



September 9, 2024

Dear Tribal Leader:

The U.S. Department of Housing and Urban Development (HUD) and the U.S. Department of Health and Human Services, Indian Health Service (IHS), are seeking your feedback and recommendations on how HUD and IHS programs can better address the housing-related water and sewer infrastructure needs of Tribal communities.

This joint letter furthers the goals of Executive Order (EO) 14112, “Reforming Federal Funding and Support for Tribal Nations to Better Embrace Our Trust Responsibilities and Promote the Next Era of Tribal Self-Determination,” which directs Federal agencies to work together to streamline processes and collaborate to resolve issues.

Background

In furtherance of the Federal Government’s trust responsibility, both HUD and the IHS provide Federal funding to Tribal communities. HUD provides funding for affordable housing and community development activities through its Indian Housing Block Grant (IHBG) and the Indian Community Development Block Grant (ICDBG) programs. The IHS provides project funding to repair existing water and sewer systems and to construct new water and sewer systems to support Indian homes and communities through its Sanitation Facilities Construction (SFC) program.

Currently, the IHS is prohibited by annual appropriations language from using SFC program funding to provide water and sewer infrastructure for new homes constructed using HUD grants, including the IHBG and ICDBG programs:

“Provided further, that none of the funds appropriated to the Indian Health Service may be used for sanitation facilities construction for new homes funded with grants by the housing programs of the United States Department of Housing and Urban Development.”¹

When the Native American Housing Assistance and Self-Determination Act (NAHASDA) was passed in 1996, Congress specified that HUD IHBG funds could be used to provide for all utilities and road access services for new affordable housing constructed using the IHBG funds, including sanitation needs of those homes. The IHS funds, on the other hand, were to be focused on the needs of existing homes and new homes not supported by the NAHASDA appropriation.

¹ See for example the FY 2024 Appropriations Act: <https://www.congress.gov/bill/118th-congress/house-bill/4366/text>

Issue

Over the years, the need for housing and water and sewer infrastructure in Indian Country has outpaced the level of government funding. As such, Tribes have been seeking ways to combine and leverage Federal funding to maximize the impact in their communities. Some Tribes have expressed support for removing the funding prohibition in order to combine funding from both programs, while others support the prohibition and prioritize providing sanitation to existing homes with the IHS funding, which is limited when compared to the level of need.

Joint Consultation

As indicated in the 2025 Budget^{2,3} both HUD and the IHS are seeking Tribal input on how Federal resources for affordable housing and water and sewer infrastructure can best be delivered to Tribal communities, including comments on the funding prohibition. We are seeking your feedback and comments on this issue and encourage you to respond to the questions raised below.

1. Are there ways that the HUD and IHS programs could work alongside each other to provide for both housing and related water and sewer infrastructure more efficiently?
2. How has the appropriations language provision, which prohibits IHS from using SFC funding to construct sanitation facilities for new housing built by Tribes or Tribally Designated Housing Entities (TDHEs) using HUD grant funding, impacted your ability to construct new housing or provide water and sewer infrastructure in your community? Please share any relevant information or data with HUD and the IHS, particularly regarding the impacts on the efficiency of planning and development processes.
3. Should IHS funds be prioritized to address sanitation facility needs for existing homes⁴ and non-HUD new and like-new homes⁵, or should some portion of IHS funds be made available to assist Tribes with sanitation facilities for new HUD-funded homes⁶?
4. The HUD ICDBG funds can address the construction or repair of sanitation facilities used by an entire low-to-moderate income Tribal community; HUD IHBG funds are limited to the construction or repair of “necessary infrastructure” associated with homes occupied by low-income Tribal members. Should HUD revise the ratio of ICDBG to IHBG funding and/or consider changes to IHBG-eligible uses in order to make a greater proportion of HUD housing funds available for community-wide sanitation facilities?

² https://www.hud.gov/sites/dfiles/CFO/documents/2025_CJ_Program_-_Native_American_Programs.pdf

³ https://www.ihs.gov/default/sites/ofa/themes/responsive2017/display_objects/documents/FY-2025-IHS-CJ030824.pdf/FY-2025-IHS-CJ030824.pdf - See FY 2025 IHS CJ, Page CJ - 153

⁴ IHS estimates existing Tribal sanitation facility needs are \$4.6 billion (FY 2023). IHS Congressional Justification. Page 155

⁵ IHS. Criteria for the Sanitation Facilities Construction Program. Chapter 6, page 2 (2003)

⁶ HUD estimates 68,000 units of affordable are needed to replace substandard or overcrowded units in Tribal areas; in 2023 IHBG funds were used to build or acquire 502 units. See FY 2025 ONAP CJ, Pages 13-2 and 13-3.

5. Prior to the NAHASDA, the IHS collaborated with Tribes or TDHEs to review proposed HUD homesites for sanitation facilities. The HUD appropriation included funds for sanitation facilities at all new HUD-funded homes to Tribes and TDHEs, which HUD then contributed to the IHS for construction. After NAHASDA, Tribes and TDHEs managed all funds and planning for new HUD homes, excluding the IHS from these processes. With Tribes and TDHEs handling site selection and infrastructure construction, what role, if any, should the IHS play in connecting new HUD homes to sanitation facilities?
6. Considering the net impact of the appropriations language provision on affordable housing and water and sewer infrastructure development in your area, both positive and negative, should the Administration propose that Congress retain, amend, or remove this longstanding provision and allow the IHS to serve HUD-funded new homes?
7. Are there any other related issues that you would like to share with our agencies?

Please email your comments and recommendations to: consultation@hud.gov and consultation@ihs.gov. Use the SUBJECT LINE: **HUD/IHS Housing-related Infrastructure for Tribal Communities**. The comment period is open for the next 60 days, closing on **November 9, 2024**.


In addition to written comments, HUD and the IHS will hold a virtual Consultation session as another way of receiving Tribal comments. Details about the virtual Consultation will be forthcoming.

Our collective goal is to find a workable solution that breaks down barriers to Federal funding and upholds E.O. 14112, all while ensuring that our programs continue to serve the housing and infrastructure needs of your communities.

Thank you for your continued partnership and collaboration in the effective delivery of HUD and IHS programs.

Sincerely,

Richard J
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