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NATIVE AMERICAN HOUSING

Information on HUD's Housing Programs for Native Americans

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The Honorable Jerry Lewis
Chairman
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Ranking Minority Member
Subcommittee on VA, HUD,
and Independent Agencies
Committee on Appropriations
House of Representatives

Despite the Department of Housing and Urban Development's (HUD) investment of $4.3 billion (in constant 1995 dollars) over the last decade, housing problems for low-income Native Americans are still more severe than for other Americans as a whole. In tribal areas,[1] where three-quarters of a million American Indians and Alaska Natives live, the Urban Institute recently reported that 40 percent of the households live in overcrowded or physically inadequate housing, compared to only 6 percent of the U.S. population.[2] Providing safe and decent housing at a reasonable cost in tribal areas is difficult because of the austere and remote nature of the setting. Moreover, the need for this housing is growing as Native Americans increase in number and more of them return to their homelands.

In the Subcommittee's June 18, 1996, report accompanying the fiscal year 1997 appropriations bill, you requested that we evaluate HUD's housing programs for Native Americans. As agreed with your offices, this report addresses the following questions:

- What have been the funding history and measurable results of the housing programs administered by HUD for Native Americans in or near tribal areas?
- What are the significant factors that complicate and make costly the provision of housing assistance to Native Americans in or near tribal areas?

[1]Tribal areas include reservations for American Indians, villages of Alaska Natives, and other special types of areas so designated by the U.S. Census.

[2]In 1993, HUD commissioned a study by The Urban Institute Center for Public Finance and Housing that resulted in the May 1996 report entitled Assessment of American Indian Housing Needs and Programs. The purposes of this study were to (1) evaluate the housing problems and needs of American Indians and Alaska Natives, (2) assess the effectiveness of existing federal housing programs in meeting those needs, and (3) compare alternative approaches and suggest ways in which federal policy could improve housing for Native Americans.

- What could be the initial impact of the recently enacted Native American Housing Assistance and Self-Determination Act of 1996 on HUD's oversight of housing assistance to Native Americans living in or near tribal areas?
- To what extent does gaming occur in tribal areas, what is its profitability, and does HUD take revenues from gaming into account when allocating funding to Indian housing authorities?

Results in Brief

From fiscal year 1986 through fiscal year 1995, HUD provided $4.3 billion (constant 1995 dollars) for housing and community development in tribal areas. Of this amount, HUD provided $3.9 billion to approximately 189 Indian housing authorities[3] to develop and maintain affordable housing and assist low-income renters. In this period, the authorities used the funds to construct over 24,000 single-family homes, operate and maintain existing housing, and encourage other development. Over the decade, HUD also provided direct block grants totaling over $424 million to eligible tribes for community development and mortgage assistance.

Many factors complicate and make costly the development and maintenance of affordable housing for Native Americans. These factors include

- the remoteness and limited human resources of many Indian housing authorities and the Indian communities they serve,
- land-use restrictions and the inhospitality of the land,
- the difficulty that contractors and Indian housing authorities have in complying with statutory requirements to give hiring preference to Indians, and
- vandalism and neglect, which draw on scarce maintenance funds.

HUD believes that, initially, its workload could increase as it monitors tribes' compliance with the new Indian housing legislation set to take effect on October 1, 1997. The new act changes the way the Department provides housing assistance to Native Americans by requiring block grants to each of the over 550 federally recognized tribes in the continental United States, Alaska, and Hawaii instead of categorical grants to the 189 Indian housing authorities that currently exist. Therefore, the number of entities that HUD has to oversee and assist could increase significantly. Moreover, to qualify for the block grants, tribes must submit housing plans for HUD's approval. Although the law requires HUD to conduct only a limited

[3]An Indian housing authority is a business entity established by a tribal government, organized under tribal or state law, to develop and manage assisted housing units.

review of the tribes' plans, HUD officials believe that this activity will, for the first year at least, be a labor-intensive function for HUD field offices.

Of the 356 Indian tribes in the continental United States alone, 177 operated 240 gaming facilities as of July 1996.[4] According to 1994 and 1995 data submitted by 85 of these tribes, their gaming revenues after expenses totaled about $1.5 billion. HUD officials told us that they do not take gaming revenues directly into account when allocating funds because, in addition to these revenues, HUD would need to know other business revenues and federal assistance available to each tribe in order to determine a fair allocation. However, tribes generally can use gaming revenues for many purposes, including education, health facilities, and housing. Therefore, to the extent that HUD takes a tribe's general economic well-being and housing needs into account, it is indirectly factoring gaming revenues into its funding allocation decisions.

Background

The United States Housing Act of 1937 established the Public Housing Program to provide decent, safe, and sanitary housing for low-income families. For many years, this act was interpreted to exclude Native Americans living in or near tribal areas. In 1961, however, HUD and the Bureau of Indian Affairs (BIA) determined that Native Americans could legally participate in the rental assistance for low-income families authorized by the 1937 act and issued regulations to implement this determination. In 1988, the Indian Housing Act established an Indian housing program separate from public housing under the Housing Act of 1937 and prompted HUD to issue regulations specific to this program. With the recently enacted Native American Housing Assistance and Self-Determination Act of 1996 (regulations are scheduled to take effect on October 1, 1997), the Congress completed the process of separating Indian housing from public housing.

According to the May 1996 report by the Urban Institute, the housing needs of Native Americans are growing. Their population rose sixfold over the past four decades to over 2 million in 1990, 60 percent of whom live in tribal areas or in the surrounding counties. Compared to non-Indians, Native Americans are more family-oriented—37 percent of Native American households are married couples with children versus 28 percent of non-Indian households. Compared to non-Indians, Native Americans have a higher unemployment rate (14 percent versus 6 percent), a smaller

[4]See Profile of Indian Gaming (GAO/GGD-96-148R, Aug. 20, 1996). We are currently updating this report with an analysis of more complete financial data.

number of workers in "for-profit" firms per thousand people (255 versus 362), and a higher share of households with very low incomes (33 percent versus 24 percent). Moreover, Indian housing conditions are much worse than housing conditions in other areas of the country: 40 percent of Native Americans in tribal areas live in overcrowded or physically inadequate housing, compared to 6 percent of the U.S. population.

Through its Native American Programs headquarters office and its six field offices, and with the help of approximately 189 Indian housing authorities (IHA), HUD administers the majority of the housing programs that benefit Native American families in or near tribal areas. Several significant differences exist, however, between HUD's assistance to these families and to families (non-Indian and Indian) living in urban and other areas. First, HUD's support for Native Americans derives, in part, from the nation's recognition of special obligations to the Native American population and is reflected in treaties, legislation, and executive orders. Second, the federal government deals with recognized tribes directly in a sovereign-to-sovereign relationship, rather than through the general system of state and local government. This status allows tribes to establish their own system of laws and courts. Third, the BIA often holds in trust a considerable amount of land for a tribe as a whole; thus, this land is not subdivided into many private holdings as occurs in the rest of the country.[5] This trust arrangement has frustrated the development of private housing markets in tribal areas and has long been seen as providing special justification for government assistance in housing production.

HUD Provides Most Funding for Housing Assistance Through Indian Housing Authorities

Under current regulations, IHAs administer most of the low-income housing assistance that HUD provides to Native Americans. But HUD also provides some housing assistance directly to tribes and individuals. Funding provided through housing authorities is used to

- develop housing for eventual ownership by individual families through the Mutual Help Program, under which families lease and then buy their home by making payments to an IHA of approximately 15 percent of their income and must cover their own routine operating and maintenance expenses;
- develop and maintain rental housing for low-income families through the Rental Housing Program, under which, as with the public housing program, low-income families rent housing from the IHA at a cost of 30 percent of their adjusted income;

[5]BIA also provides a relatively small amount of funding, approximately $20 million annually, through its Housing Improvement Program for improving existing housing.

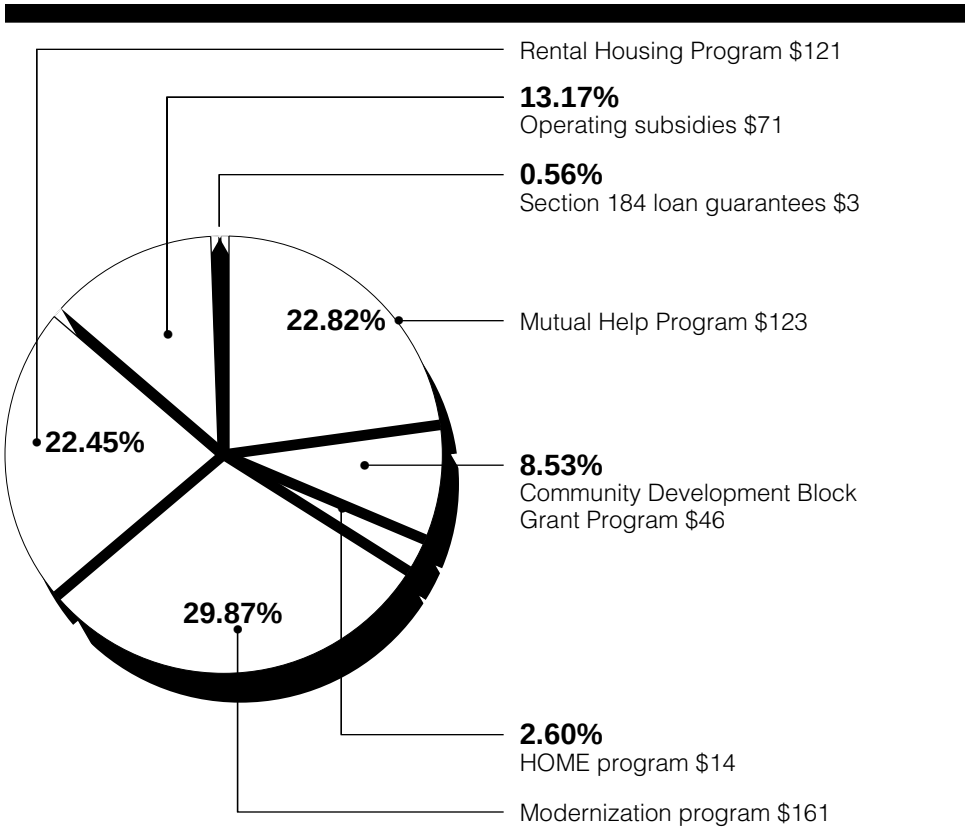
- modernize and rehabilitate established low-income housing through the public housing modernization program; and
- subsidize IHAs to defray operating expenses that rental income does not cover and provide rental vouchers for low-income families.

Funding available to tribes and individuals includes

- loan guarantees for home mortgages,
- block grants through the HOME Investment Partnership Program for tribes to develop affordable housing in tribal areas, and
- community development block grants to enhance infrastructure and other economic development activities.

Figure 1 shows the funding for fiscal year 1995 for these programs, and table 1 describes the programs' results.

Figure 1: Funding for Major Housing and Community Development Programs for Native Americans, Fiscal Year 1995 (Dollars in Millions)



Source: Based on data from HUD's Office of Native American Programs.

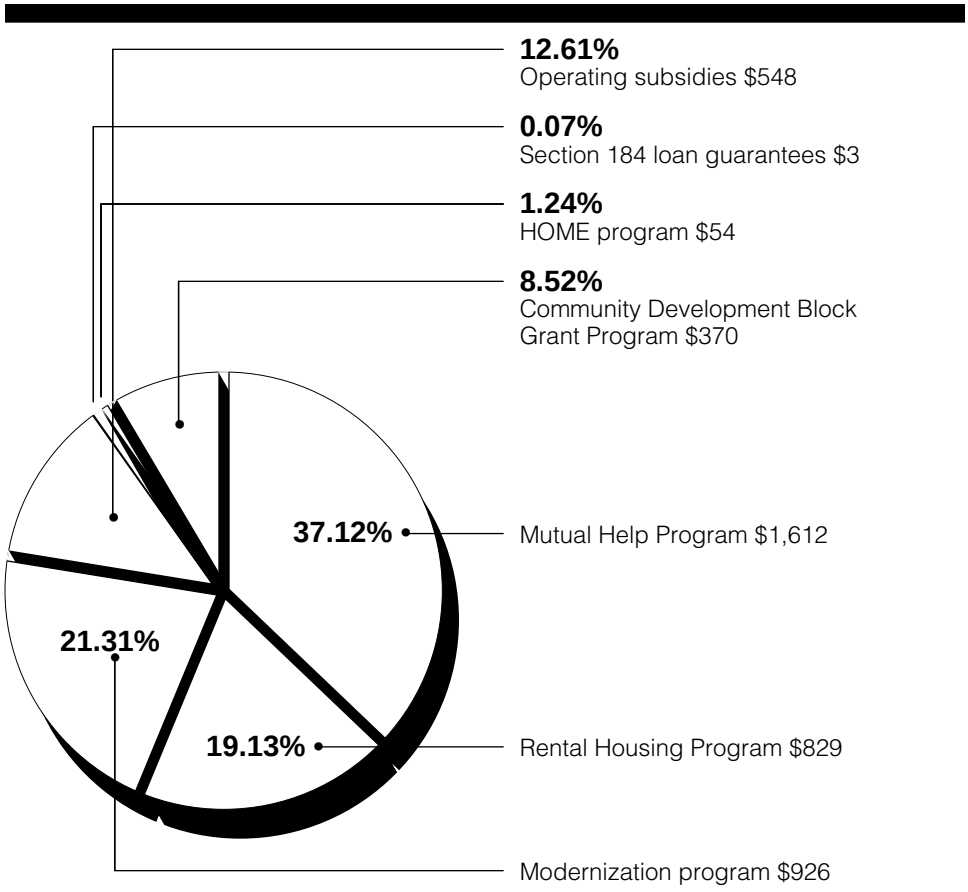
Table 1: Results of Major Housing and Community Development Programs for Native Americans, Fiscal Year 1995

Dollars in millions

Program	Funding for FY 1995	Significant results
Mutual Help Program	$123	1,289 units planned
Rental Housing Program	121	495 units planned
Modernization of low-income housing	161	Funded modernization activities such as replacing roofs and converting and enlarging many of the 82,000 units managed by IHAs
IHAs' operating subsidies	71	Subsidized IHA expenses for preventive maintenance, planning, rent collection, tenant counseling and contracting
Section 184 loan guarantees	3	Provided guarantees for 477 units
HOME Investment Partnership Program	14	Provided grants to 12 Native American tribes to construct 303 new houses, rehabilitate 191 houses, and acquire 54 houses
Community Development Block Grant Program	46	Approved projects for housing rehabilitation, infrastructure, buildings (such as community buildings), and economic development
Total	**$539**	**2,434 units planned**

As shown in figure 2 and table 2, over the past decade HUD provided a total of $4.3 billion for these programs, which have produced or planned to produce a total of 24,002 housing units. Additional information on the funding and the programs is contained in appendix I.

Figure 2: Funding for Major Housing and Community Development Programs for Native Americans, Fiscal Years 1986-95 (Constant 1995 Dollars in Millions)



Source: Based on data from HUD's Office of Native American Programs.

Table 2: Results of Major Housing and Community Development Programs for Native Americans, Fiscal Years 1986-95

Constant 1995 dollars in millions

Program	Funding for FY 1986-95	Significant results
Mutual Help Program	$1,612	15,721 units completed
Rental Housing Program	829	8,281 units completed
Modernization of low-income housing	926	Rehabilitated housing units to meet HUD's standards and upgraded IHAs' management, financial, and accounting control systems
IHAs' operating subsidies	548	Subsidized IHAs' expenses for managing the 82,000 assisted units and provided funding for various management activities
Section 184 loan guarantees	3	Provided guarantees for 477 units in 1995,the program's first year
HOME Investment Partnership Program	54	Provided 59 grants to construct, rehabilitate, and acquire houses
Community Development Block Grant Program	370	Supported housing programs and homeownership assistance; the construction of community facilities, such as roads, water, and sewer facilities and community buildings; and economic development activities
Total	**$4,342**	**24,002**

Providing Housing Assistance for Native Americans Is Challenging and Costly

The cultural and geographic environment of tribal areas differs from mainstream America and causes HUD and IHAs to encounter unique challenges and costly conditions as they administer and provide housing programs for Native Americans. Because there are over 550 separate Indian nations, with unique cultures and traditions, not all of these conditions are equally prevalent throughout tribal areas, nor do they have a common impact on developing and maintaining housing. Among the challenges and conditions highlighted in our discussions with officials of HUD and several IHAs, as well as in the May 1996 study by the Urban Institute, are

- the remoteness and limited human resources of many IHAs and the Native American communities they serve;
- the lack of suitable land and the inhospitality of the climate;
- the difficulty contractors and IHAs have in complying with statutory requirements to give hiring preference to Native Americans; and

- the pressure that vandalism, tenants' neglect, and unpaid rent put on scarce maintenance funds.

Remote Reservations Limit Infrastructure and Availability of Human Resources

The extent and pattern of Native American landholding are very different today from what they were at the beginning of the 19th century. During that century, the land area over which Indians had sovereignty and which was available for creating reservations was often reduced to small pieces in isolated areas.

The remoteness of some tribal areas has created significant problems for housing development. In contrast to metropolitan areas, where basic infrastructure systems (sewers, landfills, electricity, water supply and treatment, and paved roads) are already in place, remote tribal areas require a large capital investment to create these systems to support new housing. Table 3 shows the investment needed at the Gila River Housing Authority in Sacaton, Arizona, to build a single-family home. According to HUD officials, the cost of site improvements—creating and connecting to the "off-site" infrastructure—is 43 percent higher than for a public housing project in an urban area near the Gila River Indian Reservation.

Table 3: Typical Costs of Building a New Gila River Home and Connecting It to Needed Services

Expense Category	Cost	Percent of total
Administration	$4,522	6
Homeowner counseling and training	803	1
Planning and surveys	7,693	10
Site improvements and off-site infrastructure	16,780	22
Construction of dwelling	39,049	50
Dwelling equipment (e.g., ranges and refrigerators)	707	1
Structures for storage and vehicles	8,000	10
Total	**$77,554**	**100**

Source: HUD's Southwest Office of Native American Programs.

The remoteness of many of the tribal areas also increases the cost of transporting supplies, raises labor costs, and reduces the availability of supplies and of an "institutional infrastructure" of developers and governmental and private entities. For example, transporting a drilling rig over many miles and hours into the desert to a tribal area in California is far more costly than if the well had been needed in a less remote area. In

addition, in its study of Native Americans' housing needs, the Urban Institute found that private housing developers, contractors, and suppliers; governmental planners and building inspectors; private financial institutions; and nonprofit groups[6] are all less available in remote tribal areas.

The limited human resources of many IHAs also contribute to the high cost of developing and maintaining housing. HUD's Deputy Assistant Secretary for Native American Programs told us that housing authorities that recruit their staff from a small tribal population often have difficulty finding qualified managers to administer multimillion-dollar housing grants. This problem is made worse when coupled with the statutory requirement to give Indians first consideration for such jobs. According to the Deputy Assistant Secretary, because many Indian applicants lack formal education, the time they need to become familiar with specialized housing operations can be longer than that needed by applicants from the larger pool enjoyed by a public housing authority in an urban area.

The executive director at the Gila River Housing Authority echoed these views when he described his inability to hire skilled and dependable tribal members. He pointed out that many skilled members have personal problems caused by drugs and alcohol, causing the housing authority to search outside the tribal area for much of its labor force. He also said that because members of the available semiskilled workforce need a significant amount of training before they are employable, he cannot afford to hire them. Moreover, some of the tribe's laborers are drawn to cities away from the reservation, he explained, because of the greater employment opportunities and higher wages there.

This lack of skilled human resources is costly. HUD officials told us that as a general rule in the construction industry, labor costs should not exceed 50 percent of the total cost, but in tribal areas labor costs can run as high as 65 percent because contractors generally have to bring in skilled workers and pay for lodging or commuting costs.

[6]Most of the few nonprofits that do exist are either just beginning operations or have operated less than 2 years in tribal areas. In its preliminary investigation for a HUD-funded study due out this month, the National American Indian Housing Council has identified only six nonprofit organizations that provide housing assistance to tribes.

Land-Use Restrictions and the Inhospitality of the Land Complicate the Development and Maintenance of Low-Income Housing

Although the dominant visual impression in many tribal areas is a vast expanse of unused land, a lack of available land is, in fact, a constraint that many IHAs face as they develop low-income housing. Factors that limit the availability of land for housing include the trusts in which BIA holds the land that, until this year, limited leases to 25 years in many instances. Special environmental and other restrictions also exist. For example, in planning for development, IHAs and tribes avoid archaeological and traditional burial sites because cultural and religious beliefs preclude using these sites for housing. In many cases, sufficient tribal land exists for housing, but environmental restrictions prohibit the use of much of it for housing. The Urban Institute's survey of IHAs revealed that, overall, wetlands restrictions, water quality considerations, and contaminated soils add to the cost of housing in tribal areas.

In the Western desert, once low-income housing is developed, the severity of the climate can complicate maintenance. The effects of the high salt and mineral content in the water and soil were evident at the Gila River Housing Authority, where water damages water heaters and copper and cast iron pipes. The executive director told us that the average life of a hot water heater costing $300 is about 6 months. To remedy the problem with the corrosion of plumbing, the Gila River IHA has begun placing plumbing in ceilings for better access and converting to plastic piping. The high mineral content in the water also damages water circulation systems of large fans called "swamp coolers," used for summer cooling. The executive director told us that because of calcium buildup, the IHA must replace the coolers annually. He also explained that the soil's high salt content causes housing foundations and sewer systems to deteriorate. Figures 3 and 4 illustrate the damage caused to swamp coolers and foundations.

Figure 3: Corroded Swamp Cooler at the Gila River Indian Reservation, Arizona

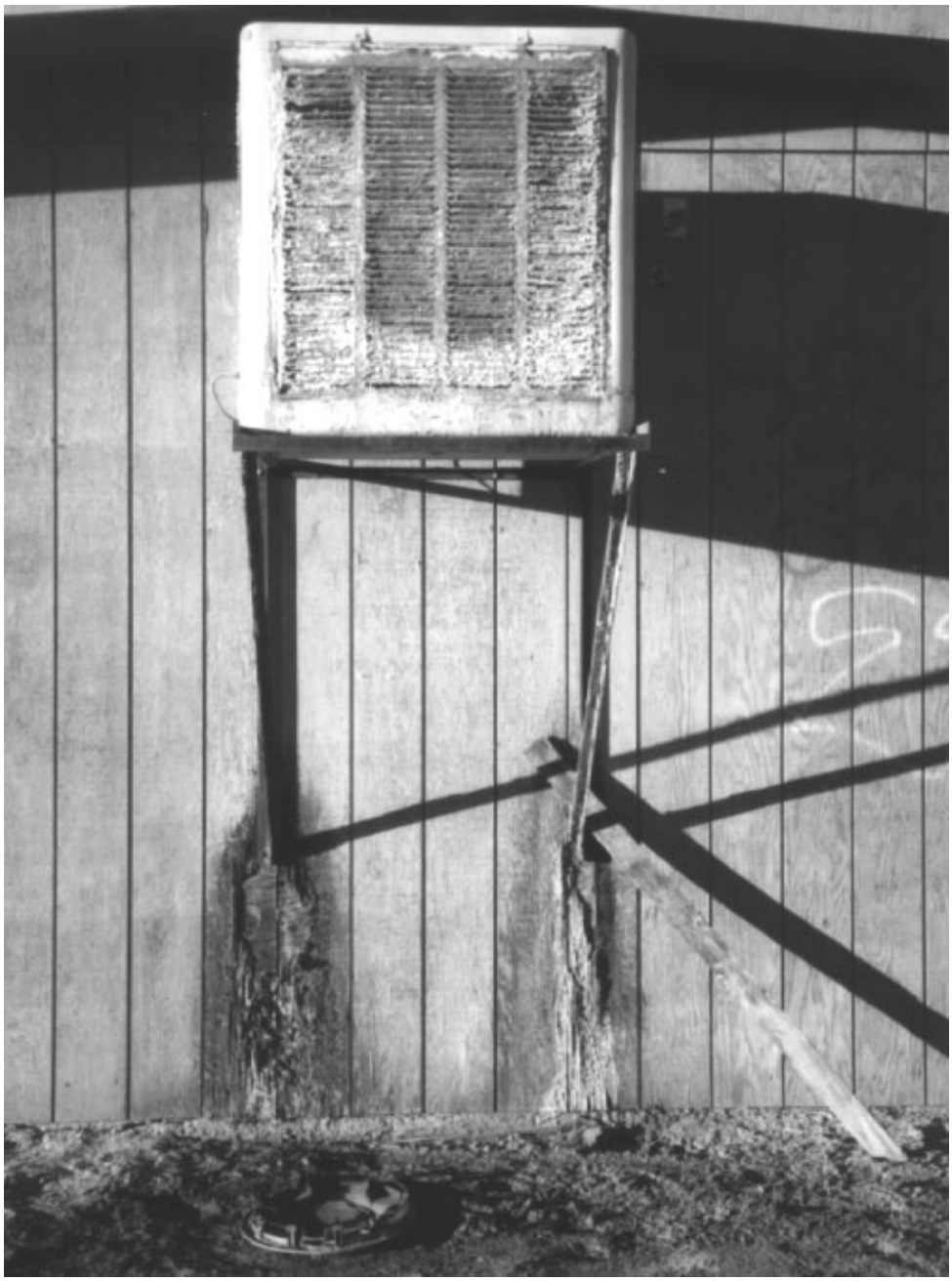


Figure 4: Deteriorated House Foundation at the Gila River Indian Reservation, Arizona

Complying With Indian Hiring Preference and Davis-Bacon Act Requirements Adds Additional Burden to IHAs

Certain statutes, including the Indian Self Determination and Education Assistance Act and the Davis-Bacon Act,[7] are intended to protect and provide opportunities for specific groups. However, IHA officials and HUD officials whom we contacted believe that these statutes can make developing housing in tribal areas more costly because they have the the effect of raising the cost of labor in comparison to local wage rates or restricting the supply of labor.

The Indian Self Determination and Education Assistance Act of 1975 requires IHAs to award contracts and subcontracts to Indian organizations and Indian-owned economic enterprises. IHA executive directors find that complying with the requirement is difficult and believe that it adds to contractors' time and cost to bid on work for IHAs. The officials said that factors that undermine the requirement include a lack of qualified Indian contractors in the area, the creation of fraudulent joint ventures that are not owned or managed by Indians, and the occasional need to use qualified firms outside the region that do not understand local conditions.

[7]The Davis-Bacon Act provides that workers in certain trades involved in federal construction contracts be paid wages determined by the Secretary of Labor to be prevailing in the area of construction.

Under the Davis-Bacon Act, firms that contract with IHAs for housing development must pay wages that are no less than the wage rates prevailing in the local area. However, HUD officials told us that this requirement generally increases IHAs' cost of developing housing in tribal areas. The increased cost occurs because the applicable Davis-Bacon wage rate is often based on HUD's wage surveys of large unionized contractors who are based in larger metropolitan areas; therefore, the rate is about $10.00 per hour higher than the wage rate prevailing in the local tribal area. Officials of the Chemehuevi Housing Authority, in California, told us that because of high Davis-Bacon wage rates, their cost to develop a single family home ranges between $85,000 and $98,000. Using the prevailing rate of approximately $6.50 to $8.00 per hour, they estimate the development cost to be between $65,000 and $80,000. .

Neglect and Vandalism Draw on Maintenance Budgets That Are Shrinking Because of Unpaid Rent

If housing units are abused through neglect or vandalism and not well-maintained on an ongoing basis, costly major repairs can be needed. These avoidable repairs put pressure on maintenance budgets that are shrinking because of the high rate of unpaid rent in tribal areas. Moreover, maintaining assisted housing for Native Americans is an increasingly difficult challenge because of its age—44 percent of the stock was built in the 1960s and 1970s.

For housing units in HUD's Rental Housing Program for Native Americans, the Urban Institute reported that 65 percent of the IHA officials responding to its telephone survey identified tenants' abuse and vandalism of vacant homes as the factors contributing most to maintenance costs. The Urban Institute also reported that fewer than 10 percent of the officials identified any of the survey's other contributors to maintenance costs, including poor materials, poor construction, and a lack of preventive maintenance. For units under the Mutual Help Program (which are owned or leased by the residents), the Urban Institute reported that IHA officials cited residents' neglect to perform needed maintenance as accounting for 30 percent of poor physical conditions of this segment of the housing stock.

Our discussions with IHA officials reinforce these findings. The executive director at the Gila River Housing Authority told us that vandalism by juveniles was a major problem for him and that because the tribal area borders Phoenix, Arizona, it is more susceptible to gang activity and violence. Chemehuevi Housing Authority officials pointed out that once a family that has neglected to perform expected maintenance moves out and

the tribe turns the housing back to the IHA, the housing authority often incurs a large and unexpected rehabilitation cost before it can lease the unit to another family. Figure 5 shows the effects of vandalism at the Gila River Indian Reservation.

Figure 5: Effects of Vandalism at the Gila River Indian Reservation, Arizona

The high level of unpaid rent among assisted Native American families has exacerbated the problem of accomplishing needed maintenance. Routine and preventive maintenance is an operating expense that an IHA pays for with rental income and an operating subsidy that HUD provides to help defray expenses. However, according to HUD, appropriations for these subsidies have not been sufficient to cover all operating expenses not covered by rental income. Therefore, shortfalls in rental income will generally result in less funds to spend on maintenance.

In recent years, these shortfalls have been at high levels for both the Rental Housing and the Mutual Help programs. For example, the Urban Institute reported that at the end of 1993, 36 percent of all tenants in the rental program were delinquent in their rent payments, and the cumulative

accounts receivable for tenants' rent averaged $208 per rentable unit. In contrast, the average delinquency rate in public housing is only 12 percent.

To counter shortfalls in rental income, some IHAs enforce strong eviction policies. Others, on the other hand, are either unwilling or unable to do so. They attributed their ineffective policies to such factors as tribal court systems that do not support evictions, the conflict of such policies with tribal culture, and their own lack of forceful management. Regardless of the reason, these shortfalls coupled with insufficient operating subsidies likely will lead to deferred maintenance and higher costs for major repairs in the future.

Native American Housing Assistance and Self-Determination Act of 1996 Could Initially Increase HUD's Workload

By establishing a block grant mechanism to replace all housing assistance that tribes currently receive indirectly through their IHAs and HUD—except for the funding set aside for Native Americans in the Community Development Block Grant Program—the act allows greater discretion for tribes to address their housing needs. Moreover, block grants will ensure that Indian housing is separate from public housing not only administratively in HUD's line organization—as the 1988 legislation accomplished—but also financially.

The new statute stipulates that tribes will not receive less housing assistance under the new law than they did in fiscal year 1996 for the modernization of existing rental housing and operating subsidies to pay for expenses not covered by rental income.[8] Among other provisions, the new statute also provides the following:

- The existing housing authority or some other entity designated by a tribe must administer the block grant funds and develop 1-year and 5-year housing plans for HUD's approval. The 1-year plan must present (1) a statement of housing needs, (2) the financial resources available to the tribe, and (3) a description of how the available funds will be used to leverage additional resources.
- In distributing the block grants, HUD shall consider, among other factors, (1) the number of low-income housing units that a tribe already owns or operates, (2) the extent of poverty and economic distress and the number of Native American families, and (3) other objectively measurable conditions specified by HUD and the tribe. These conditions could include the relative affluence and other sources of income, if known, of the tribe.

[8]This stipulation holds unless the total appropriation for all assistance is less than the amount received in 1996 for modernization and operation.

- The Secretary of HUD shall monitor block grant recipients—who must submit performance reports to the Secretary—for compliance with the law and take corrective actions when a tribe or its housing entities do not comply with the program's requirements.
- A tribe can pledge future grant funds to secure a guaranteed loan and can lease land held in trust for up to 50 years.

The new act could, at least initially, cause HUD's oversight workload to increase. One reason for this is that the number of entities receiving funding will likely rise: Under current law, HUD funds only 189 IHAs, while under the new law, HUD may have to fund all 550 tribes independently. Both HUD and IHA officials we contacted believe that tribes will abandon some "umbrella" IHAs—those that serve more than one tribe—that have not performed well. And some tribes will simply choose to manage their own housing assistance programs.

HUD's Deputy Assistant Secretary for Native American Programs believes that new requirements needing oversight, such as the housing plans, and tribes' new opportunities, such as the borrowing program and ability to lease land for up to 50 years, will put added pressure on HUD's field offices to work closely with the grant recipients. He said that during the first years after the new act is in effect, HUD will need to monitor all tribes or housing entities to determine their initial understanding of and compliance with the new statute and its provisions.

Other HUD officials and Indian housing officials we contacted at two IHAs generally viewed the new legislation positively and said that the most attractive feature of the act is the new flexibility it offers for developing housing. They also cited the availability of a lease of 50 years—increased from the current 25 years—which will provide lenders an incentive to enter into mortgage agreements with Native Americans who lease land with the intention of building a home. The executive director of the National American Indian Housing Council said that the annual plans will require a kind of housing needs assessment that heretofore has not been done. She believes, moreover, that the new program's success will depend on the extent to which HUD is effective in reviewing the required plans, monitoring the tribes' implementation of the plans, and acting on potential noncompliance.

Many Tribes Receive Gaming Revenues, but HUD Does Not Consider Them Directly When Determining Housing Assistance

About 177, or half of the 356 federally recognized tribes in the continental United States operated gaming facilities as of July 1996. As we reported in August 1996,[9] our analysis of financial statements submitted for fiscal years 1994 and 1995 by the 85 tribes that responded by May 5, 1996, to the National Indian Gaming Commission's (NIGC) request for information shows that Indian gaming activities provide an additional, and in many cases significant, source of revenues.[10] These 85 tribes operated 110 gaming facilities and earned a total net income (after all expenses) of $1.5 billion.[11]

HUD does not take these revenues into account directly as it assesses IHAs' needs for federal housing assistance because the Department has not obtained the financial information describing tribes' gaming activities or financial resources. Therefore, HUD cannot relate the revenues and assets to tribes' housing needs. Moreover, tribes' income from gaming, as from other sources, accrues directly to the tribes rather than the IHAs and can be used to provide a wide range of economic assistance to tribal communities. Thus, to the extent that gaming revenues enhance tribes' overall economic well-being, HUD considers them indirectly in its funding allocations.

For Many Tribes, Gaming Revenues Are Significant

The 85 tribes reported total revenues from their gaming facilities of $3.8 billion, from which they derived their net revenues of $1.5 billion. Of this amount, 74 tribes received about $1.2 billion in transfers from their gaming facilities. The Indian Gaming Regulatory Act requires that tribes use these transferred revenues for tribal, governmental, or charitable purposes in accordance with a revenue allocation plan approved by BIA. The allocation plan may also provide for the distribution of a portion of the net income directly to individual tribal members.

Our analysis of the income transferred from facilities to the 74 tribes shows that transfers ranged from about $17,000 to over $100 million. The remaining 11 tribes did not receive transfers from their gaming facilities. More than two-thirds of the 85 tribes received $10 million or less from

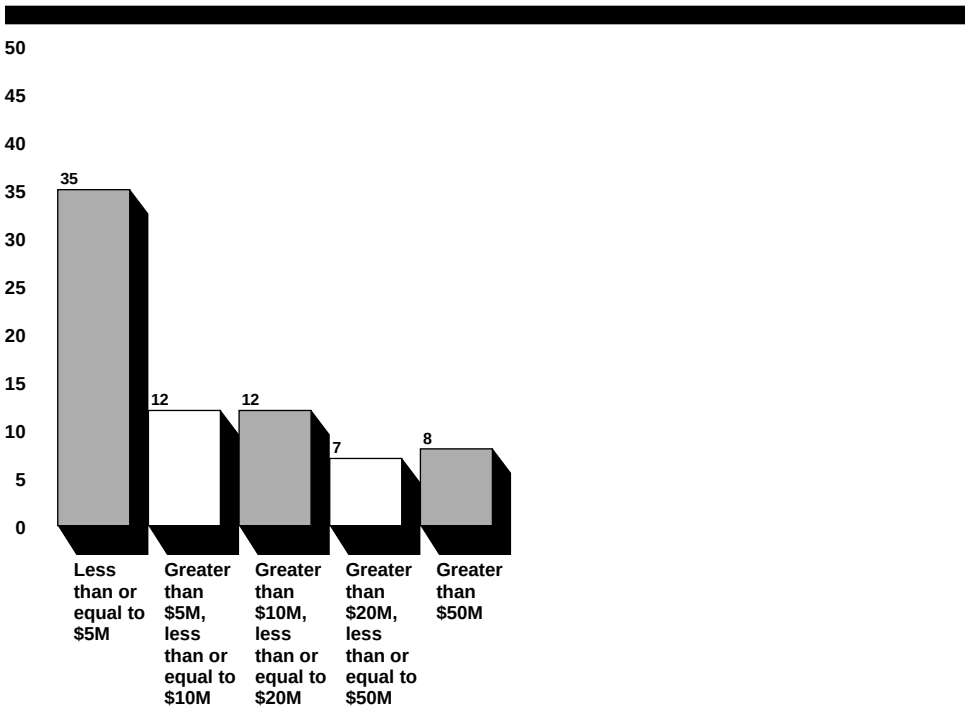
[9]See Profile of Indian Gaming (GAO/GGD-96-148R, Aug. 20, 1996). We are currently updating this report with an analysis of more complete financial data.

[10]The NIGC was established under provisions of the Indian Gaming Regulatory Act (P.L. 100-497, 102 Stat. 2467) with specified authority over the conduct of gaming on tribal lands and the obtaining of financial records summarizing the activities.

[11]A total of 177 tribes operated 240 gaming facilities as of July 1996, but as of May 5, 1996, only 85 had reported their financial results to the NIGC. Expenses do not include federal income taxes because Indian tribes are not subject to them.

gaming. Transfers to the tribes may not have occurred for several reasons, including a facility's not having net income for the year-end, not having accumulated earnings from prior years, or retaining all of the year's net income. About $300 million was retained by the gaming facilities. Figure 6 shows the results of our analysis of the transfers.

Figure 6: Number of Tribes Receiving Transfers of Gaming Income, Fiscal Years 1994-95



Note: Eleven tribes received no transfers of gaming income.

Source: Based on the most recently filed financial statements for gaming facilities submitted to the NIGC for either 1994 or 1995.

Our analysis of the distribution to individual tribal members shows that BIA had approved 34 of the reported 177 tribes with gaming facilities to distribute a portion of their net revenues directly to tribal members. The proportion of net revenues to be distributed ranged from 2 percent to 69 percent.

HUD Is Not Required and Lacks the Data to Take Gaming Revenues Directly Into Account

For the most part, housing needs are the primary factor that HUD is required to consider when allocating funds to IHAs for housing programs. And tribes' economic well-being, to the extent that HUD can determine it, is the deciding factor when allocating community development funding to them. HUD provides this funding to IHAs on the basis of projected operating expenses or applications for grant funds that demonstrate housing needs in accordance with a specified formula used to allocate funding across all housing authorities. By regulation, HUD also awards new housing development funds to IHAs through a competitive process based on factors such as housing needs, the length of time since last funding award, occupancy levels of existing units, and the current mix and status of units under construction.

For community development programs—such as the Community Development Block Grant Program and the HOME Investment Partnership Program—HUD provides funding directly to tribes instead of to IHAs. For these programs, HUD officials explained that tribes compete for these funds on the basis of the number of low-income persons needing assistance. According to HUD officials, tribes that generate significant income from tribal businesses (including gaming) generally do not have a large enough number of low-income persons and, therefore, do not rank high enough to receive funds in these programs. The household income of low- and moderate-income beneficiaries of funds from the Community Development Block Grant Program, for example, generally must not exceed 80 percent of the median income for the area. In reporting these income levels to HUD, the applicants are required to identify distributions, if any, of tribal income (from gaming or other sources) to families, households, and individuals.

The Deputy Assistant Secretary told us that none of these funding criteria requires HUD to consider the specific amount and use of revenues that tribes receive from gaming or other sources. However, we believe that such information could be available to HUD if the Department took the necessary actions to obtain it.

Under Block Grants, HUD Could Compare Housing Needs With Business Revenues If They Were Known

The Native American Housing Assistance and Self-Determination Act of 1996 does not specifically require HUD to take gaming or other revenues into account for funding purposes. Nevertheless, the act requires HUD to develop a housing assistance allocation formula that reflects the housing needs of Indian tribes and is based on (1) the number of low-income units owned or operated pursuant to a contract between the Department and

IHAs; (2) the extent of poverty and economic distress within tribal areas; and (3) other objectively measurable conditions specified by HUD, which, we believe, could include business revenues.

HUD's Deputy Assistant Secretary for Native American Programs told us that if HUD is required or chooses to use a tribe's gaming revenues to offset its need for housing assistance, then certain other information also would need to be known and factored into the funding allocation decision. For example, consistent treatment of all tribes would require that HUD also know the amounts of significant tribal revenues from other sources, such as land leases and mineral rights sales, as well as from other federal programs that assist Native Americans.

Agency Comments

We provided a draft this report to HUD, the National American Indian Housing Council, the Gila River Indian Housing Authority, and the Chemehuevi Housing Authority for review and comment. We discussed the report with officials of each agency, including the Deputy Assistant Secretary for Native American Programs and the executive directors of the Housing Council and the two IHAs. These officials commented that the report accurately described the results of HUD's Indian housing programs and their special environmental and cultural conditions.

Scope and Methodology

For information on Native American housing programs, including funding and results and the factors that complicate HUD's delivery of those programs, we obtained data from various sources. We reviewed pertinent legislation, HUD's documentation on the programs, its regulations on Indian housing, reports by its Office of Inspector General, and reports by the Urban Institute's Center for Public Finance and Housing. We discussed issues with officials from HUD's headquarters Office of Native American Programs in Denver, Colorado, and field offices in Denver, Colorado, and Phoenix, Arizona. We also interviewed HUD's Rocky Mountain District Inspector General for Audit and the Executive Director of the National American Indian Housing Council. In addition, we visited the Gila River Housing Authority, Sacaton, Arizona, and Chemehuevi IHA, Havasu Lake, California, to meet with officials and gain a perspective of HUD's Indian housing programs and observe the condition of housing units.

We drew from our August 1996 report on Indian gaming for information on the extent of gaming on tribal lands, its profitability, the revenue distribution. To determine gaming's impact on HUD's funding allocation

decisions, we reviewed the regulations governing HUD's funding of Indian housing and we spoke with officials from HUD, primarily HUD's Deputy Assistant Secretary for Native American Programs.

We performed our work from August 1996 through February 1997 in accordance with generally accepted government auditing standards.

As arranged with your offices, we plan send copies of this report to other appropriate Senate and House committees; the Secretary of HUD; the Commissioner of Indian Affairs, BIA; and the Director, Office of Management and Budget. We will make copies available to others on request. Please call me at (202) 512-7631 if you or your staff have any questions. Major contributors to this report are listed in appendix II.

Judy A. England-Joseph
Director, Housing and Community
Development Issues

Funding and Results for Major Housing Programs for Native Americans

The funding for and accomplishments of HUD's housing and community development programs for Native Americans have been steady or increasing in proportion to the increases in the Department of Housing and Urban Development (HUD) appropriations over the 1986-95 decade, as discussed below.

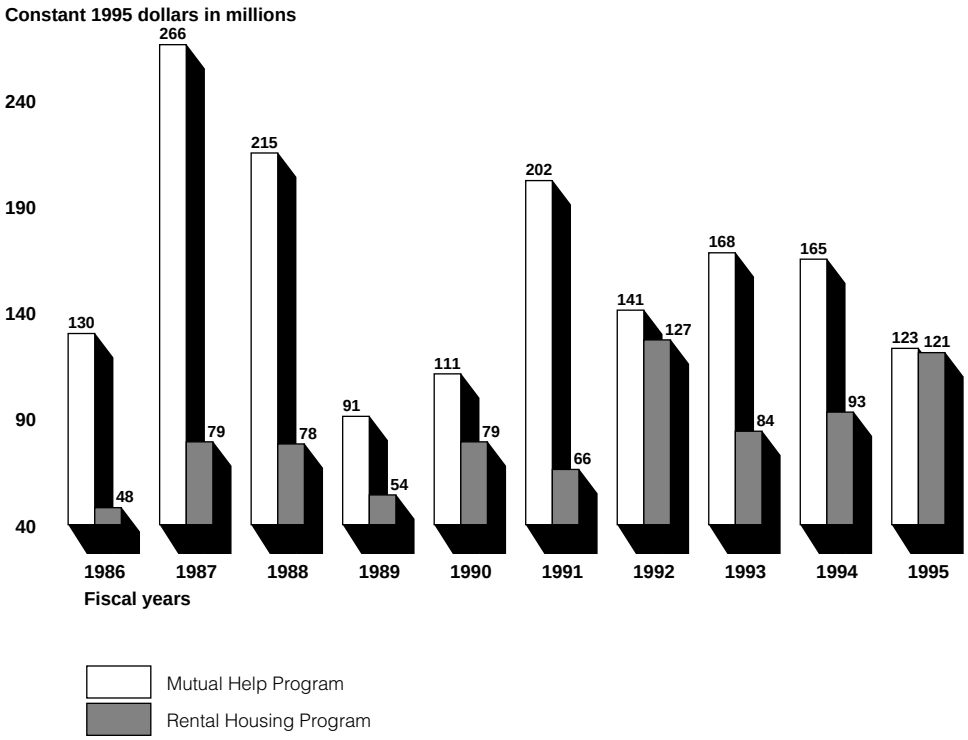
Indian Housing Development Program Is the Primary Vehicle for Funding

HUD's Indian Housing Development Program consists of two components—the Rental Housing Program[1] and the Mutual Help Program.[2] From 1961, when Native Americans first began to receive assistance under the Housing Act of 1937, through fiscal year 1995, HUD provided Indian housing authorities (IHA) over $5 billion (in nominal dollars) for Indian housing programs and constructed over 82,000 units. About one-third of the construction has taken place during the 10-year period between 1986 and 1995. As shown in the figures below, over the 10-year period, HUD provided almost $2.4 billion to 189 IHAs specifically to develop housing for low-income families. With these funds, the IHAs have built or planned to build over 24,000 housing units. Sixty-five percent of these units, 15,721, were Mutual Help units and the remainder were Low-income Rental units.

[1]Under the Rental Housing Program, IHAs rent housing to eligible low-income families for a payment that is the highest of 30 percent of the family's adjusted income, 10 percent of its annual income, or the portion of the family's public assistance allocated specifically for housing.

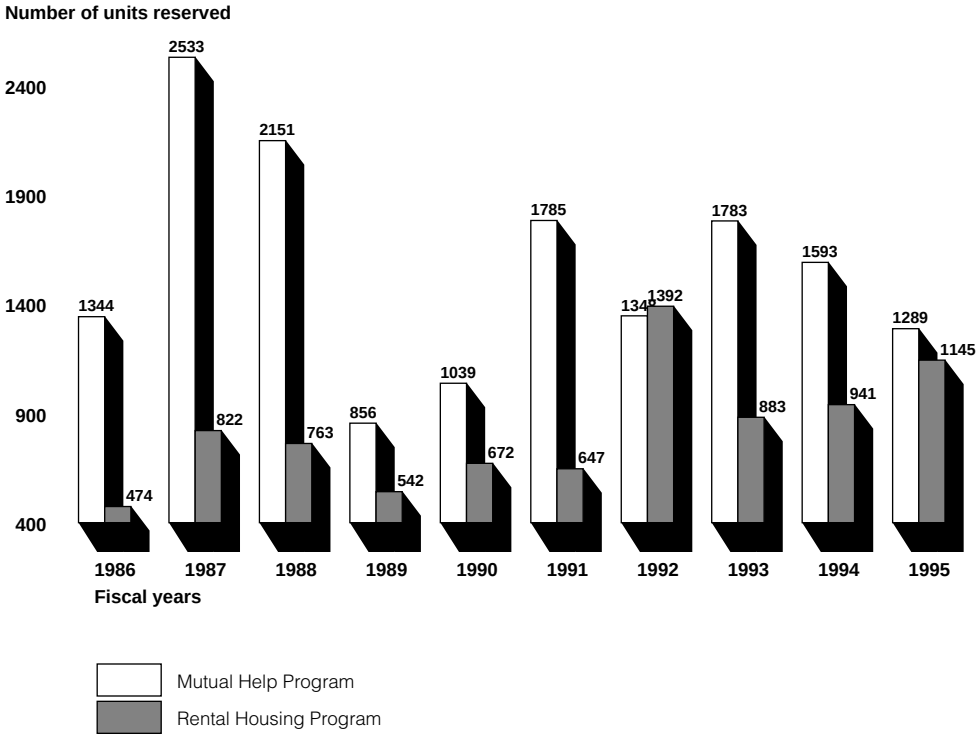
[2]Through its Mutual Help Program, HUD provides homeownership opportunities and financial assistance to qualified low-income Native American families to purchase—after leasing for 15 to 20 years—decent, safe, and sanitary housing of modest design.

Figure I.1: Indian Housing Development Program's Funding for the Mutual Help and Rental Housing Programs, Fiscal Years 1986-95



Source: Based on data from HUD's Management Information and Retrieval System's (MIRS) database.

Figure I.2: Indian Housing Development Program's Housing Units Fiscal Years 1986-95



Source: Based on data from HUD's MIRS database.

Modernization Program Also Supports IHAs' Housing

Under its housing modernization program, HUD provides funds to IHAs to rehabilitate properties in deteriorated physical condition and to upgrade the management and operation of existing Indian housing developments. HUD allocates modernization funds under both the Comprehensive Grant Program (CGP) to IHAs that own or operate 250 or more units and the Comprehensive Improvement Assistance Program (CIAP) to IHAs with fewer than 250 units. Overall, since 1986, congressional appropriations to HUD for the modernization of all public housing have steadily increased, and IHAs have benefitted proportionately. However, as is shown in table I.1, after HUD implemented the CGP in fiscal year 1992, funding for CIAP declined, and in fiscal year 1995, funding for both programs declined.

Table I.1: Funding for the Modernization Program, Fiscal Years 1992-95

Nominal dollars in millions

Program	FY 1992	FY 1993	FY 1994	FY 1995
CIAP	$35.3	$25.9	$25.6	$22.5
CGP	86.3	137.3	146.4	138.9
Total	**$121.6**	**$163.2**	**$172.0**	**$161.4**

Source: Based on data from HUD's Letter of Credit Control System's (LOCCS) database.

Operating Subsidies Provide Funds for IHAs' Ongoing Expenses

Section 9 of the United States Housing Act of 1937, as amended, authorizes HUD to subsidize the operation of low-income public housing projects. Because rental income may not be sufficient to cover all the expenses incurred by a housing authority in its operation and maintenance of rental housing, HUD provides such subsidies to IHAs through its Performance Funding System on the basis of their projected operating expenses. The subsidy amount for an IHA is the difference between the projected estimate of operating costs and an estimate of income from rents and other sources. Overall, HUD has provided just over $500 million in operating subsidies to IHAs for Indian housing programs between 1985 and 1995. As shown in table I.2, since 1992 the trend in HUD's funding for operating subsidies for the Mutual Help and Rental Housing programs has been upward, with a sharp increase (almost 34 percent) for the latter program between 1993 and 1994. Well over 60 percent of the operating subsidy funding HUD provided IHAs supported the Rental Housing Program.

Table I.2: IHAs' Operating Subsidies, Fiscal Years 1992-95

Nominal dollars in millions

Indian housing program needing operating subsidy	FY 1992	FY 1993	FY 1994	FY 1995
Mutual Help Program	$9.0	$10.0	$15.0	$17.0
Rental Housing Program	37.0	41.0	55.0	54.0
Turn Key III Program[a]	0.7	0.5	1.5	0.4
Total	**$46.7**	**$51.5**	**$71.5**	**$71.4**

[a]The Turn Key III Program is the management component for "Turn Key" units and provides homeownership opportunities for low-income families using a lease purchase arrangement. HUD has not funded the development of "Turn Key" housing units since 1979.

Source: Based on data from HUD's LOCCS database.

Loan Guarantee Program Is Another Source of Funding

Section 184 of the Housing and Community Development Act of 1992 authorized the Indian Home Loan Guarantee Program to give Indian families and IHAs access to sources of private financing that might otherwise not be available without a federal guarantee. HUD uses the funds to guarantee loans for constructing, acquiring, or rehabilitating one to four family dwellings per loan. The guaranteed loans must be for homes that are standard housing (i.e., conforming to HUD's standards), located on Indian trust lands, or in Native American tribal areas. The approval of guarantees is based on applicants' having a satisfactory credit record, enough cash to close the loan, and sufficient steady income to make monthly mortgage payments without difficulty. During fiscal year 1995—the program's first year of operation—HUD used the program's appropriation of $3 million to guarantee $22.5 million in home loans in tribal areas. This funding guaranteed 74 homeownership loans for individuals and 403 loans administered by IHAs, with the loans ranging from a low of $21,000 to a high of $175,000.

Home Investment Partnership Program Develops Affordable Housing

The National Affordable Housing Act of 1990 created HUD's HOME Investment Partnership to expand the supply of decent and safe affordable housing. HUD awards HOME funds competitively to federally recognized Indian tribes and Alaska Native villages. These governments, in turn, make loans or grants for rehabilitating, acquiring, or newly constructing both owner-occupied and rental housing. Recipients must have a low income (an adjusted family income must be 80 percent or less of the area's median income), and in the case of rental housing, some tenants must have very low income (50 percent or less of the area's median income). The HOME program first became available to Native Americans in 1992. Since then, under the program HUD has awarded a total of $51 million to Indian tribes, resulting in 560 new units constructed, 1,400 units rehabilitated, and 178 existing units purchased.

Indian Community Development Block Grant Program Provides Needed Funds

In 1978, HUD began providing IHAs with Indian Community Development Block Grants as a set-aside[3] in the overall Community Development Block Grant for cities and towns across the country. The block grant program's objective is to help IHAs and tribes develop viable communities that include decent housing, suitable living environments, and economic opportunities—primarily for persons of low and moderate income. HUD's regulations provide for two categories of grants, "imminent threat grants"

[3]Before 1990, the allocation of Indian Community Development Block Grant funds was generally at the discretion of the Secretary of HUD and represented 1 percent of the total Community Development Block Grant. As part of the amendments to the Housing and Community Development Act of 1974 in the National Affordable Housing Act of 1990, the 1-percent ratio became a requirement.

and "single-purpose grants." For the first type, the HUD Secretary can set aside up to 5 percent of each year's allocation for noncompetitive, first-come, first-served grants to eliminate problems that pose an imminent threat to public health and safety. The second type, single-purpose grants, constitutes the remainder of the funding; HUD provides these grants on the basis of annual competition governed by requirements and criteria set forth in a "notice of funds availability" published in the Federal Register.

As funding for the total Community Development Block Grant Program has increased, so has the amount set aside for Native Americans. This amount has grown in real terms from $36 million in fiscal year 1986 to $46 million in fiscal year 1995.

Table I.3: Funding for Indian Community Development Block Grants, Fiscal Years 1986-95

Constant 1995 dollars in millions

Fiscal year	Amount
1986	$36.1
1987	35.0
1988	32.0
1989	32.5
1990	30.3
1991	34.8
1992	36.5
1993	41.9
1994	45.1
1995	46.0
Total	**$370.2**

Source: Based on data from HUD's LOCCS database.

For fiscal year 1995, the set-aside for grants addressing imminent threats was $1.5 million, with $44.5 million remaining for single-purpose grants.

Nationally, HUD received 217 applications from tribes/tribal organizations for 267 separate projects in 1995. As shown in table I.4, of those approved, the most requested projects were for infrastructure and buildings—accounting for about 87 percent of all the projects approved and funded. The three types of projects that directly address housing—new development, rehabilitation, and land to support new housing—received a very small portion of the funding: $5 million, or about 13 percent, of the grant funds approved.

Table I.4: Types of Projects Funded With Indian Community Development Block Grants, Fiscal Year 1995

Dollars in millions

Type of project	Number approved	Amount funded
Infrastructure	37	$15
Non-housing building	50	20
New housing development	0	0
Housing rehabilitation	8	3
Land for housing	6	2
Total	**101**	**$40**

Source: Based on data from HUD's LOCCS database.

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