also said that technical

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<sup>34</sup>Because NAIHC offered training scholarships that were paid for using NAHASDA set-aside funds, NAIHC did not expect to continue the scholarships as prior set-aside funds were exhausted.

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assistance requests were being developed jointly with the tribes, along with a work plan for the provider. The officials explained that several on-site visits were scheduled to allow sufficient time for the tribe to receive hands-on services and that there were ongoing remote communications to allow for any needed follow-up.

Generally, ONAP officials said that they believed the housing officials' views about future training and technical opportunities were largely based on past experiences with ONAP that required tribes and TDHEs to wait for HUD to contract with training and technical assistance providers. The ONAP officials acknowledged that there were inherent delays in obtaining HUD-contracted assistance with the old training and technical assistance procedures in place before 2012, in part because of the steps the federal procurement process required, and said that the new procedures using cooperative agreements were intended to allow for more self-determination. For example, they said that the goal was to offer tribes and TDHEs training that was more specific to their needs than prior offerings.

Many of the IHBG recipients we contacted described having positive relationships with their regional ONAP offices. For example, several housing directors in Alaska gave examples of the support they received from the regional office. Two of the housing officials said that they could rely on Alaska ONAP staff to help them interpret program policy and directives that they received from ONAP headquarters. Another housing official said that she was comfortable asking Alaska ONAP staff for informal feedback on draft housing plans, particularly when the TDHE was undertaking a new housing program or activity. But a few recipients also expressed concerns. Those recipients said that ONAP did not notify them about changes in regional staff, that key ONAP staff whom they relied on to handle inquiries were not responsive, and that new staff did not provide them with adequate guidance. For example, one housing official said that ONAP routinely advised tribal housing staff to consult the program guidance instead of providing a definitive response to questions or helping to interpret it. Some tribal housing officials agreed that insufficient support from and partnerships with the regional ONAP offices could contribute to a recipient's administrative challenges. They also said that the lack of a strong relationship with the regional ONAP office could result in the type of inactivity that had caused some recipients to fall behind the timeline for using their grant funds and thus to miss opportunities to provide needed housing for their members (see app. II).

ONAP officials, in turn, recognized some of these concerns but cited low staffing levels as a contributing factor. They explained that staffing for

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regional offices that directly interacted with the tribes had decreased by about 40 percent in recent years, in some cases due to retirements and subsequent unfilled vacancies. From 2009 to 2013, ONAP staff, most of whom are in the regional offices, decreased from an estimated 212 to 159. According to ONAP officials, the 2012 federal sequester negatively impacted HUD's workforce, contributing to department-wide furloughs and limiting HUD's ability to refill vacant positions. They said that ONAP had not hired any staff from June 2012 to September 2013. Further, they told us that while HUD had given ONAP authority to appoint temporary directors among existing staff, several specialist positions remained open without a timeline for being filled. These specialists play an important role in helping IHBG recipients carry out housing activities, respond to program requirements, and remain compliant. For example, the specialists are responsible for ensuring that funds are awarded when a recipient meets the IHBG program requirements. They also provide technical assistance and project support, review recipients' performance, and initiate enforcement procedures when necessary. Without sufficient attention from ONAP in these areas, recipients are more likely to experience prolonged administrative issues that can delay the provision of services to members and require increased monitoring by HUD.

Finally, tribes in the same region sometimes had different characteristics and carried out different activities. For example, one housing official explained that the tribe she worked with received federal recognition after NAHASDA's implementation and therefore did not own pre-NAHASDA (1937 Act) units, lacked reservation land, and had not yet built any IHBG-funded units. As a result, the tribe had focused on nonconstruction activities such as providing tenant-based rental assistance for members that was similar to HUD's Section 8 program and was trying to identify other tribes using this approach.<sup>35</sup> At the time we spoke, the official had not identified comparable tribes in the region that could share IHBG strategies, and she had reached out to ONAP but had not yet received the requested information.

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<sup>35</sup>Under the tenant-based Section 8 program, an assisted household pays 30 percent of its adjusted monthly income in rent; the remainder of the rent is paid by HUD and is generally equal to the difference between (1) the lesser of the unit's gross rent (generally, rent plus utilities) or a local "payment standard" and (2) the household's payment.

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## Internal Challenges

### Limited Administrative Capacity

We previously concluded that limited administrative capacity could hinder the success of tribes and TDHEs participating in NAHASDA.<sup>36</sup> At the time, we noted that this challenge likely was more common among recipients whom we contacted with smaller annual IHBG allocations and fewer staff. During this review, a few housing officials told us that they had experienced or were still experiencing administrative capacity issues. Size remained a factor, but frequent staff turnover and other administrative changes also had a negative impact on recipients' ability to successfully administer the IHBG. For example, one tribal housing department had only two staff members, including the director. The director, who had been in her position for 4 years, said that because of the department's size, any staffing changes would have a significant impact on continuing operations. Another housing director told us that she had served in the position for about 1 year and also had one additional staff member and that before she started, the TDHE had been closed for some time after ONAP found that certain procedures had not been carried out. ONAP officials stated that ONAP did not initiate the TDHE's closure.

Yet another housing director with 20 years of experience had been in his current position only a few months, and other staff members had been in their positions less than 2 years. The housing director explained that the housing entity receiving the tribe's NAHASDA funds had transitioned from a TDHE to a housing department within the tribe and that housing leadership had changed at least 8 times in fewer than 3 years, making it difficult to plan with confidence. In the case of the largest IHBG recipient, NHA, several factors contributed to administrative capacity issues in recent years, including noncompliance by subrecipients and changes in the TDHE's leadership.

Successful administration of the IHBG program, including the ability to plan and execute eligible housing initiatives and to adhere to program requirements, requires dedicated and knowledgeable staff and some measure of operational consistency. In a few cases, housing officials told us the tribe or TDHE they worked for initially began participating in the IHBG program without allocating sufficient personnel and ramped up over

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<sup>36</sup>See [GAO-10-326](#).

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time to more adequately administer the grant. Moreover, HUD officials explained that while the IHBG program was not onerous on the front end because it was not competitive, tribes could be unprepared for the sophistication and systems required to administer housing activities under the program and to remain compliant with its requirements. HUD officials said they were aware, for instance, that turnover in tribal housing staff and housing directors could result in the loss of expertise that was difficult to replace. Further, they said that because of tribes' often remote locations, quality contractors that could supplement the housing staff's knowledge were hard to find.

## Conflict within Tribes

Internal conflict on housing issues within tribal entities can take various forms, such as disagreement between a tribe and its independent TDHE or between the TDHE and other departments related to housing, such as planning and environmental offices. We found that internal conflicts could affect the priority housing was given, or whether housing activities were carried out in a timely manner. One housing director in North Dakota whose tribe had experienced such conflicts said that he had convened a working group that was intended to, among other things, help resolve conflicts between the tribal government and the TDHE. Past tribal leadership had not wanted to divert some of the tribe's gaming revenues to community needs, such as housing, according to the official, who added that a lack of housing and the associated overcrowding led to other social and health issues. He expressed hope that new tribal leadership would prioritize housing needs. A Nevada housing official also told us that the tribe's environmental department had differed with the TDHE over adherence to some housing development codes and that delays in reaching agreements had impacted the timeline of tribal housing projects.

In addition, the housing director of a South Dakota tribe explained that the tribe had only recently begun zoning efforts. As a result, members seeking home sites were waiting to find out where there was buildable land, which areas might be flood plains, and which sites were barred from development by the tribe.<sup>37</sup> Because work we had previously conducted found that the Federal Emergency Management Agency's (FEMA) mapping of rural communities, including tribal lands, was limited, we asked whether FEMA had visited the tribe to begin flood mapping. The official said that FEMA had mapped the surrounding county, and while the

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<sup>37</sup>See [GAO-13-226](#).

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tribe's housing department had wanted the tribe to be included, the tribal government had not made mapping a priority.

## Cultural Factors

In some cases, housing development challenges are exacerbated by cultural considerations or tribal governments' inaction, and as a result Indian tribes often face a dilemma in combining their desire for progress with a need to maintain certain tribal traditions. For example, a few housing officials said that tradition played a role in how some of their members preferred to live and that some tribal members' preferences were at odds with new ideas for development (see fig. 3). Several of our interviews and another source indicated that Native American tribes often do not see living in populous areas in general and in cluster housing in particular as being in line with their traditional systems and values. Some members want to live in residences or family compounds that are several miles from their closest neighbor, for instance. Likewise, members do not always want to move to more developed areas if it entails moving away from certain traditions. The Housing Assistance Council noted in its September 2013 report that HUD introduced cluster housing in the 1960s as a means of providing cost-effective modern housing and utilities on Indian reservations.<sup>38</sup> However, the report added that many now view these cluster homes as "reservation ghettos" that are more prone to increased criminal activity because they disrupted original social networks and important aspects of many Native American communities.

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<sup>38</sup>Housing Assistance Council (Washington, D.C.: September 2013).

Figure 3: Examples of Traditional Indian Homes, Navajo Nation (left) and Hopi Tribe (right)



Source: GAO.

Some of the ways in which tribal members prefer to live make it difficult for tribes that want to make infrastructure available to more of their members. For example, housing officials at one TDHE told us that the TDHE faced restrictions on large portions of land because some members would not negotiate rights-of-way for utility services across land parcels or held historic grazing permits that exempted the land from development. The housing officials explained that while the grazing permits, originally intended to accommodate livestock held by families, did not provide actual title to the land, members were emotional about the land and did not want to see traditional federally-funded homes built on it because they perceived the developments as breeding crime. In deference to tribal members, the TDHE had foregone needed development in some areas and proposed a sustainable communities plan, beginning with pilot communities in the hope of overcoming tribal members' reluctance to support planned developments. The TDHE plans to seek input from tribal members on building pilot communities that incorporate tribal systems and values. The hope is that building homes with community input will result in tribal members prioritizing housing and economic development over traditional grazing rights (see NHA case study in app. II).

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These types of internal issues, which can impact how housing plans are carried out and have the potential to stall needed development, can only be addressed among tribal officials. Self-determination allows tribes the autonomy to determine their own housing priorities and to address them in the manner that best serves their members.

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## Addressing Some Tribal Housing Challenges Would Require Fundamental Changes, but Other Opportunities Exist

Addressing some of the housing challenges that Indian tribes face requires sustained, long-term coordination and a shared commitment to removing fundamental barriers to affordable housing development in Indian communities. Among these challenges is the issue of land ownership, which is complicated on tribal lands and can hinder housing activities. Moreover, traditional housing markets do not exist on some tribal lands. For example, a nonprofit representative whose organization had been trying for years to develop a housing market for the Navajo reservation noted that it had only recently succeeded in helping to create one development with an actual market. We have seen that for the Navajo, as for other tribes, there may be a dilemma between the desire for progress and the need to maintain cultural traditions.

We noted earlier that some progress was being made at the federal level to deal with such challenges—for example, the BIA has recently begun efforts to implement new leasing procedures for certain types of land in order to expedite approvals. HUD has also been encouraging more sustainable Native American homes and communities that may incorporate tribal culture. We have identified additional targeted federal actions that could expedite efforts tribes already are making to deliver affordable housing in their communities.

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## Establish a Coordinated Environmental Review Process for Tribal Housing Development

CEQ has issued regulations that are, in general, binding on all federal agencies for implementing the procedural provisions of NEPA. The CEQ regulations admonish agencies to reduce excessive paperwork by, among other things,

- incorporating material into an environmental impact statement by reference if the material is otherwise reasonably available, and
- eliminating duplication with other federal procedures by allowing an agency to adopt appropriate environmental documents prepared by another agency.

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The regulations further require that, where appropriate, a lead agency be appointed when several agencies are involved.

As we have seen, several of the tribal housing officials we spoke with told us that it was time-consuming and costly to complete separate environmental review processes for multiple agencies when a tribe combined funding sources for a project. For example, some agreed that it would be reasonable for federal agencies to establish a single process that met the requirements of each agency. A few suggested that the requirements should be determined by a lead agency. For example, one housing official stated that a more efficient approach would be to identify one agency as the cognizant entity whose review process would be adequate to cover the requirements of the other agencies.

Federal agencies that work with Indian tribes and their members were aware of this obstacle.<sup>39</sup> A preconstruction paperwork streamlining workgroup convened by a federal infrastructure task force noted in a February 2011 report that the environmental review process for water and wastewater projects on tribal lands could be improved if funding agencies coordinated their processes.<sup>40</sup> The task force's report noted that while all federal agencies must comply with NEPA and other related regulations, their requirements could—and did—differ significantly. The report also pointed out that environmental review forms across agencies requested similar information and that many agencies used different checklists to evaluate environmental issues. Much like the tribal housing officials, the report suggested that a checklist be developed with a first section that covered common requirements across all agencies, followed by a separate section tailored to meet the needs of individual funding

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<sup>39</sup>Both USDA and BIA stated that the environmental review process could be more efficient if CEQ allowed an agency to adopt another agency's categorical exclusion. A categorical exclusion is a category of actions that do not individually or cumulatively have a significant effect on the human environment and that have been found to have no such effect in procedures adopted by a federal agency. Actions that fall within a categorical exclusion are exempt from requirements to prepare an environmental assessment or environmental impact statement. See 40 C.F.R. § 1508.4.

<sup>40</sup> Streamlining Preconstruction Paperwork Workgroup as Requested by the Infrastructure Task Force to Improve Access to Safe Drinking Water and Basic Sanitation in Indian Country, *Overview of Tribal Water Infrastructure Funding Application Processes and Recommended Paperwork Streamlining Opportunities* (February 2011). The workgroup compiling this report included task force members—the Environmental Protection Agency, HUD, USDA, IHS, Interior's Bureau of Reclamation—and the Alaska Native Tribal Health Consortium.

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agencies. In addition, the report suggested that selecting a lead agency on a project-by-project basis could help the process. We previously concluded that the lack of a lead federal agency to coordinate certain tribal environmental efforts impeded much needed progress.<sup>41</sup>

Although a coordinated review process for tribal housing development would require significant agency collaboration as it was implemented, it has the potential to benefit tribes by saving them valuable IHBG funds and other resources and by expediting the time frames for much-needed development. Coordinating environmental review activities for housing projects could also save federal agency resources in the long term and avoid duplication of effort among funding agencies. The task force report's observation, that changing environmental review policies for water and wastewater could require legal reviews within the coordinating agencies, likely would apply to housing as well.

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### Seek and Incorporate Feedback from IHBG Recipients on New Training and Technical Assistance Procedures

As discussed earlier, starting in fiscal year 2012, changes made in the appropriation of training and technical assistance funds have reduced the role of NAIHC as a provider of training and technical assistance to IHBG recipients. HUD's new procedures using cooperative agreements for IHBG recipient training and technical assistance were also instituted in fiscal year 2012. However, our selected interviews suggested that some tribes and TDHEs remained unfamiliar with the new procedures and were concerned about having their training and technical assistance needs met. Under HUD's new procedures, ONAP and IHBG recipients must work more closely together to ensure that the tribes' training and technical assistance needs are being met. As we have said previously, collaboration among entities with a common goal is most effective when mechanisms such as a means of collecting input from all stakeholders are in place.<sup>42</sup>

As a result, it is important that tribes and TDHEs impacted by changes in how they will receive training and technical assistance work with ONAP to better ensure that the new delivery system meets their needs. As

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<sup>41</sup>GAO, *Alaska Native Villages: Limited Progress Has Been Made on Relocating Villages Threatened by Flooding and Erosion*, [GAO-09-551](#) (Washington, D.C.: June 3, 2009).

<sup>42</sup>GAO, *Managing for Results: Key Considerations for Implementing Interagency Collaborative Mechanisms*, [GAO-12-1022](#) (Washington, D.C.: Sept. 27, 2012).

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previously noted, ONAP officials told us that concerns expressed by some IHBG recipients about the new system likely reflected recipients' past experiences with HUD-provided training and technical assistance. Further, ONAP officials said that the concerns of some IHBG recipients who had used the new procedures to obtain assistance had not been realized. For example, the officials explained that ONAP solicited feedback under the new procedures from tribes and TDHEs immediately following technical assistance visits and again 60 and 120 days thereafter. In response to reviewing a draft of this report, they also provided us with copies of a technical assistance work plan and 60-day follow-up evaluation for the same recipient and 32 completed evaluation forms from a NAHASDA training course held in January 2014. Finally, ONAP officials stated that they had begun incorporating suggestions from recipients on process improvements.

However, given recipients' concerns and ONAP's awareness of them, opportunities remain for ONAP to seek input from IHBG recipients who have not yet used the new procedures in order to address their concerns with the overall process for providing training and technical assistance. Although some recipients provided ONAP with positive feedback on specific training events, others told us that they were skeptical of the new training and technical assistance procedures and were unsure that these procedures would continue to meet their needs. Some recipients believed that barriers existed to obtaining the assistance they needed. For example, some recipients told us that the new procedures may result in a lengthier wait to receive the services requested due to the time their regional offices took to communicate training requests to ONAP headquarters and the time for ONAP to contract for services. ONAP has not reached out to these IHBG recipients to suggest alternative ways to request services that could help address tribes' concerns. For example, in responding to the draft report, ONAP officials told us that recipients could go directly to headquarters to request training services. In addition, ONAP had begun a thorough follow-up process with technical assistance providers to ensure that those providers delivered the type of assistance that will benefit tribes in their housing efforts, which could help reassure tribes. Without additional outreach, some recipients could remain disengaged from and skeptical of the new system and thus miss opportunities to build the capacity of their housing programs and meet their housing goals.

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## Disseminate Promising Housing Approaches among IHBG Recipients

As part of its efforts to provide IHBG recipients with capacity-building technical assistance, ONAP could help IHBG recipients share approaches they have used to address housing challenges. Under the new training system, recipients may find that they have limited opportunities for sharing IHBG-related strategies during national training and other events because NAIHC played a significant role in providing scholarships that facilitated tribes' attendance at such events. Further, as we have seen, the circumstances of tribes within a region may differ, and it can be difficult for tribal housing officials to learn about innovative approaches to housing issues. HUD already has recognized Native American communities for initiatives such as innovative housing practices through the Sustainable Construction in Indian Country initiative. HUD highlighted 22 communities through this initiative in May 2013. However, HUD has not shared promising housing practices more generally across tribes in a way that would make them easily accessible. In 2013, the National Congress of American Indians also released a report illustrating how tribes were using innovative strategies to make progress in areas such as education, workforce development, food production, and housing.<sup>43</sup> A similar document on IHBG strategies could consolidate promising approaches that tribal housing officials may communicate one-on-one, supplement existing training and technical assistance programs, and require few resources.<sup>44</sup>

Promising practices for Indian housing might include successful strategies for competing for funding opportunities; strategies for addressing issues related to remoteness, such as high fuel, transportation, and development costs; and creative and resourceful ways of delivering housing programs in a more efficient manner. To maximize distribution, HUD could consider making IHBG successful practice documents available on the website used by recipients. While we recognize that Indian tribes differ in important ways, a guide that describes practical methods that IHBG

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<sup>43</sup>National Congress of American Indians, *Securing Our Futures* (Washington, D.C.: February 2013).

<sup>44</sup>HUD has created a best practices document in another area (the HUD-VA Supportive Housing Program) that could be used as a model. With input from public housing agencies and VA medical centers, HUD shared effective strategies and highlighted specific efforts—for example, practices that several public housing agencies used to help homeless veterans transition to permanent housing. See GAO, *Veteran Homelessness: VA and HUD Are Working to Improve Data on Supportive Housing Program*, [GAO-12-726](#) (Washington, D.C.: June 26, 2012).

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recipients have used to solve known challenges or to increase their success in the program could be adapted to address specific situations. Wider dissemination of these approaches could help tribes improve their delivery of needed housing and related services to their members.

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## Conclusions

The lack of adequate housing in Native American communities is widely known, and the federal government has committed to helping Indian tribes address their communities' need for affordable housing and related services. Several federal agencies have programs that assist Indian tribes and their members, but NAHASDA and the IHBG were created for this purpose, while also giving tribes flexibilities that they lacked as recipients of earlier housing programs. As we have seen, some of the housing challenges that tribes continue to face are not easily resolved, such as the often remote locations of tribal lands, intratribal conflicts, and cultural preferences. However, certain targeted actions could help mitigate two challenges identified in our work.

First, tribes using housing funds from multiple agencies face multiple environmental reviews, since each funding agency has its own requirements. These reviews not only cost tribes needed resources but can delay the implementation of needed housing projects and, in some cases, can halt them. A federal infrastructure task force focused on facilitating tribes' water and wastewater projects has recommended that task force participants, including HUD, develop a coordinated environmental review process that would address the issue of costly multiple reviews. A similarly coordinated process for tribal housing would help tribes to plan and build affordable housing more quickly and efficiently. Further, it would be appropriate for agencies that assist tribes with affordable housing to designate a lead agency as part of this effort. Until such an effort is developed and implemented, tribes will continue to expend time and IHBG resources completing overlapping reviews, reducing the funding available for the development of needed affordable housing.

Second, HUD has made changes to training and technical assistance procedures funded through a NAHASDA set-aside that significantly changes the way these services are provided. HUD made these changes in keeping with the language of NAHASDA's appropriation legislation, which no longer recognizes a single national-level provider, and HUD believes that the changes should streamline the process of providing training and technical assistance. HUD has established a mechanism to obtain feedback from IHBG recipients who receive training and technical

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assistance under the new procedures, but some IHBG recipients who have not yet used them remain concerned that their training and technical assistance needs will not be met. The tribes play a significant role in helping HUD assess the impact of the new procedures, and it is important that all tribes participating in NAHASDA have opportunities to request and receive assistance and to provide HUD with feedback. A more comprehensive feedback mechanism would include input from tribes that have not yet used HUD's new procedures so that their concerns can be addressed.

ONAP could, as part of seeking feedback from IHBG recipients, collect and disseminate among recipients promising approaches that they have used to address their housing challenges. We found that tribes and TDHEs could face challenges in providing affordable housing that others in their region with which they might have contact do not face. HUD is in a position to gather information on promising approaches to tribal housing challenges and disseminate them nationwide. In May 2013, for example, HUD recognized 22 tribes that were incorporating resource-efficient elements into their affordable housing projects. Expanding this kind of dissemination effort could help tribes and TDHEs identify ways to use their IHBG funding in the most efficient and effective ways in their communities.

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## Recommendations for Executive Action

To increase consistency and reduce time and predevelopment cost for NAHASDA grant recipients, we recommend that an interagency effort similar to that of the federal infrastructure task force but specific to tribal housing be initiated with participants from IHS, HUD, Interior, and USDA to develop and implement a coordinated environmental review process for all agencies overseeing tribal housing development. In addition, the agencies should determine if it would be appropriate to designate a lead agency in this effort.

To better ensure that NAHASDA grant recipients receive adequate training, technical assistance, and support, we recommend that the Deputy Assistant Secretary of Native American Programs take the following actions:

- As ONAP finalizes new training and technical assistance procedures for NAHASDA grant recipients, ONAP should expand its existing mechanism to seek and incorporate feedback and input from all recipients, including input from recipients that have not yet used the

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new procedures, in order to better ensure that its training and technical assistance procedures meet recipients' needs.

- ONAP should collect and disseminate promising approaches that recipients have used to address housing challenges.

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## Agency Comments and Our Evaluation

We provided a draft of this report to the Department of Health and Human Services (HHS), HUD, Department of the Interior (Interior), and USDA for their review and comment. We received written comments from HUD and HHS that are reproduced in appendixes III and IV, respectively. HUD, Interior, and USDA also provided technical comments, which we incorporated into the report as appropriate. The agencies generally agreed with our recommendations, although HUD did not agree with our recommendation that it should create a mechanism to seek and incorporate feedback from IHBG recipients.

HUD agreed with our recommendation that all agencies involved in Native American housing programs develop a coordinated environmental review process but strongly suggested that the effort be initiated by an organization, such as CEQ, that has the power to bring the relevant parties together. Our recommendation is supportive of actions that the agencies may take to develop a coordinated environmental review process, including seeking guidance from CEQ on how to proceed with this collaborative effort. HUD also agreed with our recommendation that the agency collect and disseminate to IHBG recipients' promising approaches to address housing challenges. HUD highlighted its efforts to promote sustainable construction practices in Native American communities, and we had noted these efforts in the draft of this report. For example, HUD mentioned that its initiatives include a website that contains best practices and case studies on sustainable Native American housing projects. As previously noted, HUD did not agree with our recommendation that the agency create a mechanism to seek and incorporate feedback from IHBG recipients on its new training and technical assistance procedures. HUD mentioned its postcourse evaluation forms and the follow-up that takes place after a recipient receives technical assistance and HUD provided us with examples of completed evaluation forms from January 2014 and technical assistance follow-up documents. We recognize that these practices exist, but our suggestion that HUD seek feedback from all recipients would include obtaining input from recipients who have not yet used the new procedures and remain skeptical that their training and technical assistance needs will be met. We added language in relevant sections of the report to

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reflect the information that HUD provided and changed the recommendation language to clarify that we recommend that HUD obtain feedback from all IHBG recipients, including those that have not used the new training and technical assistance procedures.

HHS agreed with our recommendation that agencies involved in Native American housing programs act to implement a coordinated environmental review process. The audit liaison for USDA Rural Development provided USDA's concurrence with the intent of the recommendation in an email dated March 7, 2014. In technical comments, HUD and USDA asked us to clarify that the federal infrastructure task force's recommendation for agencies to develop a coordinated environmental review process for tribes was limited to water and wastewater infrastructure projects and did not include housing. We revised the relevant language in our conclusions and the first recommendation to reflect the agencies' input. The audit liaison for Interior provided the Department's concurrence with the revised recommendation in an email dated March 7, 2014.

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We are sending copies of this report to appropriate congressional committees and HHS, HUD, Interior, and USDA. In addition, the report is also available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-8678 or [shearw@gao.gov](mailto:shearw@gao.gov). Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made major contributions to this report are listed in appendix IV.



William B. Shear  
Director, Financial Markets and Community Investment

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# Appendix I: Objectives, Scope, and Methodology

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Our objectives were to examine (1) the kinds of challenges that Indian tribes have faced in administering housing activities under the Indian Housing Block Grant (IHBG) program and (2) federal or tribal actions, if any, that could help to address these challenges.

To address both objectives, we reviewed the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) and its implementing regulations, testimonies by Department of Housing and Urban Development (HUD) and tribal representatives, prior GAO reports, and other relevant sources such as studies by nonprofit housing and tribal advocacy organizations and a report by federal agencies working to improve water and sanitation access on tribal lands.<sup>1</sup> We interviewed representatives of the National American Indian Housing Council (NAIHC), which represents American Indian, Alaska Native, and Native Hawaiian housing interests. Our interviews included NAIHC executives and members of NAIHC's board who served as housing officials for individual tribes and tribally designated housing entities (TDHE) participating in NAHASDA. We interviewed housing officials from 23 selected tribes or TDHEs participating in NAHASDA and conducted site visits with two of the recipients. One of these site visits was to the Navajo Nation's reservation to meet with officials of the Navajo Housing Authority (NHA). We selected this location to visit because NHA was the largest IHBG recipient. NHA also was one of several recipients that contributed to a large backlog of obligated yet unexpended IHBG funds.<sup>2</sup> NHA has experienced longstanding administrative challenges and had a backlog of nearly \$500 million in unexpended IHBG funds as of July 2013. We discussed with NHA officials their plans to use this backlog and observed how IHBG funds had been used in the past. Because of the Hopi reservation's proximity to the Navajo reservation and because the Hopi Tribe remains a highly traditional, clan-based, independent tribe, we also visited with Hopi Tribal Housing Authority officials. On both reservations, we toured traditional tribal housing and more recent construction projects.

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<sup>1</sup>Streamlining Preconstruction Paperwork Workgroup, Overview of Tribal Water Infrastructure Funding (February 2011).

<sup>2</sup>Conference Report 112-284 noted that some tribes and TDHEs had not spent block grant funding for several years, resulting in large accumulated balances and reduced housing activities on tribal lands. The report also noted that almost half of the unexpended balance belonged to one tribe. Our analysis of IHBG budget data as of July 2013 found that the cumulative amount of obligated and unexpended IHBG funds totaled more than \$1 billion and that NHA contributed approximately 42 percent to that balance.

For example, on the Navajo reservation, we visited a traditional dwelling (called a “hooghan”) and homes in the former Bennett Freeze area of the reservation that were barred from improvements since the 1960s because of a historic land dispute between the Navajo Nation and the Hopi Tribe (see fig. 4).<sup>3</sup> We visited pre-NAHASDA HUD-funded homes and IHBG-funded homes. In addition, we visited NHA housing developments that were not being used because of issues related to NHA’s subcontractors and to land ownership (see app. II for additional information). We also visited more successful developments, including college housing and a 96-unit rental community that used IHBG, USDA, and other funding. On the Hopi reservation, we visited a number of sites, including traditional villages on two of three mesas (high plateaus with steep sides) and an IHBG-funded community building that was intended for youth activities. We interviewed the other 21 IHBG recipients by telephone. In addition, we interviewed and obtained relevant documents from officials in HUD’s Office of Native American Programs (ONAP), which administers NAHASDA, and interviewed officials at other federal agencies whose programs targeted or served Indian tribes and their members. These agencies included the U.S. Department of Agriculture (USDA) Rural Development, Bureau of Indian Affairs (BIA) within the Department of the Interior, Indian Health Service (IHS) within the Department of Health and Human Services, and the Department of Veterans Affairs (VA). We met with VA officials to discuss the department’s efforts to increase access for Native American veterans to assistance under VA’s home loan and housing programs.

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<sup>3</sup>The Hopi Tribe is located in northeastern Arizona and the Hopi reservation is surrounded by the Navajo reservation. The tribes have had a longstanding dispute over adjoining land that led to BIA imposing a decades-long moratorium on construction and improvements for homes existing on the contested land. The area came to be known as the Bennett Freeze area after BIA commissioner Robert Bennett, who enacted the moratorium in the 1960s. In May 2009, President Obama signed a law repealing the Bennett Freeze. In the intervening years, the Navajo and Hopi worked together to agree on land division, but the area and homes in it remain in extreme disrepair.

Figure 4: Housing in the Former Bennett Freeze Area, Arizona



Source: GAO.

To address the first objective, we asked tribal housing officials about challenges they were experiencing and the impact of those challenges on

their housing efforts. In selecting the non-representative sample of IHBG recipients we contacted, we asked ONAP regional offices for help with identifying tribes in each region that were facing certain challenges and NAIHC helped with outreach to tribes and TDHEs that self-identified the challenges they were facing. The 23 recipients we interviewed included tribes and TDHEs from HUD's six ONAP regions that varied in size and the amount of annual NAHASDA grant funding.<sup>4</sup> We interviewed HUD and other agency officials about housing challenges they had identified among Indian tribes. We also contacted HUD staff with responsibility for an ongoing study on Indian tribes' housing needs to learn more about HUD's methodology and timeline for the study. In addition, we used our prior work on NAHASDA and other sources to inform this effort. For example, we attended NAIHC's 2013 convention, where representatives from NAIHC, tribes and TDHEs, and federal agencies provided perspectives on tribal housing. Finally, we reviewed budget data from HUD, showing NAHASDA recipients' annual IHBG allocations and expenditures through 2013, to assess the extent of unexpended recipient balances. On the basis of our analysis of the funding data and explanations that HUD provided, we determined that the data were sufficiently reliable for our purposes.

We used a standard set of questions to interview housing officials at tribes and TDHEs to ensure that we consistently captured their views on various aspects of each of our objectives. We analyzed the results of these interviews and related documents to identify the main themes and develop summary findings. With a few exceptions, the 23 recipients we interviewed responded to all of our questions. To categorize tribal housing officials' views throughout this report, we defined modifiers to quantify the housing officials' views as follows:

"most" represents 15 to 19 housing officials,

"many" represents 10 to 14 housing officials,

"several" represents 8 to 9 housing officials,

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<sup>4</sup>The 23 recipients whom we interviewed received a total of more than \$160 million in IHBG funds for fiscal year 2013. Individual allocations among the 23 recipients ranged from approximately \$206,000 to approximately \$82 million. However, some recipients were "umbrella" TDHEs serving multiple tribes or villages that received smaller individual allocations.

“some” represents 5 to 7 housing officials, and

“a few” represents 2 to 4 housing officials.

We categorized the challenges that tribal housing officials identified, in no particular order, as follows:

- limited administrative capacity (e.g., new to the program, lack of expertise, high staff turnover)
- lack of basic infrastructure to begin new housing development
- internal conflicts between the tribe and TDHE that impact housing priorities and investments
- conflicting or inflexible federal program requirements when combining IHBG and other funds
- lack of communication and coordination among federal agencies
- tribal ordinances that may impede development
- remoteness, climate, or other geographical factors
- small IHBG allocation
- other (specify)

To address the second objective, we asked tribal housing officials about government actions that they believed could mitigate the challenges they described and about actions their tribe or TDHE had taken to address these challenges. Because tribal housing officials raised concerns about training and technical assistance changes at NAIHC’s 2013 convention, we also asked for their perspectives on the training and technical assistance they received and whether interactions with other IHBG recipients had been helpful. We considered input from the tribes, federal agencies, and other sources and existing knowledge. We analyzed this information to determine what actions, if any, could potentially address the challenges identified.

We conducted this performance audit from March 2013 to March 2014 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

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# Appendix II: Navajo Housing Authority Case Study

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The Navajo Housing Authority (NHA), the Navajo Nation's TDHE, is facing pressure to expeditiously use a backlog of unexpended IHBG funds totaling nearly \$500 million as of July 2013.<sup>1</sup> The Navajo Nation reservation consists of about 27,000 square miles across portions of Arizona, New Mexico, and Utah. The tribe has an estimated 300,000 members and 110 communities served under local government entities called chapters. A Navajo housing needs assessment conducted by NHA from 2008 to 2011 found that 34,000 new housing units were needed on the Navajo reservation and an additional 34,000 homes were in need of major rehabilitation. However, NHA has experienced longstanding administrative challenges. As previously noted, we visited NHA to better understand the TDHE's plan to address its large IHBG backlog and to observe how grant funds had been spent. We also learned more about the circumstances that contributed to the TDHE's backlog.

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## NHA Faced Challenges Similar to Those Faced by Other Recipients

NHA's housing challenges cannot be generalized to all IHBG recipients but some challenges appear to be similar to those that other tribes and TDHEs we interviewed experienced. However, unlike many tribes and TDHEs that experienced one or more similar challenges, NHA experienced them all. These challenges included the remote setting of some communities and related poor socioeconomic conditions, differing requirements for federal agencies, and internal administrative difficulties.

- NHA officials told us that because of their remoteness, Navajo communities (which were separated by up to 100 or more miles) had little to no basic infrastructure to connect new homes with water, power, paved roads, and other services such as broadband for internet access. For example, NHA's recent housing needs assessment found that 50 percent of homes on the reservation had no or incomplete plumbing and kitchens. According to NHA officials, remote locations impacted the costs of delivering and constructing infrastructure systems. In fact, they stated that without combining IHBG and other funds, it was difficult to meet community infrastructure needs. They also pointed out that the sheer size of the Navajo reservation meant that the topography and terrain differed and could impact engineering design for housing.

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<sup>1</sup>NHA's balance as of July 2013 included the recipient's fiscal year 2013 IHBG allocation of \$82 million. As of February 2014, NHA's IHBG balance was \$384 million.

- Poor socioeconomic conditions on the Navajo reservation have persisted while residents' limited incomes are spent off the reservation in more urban areas nearby. For example, a Navajo Nation 2012 study reported that over 80 percent of the Navajo Nation's residents purchased their groceries off the reservation, typically in towns bordering the reservation.<sup>2</sup> In addition, 75 percent of them drove at least 50 miles to purchase food, clothing, and household items. For example, many travel to Gallup, New Mexico, a border town to the Navajo reservation, which has a number of major retailers, including a high volume Walmart Supercenter.
- NHA was challenged by varying requirements when combining IHBG and other funding on housing related projects. NHA used multiple programs to leverage funding for housing activities, and NHA officials cited certain barriers to leveraging IHBG funds, such as having to conduct multiple environmental reviews. They also said that because the Navajo reservation was located in three states—Arizona, New Mexico, and Utah—they had to navigate the qualified allocation plans, funding announcements, and relevant timeframes for all three states' low-income housing tax credit programs.<sup>3</sup> The officials noted that they had to be knowledgeable about each state's requirements when they were combining IHBG and other funds with low-income housing tax credits for one of the three states.
- Administratively, NHA has faced significant challenges in recent years. In 2007, there was a change in the TDHE's leadership and a subsequent internal assessment determined that internal controls were insufficient. According to NHA officials, NHA went through a reorganization to address outstanding program violations stemming back to the late 1990s and the new Chief Executive Officer inherited a backlog of unspent IHBG funds that had accumulated from 1998 to 2007 and totaled more than \$300 million. NHA was also critical of the level of support it received from ONAP during this time. In fact, NHA

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<sup>2</sup>Navajo Nation Division of Economic Development, *Navajo Economic Data Bulletin 001-0212*, February 2012.

<sup>3</sup>State housing finance agencies allocate low-income housing tax credits to owners of qualified rental properties who reserve some of their units for tenants at or below certain income limits. The owners must restrict tenant rents in these units to 30 percent of the income limit, adjusted for the number of bedrooms. Once awarded tax credits, owners attempt to sell them to investors to obtain funding for their projects. Investors then can claim tax credits for 10 years if the property continues to comply with program requirements for 15 years.

officials stated that ONAP issued major deficiency reports that took nearly 4 years to resolve but had not been sufficiently involved with the TDHE before the crisis. ONAP disagreed that it had provided insufficient support to NHA prior to 2007, noting that the regional office worked diligently with NHA to provide technical assistance and to address the findings. NHA officials explained that it also could be difficult for tribal leadership to understand the complexities faced by the TDHE as an entity subject to federal requirements and standards not faced by other tribal departments. They stated that tribal and TDHE priorities related to housing were often different and that tribal leadership did not always understand the TDHE's limitations, leading to conflict. In June 2013, the Navajo Nation's tribal council voted to retain NHA, which has undergone significant reorganization since 2007, as the tribe's TDHE, in lieu of replacing it with an as yet unformed housing entity. NHA's Chief Executive Officer stated that the decision should help in providing stability and continuity for the tribe's ongoing housing efforts.

ONAP stated that NHA's current management had been doing better planning and noted that it had taken some time for organizational changes to be implemented. ONAP further acknowledged that NHA had a difficult task in working with the Navajo Nation's many chapters to pursue new development. While obtaining land for new development remained a challenge on the Navajo reservation, as we discuss later, ONAP suggested that NHA could focus on rehabilitating privately owned homes and HUD-funded units. ONAP officials indicated that doing this would allow NHA additional time to obtain land for development while spending funds that are currently in the pipeline.

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### Some Challenges That NHA Faced Were Unique

NHA also experienced challenges that appeared to be unique to the Navajo Nation's size and structure. For example,

- NHA officials told us that some Navajo tribal ordinances could impede development. For example, they pointed out that NHA provided housing programs and services to a large number of chapters, each with its own approval processes, and that NHA had to work within the timelines for each chapter when IHBG funds were approved and allocated for certain projects within a chapter's jurisdiction. In addition, a chapter could have its own development challenges that could further delay development. Further, while Indian tribes have faced longstanding issues pertaining to the status of their lands (such as limited interest by banks to offer mortgages because they would

generally be unable to foreclose on land held in trust), the availability of land for housing development on the Navajo reservation was a particular issue because each of the Navajo's 110 chapters could have different development priorities and were sometimes reluctant to make land available for housing.<sup>4</sup> Also, according to NHA, 89 percent of the land was tribal trust or fee land that was encumbered by historic grazing permits and leases held by individuals and families that received the permits and leases decades ago to graze their livestock. Given the size of the reservation, the unavailability of land to develop housing appeared to be unique.

NHA cannot begin development in a community without the buy-in of the relevant chapter. The chapter must be willing to withdraw trust land for the project, as applicable. NHA officials explained that prior to any development on open range, grazing permit holders had to consent in writing to the planned project. The officials described grazing permit laws as the prime impediment for land availability to develop housing and related utility infrastructure across the reservation. Grazing permits frequently presented a challenge as permit holders were often unwilling to relinquish what they viewed as a cultural right to hold land in favor of housing development that they perceived as negatively impacting their communities.<sup>5</sup> NHA officials told us that many of the grazing permit holders no longer had cattle or sheep to graze and that they needed to overcome the perception that federal tract housing breeds criminal activity.

According to an NHA official, even with fee simple land, a development within the Navajo Nation could take up to 5 years, in part because there were nearly 10 departments needing to sign off before a project could get off the ground. With other types of land, the official said that development could take 7 to 10 years. As an example, he said that a nursing home that NHA had been trying to rehabilitate

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<sup>4</sup>See [GAO-13-226](#). Even tribes with reservations have limited authority over land within the reservation boundaries. In addition, lands allotted to individual tribal members under the General Allotment Act of 1887, may have fractionated ownership because the allotments have been passed down to and divided among heirs. Fractionated ownership could require that large numbers of heirs holding interest in a parcel of land agree on decisions pertaining to the land. Indian General Allotment Act, 24 Stat. 388 (1887).

<sup>5</sup>The challenges related to grazing rights on the Navajo reservation were separate from challenges that could result from trust land parcel disputes on the Navajo reservation and on other Indian lands.

since 2011 could lose qualified professionals if the project faced further delays.

- NHA also relied on partnerships with local nonprofit organizations to develop housing. The organizations acted as subrecipients of IHBG funds and NHA had responsibility for ensuring that they met certain criteria. An NHA official with oversight for NHA's partners explained that in the past, some subrecipients had issues with compliance, and in more serious cases, subrecipients failed to deliver on contracts or had operating or building practices that resulted in abandoned developments, homeless families, and wasted IHBG funds. For example, the NHA official told us that a former subrecipient became defunct and left two families that were awaiting major rehab work on their homes homeless. He explained that NHA was working with another partner to house the families. In another example, around 2004 a development was started to build approximately 90 homes that NHA funded with \$14.7 million in IHBG funds provided to an independent nonprofit housing provider. After HUD found that the general contractor for the project failed to follow appropriate building codes and other requirements, the project was discontinued and the homes have remained unoccupied and at various stages of completion for almost a decade. Because of the extent of vandalism done to the interior and exterior of the units and NHA's discovery that the general contractor used substandard building materials, NHA officials told us that the homes would be demolished (see fig. 5). As of February 2014, NHA planned to pursue environmental review procedures that were applicable before demolition of the units could take place. In addition, NHA cannot plan any new development on the site before determining whether the land withdrawal process for the initial development has been carried out appropriately.

Figure 5: Vandalized NHA Development in Shiprock, New Mexico



Source: GAO.

According to NHA officials, in 2002, NHA also funded 36 units in a remote area to house teachers for a planned new school. However, the school that was planned to replace a smaller facility was never built. Additionally, after the subrecipient failed to complete the project, NHA infused \$2.5 million in 2008 to repair and complete the homes with a goal of renting them to low-income members, but as of November 2013 the homes were unoccupied because of a land ownership issue (see fig. 6).

**Figure 6: Unoccupied Housing Units Awaiting Resolution of Land Ownership Issue, Navajo Reservation**



Source: GAO.

## NHA Has Taken Steps to Use Existing IHBG Funds

NHA had a plan to use the backlog of unexpended IHBG funds while providing housing in a manner to address tribal members' concerns and be more sustainable in the long-term. In 2012, NHA contracted with an architectural and design firm to help address the new housing needs identified in its recent study. With input from tribal members across the Navajo reservation, the firm helped NHA develop a multiyear community master plan. The process of developing the plan involved community meetings to engage tribal members in the planning process. The meetings took place in various settings on the reservation.

Representatives from the contracted firm told us that in soliciting members' input, they considered cultural living preferences and members' existing perceptions about planned housing developments. They became aware that members were skeptical of NHA's earlier developments in part because they perceived traditional federally funded cluster housing

developments as breeding crime (see fig. 7). A Navajo representative of the firm told us that the new project had also highlighted the Navajo chapters' responsibility to make land available for development if they wished to address the tribe's severe housing shortage.

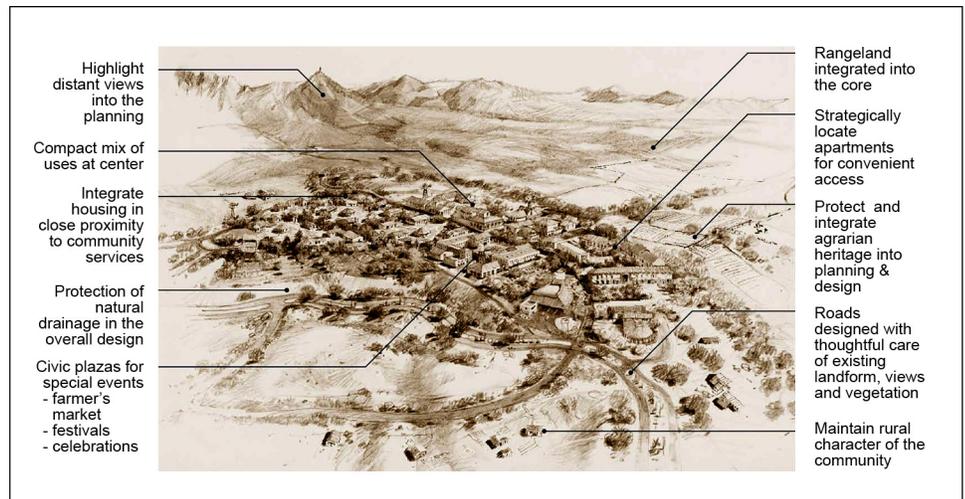
Figure 7: Examples of Traditional Federally Funded Housing Developments, Navajo Reservation



Source: GAO.

According to the firm's representatives, they have planned five neighborhood demonstration pilots that will be strategically located across the reservation (see fig. 8). The hope is that building sustainable homes based on community input will give tribal members a positive sense for the new neighborhoods. If the result is tribal members prioritizing housing and economic development over traditional grazing rights, the pilots could help overcome the traditional housing versus economic development conundrum. As of January 2014, NHA was securing a developer for the first community pilot and working with the architectural and design firm to consult with communities and stakeholders on two additional pilots.

**Figure 8: Rendering of NHA Contractor's Sustainable Community Concept**



Source: Swaback Partners, pllc (Scottsdale, Arizona) for Navajo Housing Authority.

In addition to this planned demonstration, NHA officials told us that they had more than 180 projects in various stages of planning, pre-development, construction, and close-out. Due to limited available land and titling issues, NHA had targeted funds to areas where land was not an issue. Recent developments included a new housing office building, college dormitories, and factory-built homes that were then moved to available lots (see fig. 9). NHA officials said that they expected to be on track with incoming IHBG funds by 2016. Moreover, they said that the tribal government might need to revise some of its land policies in order to aid future development.

Figure 9: Recent NHA Housing Projects, Navajo Technical University Dormitory and Factory-Built House



Source: GAO.

# Appendix III: Comments from the Department of Housing and Urban Development



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

MAR 14 2014

Mr. William B. Shear  
Director, Financial Markets and Community Investment  
United States Government Accountability Office  
Washington, DC 20548

Dear Mr. Shear:

As you requested, the Office of Public and Indian Housing, Office of Native American Programs (ONAP) has reviewed the draft report on Native American Housing (GAO-14-255). It is a generally positive report, and will be a very useful document when issued. In response to the recommendations included in the draft report, the following comments are provided:

HUD supports the recommendation to develop a coordinated environmental review process for all agencies overseeing tribal housing development. However, HUD strongly suggests that the effort be initiated by an organization like the Council on Environmental Quality, which has the power to bring all the parties to the table. For the effort to have a chance at success, there must be strong support for the effort from the Administration, and, if possible, resources to assist in the work.

HUD does not agree with the recommendation that a mechanism to seek and incorporate recipient feedback on training needs to be created, as recommended by GAO, because a fully functioning mechanism already exists. HUD requires every technical assistance or training performed to include evaluations that provide timely feedback to HUD to ensure that grantee's needs are met. Additionally, and to ensure quality, HUD also follows up 60 and 120 days after the provision of technical assistance to ensure that the technical assistance and trainings met the grantee's expectations and provided the necessary results. Finally, ONAP Area Office and Headquarters staff are available by phone or by email to discuss technical assistance and training feedback either positive or negative. Thus far, ONAP has received about a half dozen suggestions from tribes on improvements to the process, and has incorporated many of these recommendations. Copies of the evaluations and 60- and 120-day follow-ups have been provided to GAO to support HUD's position.

HUD supports the recommendation to collect and disseminate promising approaches that recipients have used to address housing challenges. HUD's Office of Policy Development and Research (PD&R) developed the Sustainable Construction in Indian Country Initiative. The Initiative seeks to promote and support sustainable construction practices in Native communities, helping tribes to provide their members with healthier, more comfortable, and more resource-efficient homes. The related website contains best practices, case studies, and videos of different sustainable building practices and projects throughout Indian Country. HUD will develop a similar resource on HUD's existing CodeTalk website for the purpose of collecting and

[www.hud.gov](http://www.hud.gov)

[espanol.hud.gov](http://espanol.hud.gov)

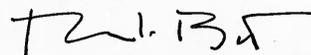
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disseminating practices and approaches useful to IHBG recipients, and will also link to PD&R's website to provide a common location for all such information.

In response to the case study on the Navajo Housing Authority (NHA), included as Appendix II of the draft report, HUD provides the following status. Since October 2011, HUD has been providing direct, enhanced oversight and technical assistance to NHA on expending its Indian Housing Block Grant funds. A Tribal Special Assistance (TSA) team was assembled with staff from two ONAP regional offices and Headquarters to provide targeted technical assistance to NHA. The TSA has worked with NHA to develop an annual expenditure plan, and has provided specialized technical assistance in the area of Indian Housing Plan Development, Annual Performance Plan reporting, and audits. The TSA also helped to streamline the accounting and Line of Credit Control System (LOCCS) draw down process and other administrative functions. The TSA communicates with NHA during a monthly status meeting and on an as-needed basis.

Please contact Jennifer Bullough, Director of Grants Evaluation, Office of Native American Programs, at (202) 402-4274, if you have any questions.

Sincerely,



Rodger J. Boyd  
Deputy Assistant Secretary  
for Native American Programs

cc:  
Sandra B. Henriquez, Assistant Secretary  
of Public and Indian Housing

# Appendix IV: Comments from the Department of Health and Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

OFFICE OF THE SECRETARY

Assistant Secretary for Legislation  
Washington, DC 20201

MAR 14 2014

William B. Shear  
Director, Financial Markets and Community Investment  
U.S. Government Accountability Office  
441 G Street NW  
Washington, DC 20548

Dear Mr. Shear:

Attached are the Department's comments on the U.S. Government Accountability Office's (GAO) draft report entitled, "Native American Housing: Additional Actions Needed To Better Support Tribal Efforts" (GAO-14-255).

The Department appreciates the opportunity to review this report prior to publication.

Sincerely,

A handwritten signature in cursive script that reads "Jim R. Esquea".

Jim R. Esquea  
Assistant Secretary for Legislation

Attachment

**GENERAL COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES (HHS) ON THE GOVERNMENT ACCOUNTABILITY OFFICE'S (GAO) DRAFT REPORT ENTITLED, "NATIVE AMERICAN HOUSING: ADDITIONAL ACTIONS NEEDED TO BETTER SUPPORT TRIBAL EFFORTS" (GAO-14-255)**

HHS appreciates the opportunity to comment on this draft report. We concur with GAO's recommendation that agencies involved in Native American housing programs act on the interagency task force's recommendation to implement a coordinated environmental review process.

The Environmental Protection Agency (EPA), the United States Department of Agriculture (USDA), and Indian Health Services (IHS), which are the three major funding agencies that provide essential sanitation facilities for the American Indian and Alaska Native people, have executed interagency agreements or memoranda of understanding to streamline the environmental review process for jointly funded projects, designating a lead agency when appropriate. For joint EPA and IHS projects, IHS is the designated lead agency.

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# Appendix V: GAO Contact and Staff Acknowledgments

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## GAO Contact

William B. Shear, (202) 512-8678, [shearw@gao.gov](mailto:shearw@gao.gov).

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## Staff Acknowledgments

In addition to the individual named above, Andy Finkel (Assistant Director), Bernice Benta-Jackson, Emily Chalmers, Jeffery Malcolm, John McGrail, Jena Sinkfield, and Andrew Stavisky made key contributions to this report.

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