23rd NAVAJO NATION COUNCIL
LEGISLATION SPONSORSHIP WITHDRAWAL

I, HONORABLE JONATHAN L. HALE, Primary Sponsor of proposed legislation hereby withdraw my sponsorship of the proposed legislation. The legislation tracking number is 0232-16.

If there are any co-sponsors, they may re-sponsor the same bill by beginning a new legislation.

SPONSOR SIGNATURE: _____

DATE: 12/4/18

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LEGISLATIVE SUMMARY SHEET

Tracking No. 0232-16

DATE: April 4, 2016

TITLE OF RESOLUTION: AN ACT RELATING TO LAW AND ORDER, RESOURCES AND DEVELOPMENT, NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; RECINDING CD-82-03 AND DESIGNATING NAVAJO NATION DIVISION OF COMMUNITY DEVELOPMENT'S COMMUNITY HOUSING AND INFRASTRUCTURE DEPARTMENT AS THE NAVAJO NATION'S TRIBALLY DESIGNATED HOUSING ENTITY

PURPOSE: The resolution's purpose is to rescind CD-82-03 and appoint a new Tribally Designated Housing Entity.

This written summary does not address recommended amendments as may be provided by the standing committees. The Office of Legislative Counsel requests each Council Delegate to review each proposed resolution in detail.

5-DAY BILL HOLD PERIOD: Katonya Baker
Website Posting Time/Date:
Posting End Date: 7/24/16
Eligible for Action: 7/25/16

Law & Order Committee
THENCE
Resources & Development Committee
THENCE
Naa'bik'íyáti' Committee
THENCE
Navajo Nation Council

PROPOSED NAVAJO NATION COUNCIL RESOLUTION

23rd NAVAJO NATION COUNCIL -- Second Year, 2016

INTRODUCED BY

Jonathan L Hale

(Prime Sponsor)

TRACKING NO. 0232-16

AN ACT

RELATING TO LAW AND ORDER, RESOURCES AND DEVELOPMENT, NAABIK'ÍYÁTI' COMMITTEES AND NAVAJO NATION COUNCIL; RECINDING CD-82-03 AND DESIGNATING NAVAJO NATION DIVISION OF COMMUNITY DEVELOPMENT'S COMMUNITY HOUSING AND INFRASTRUCTURE DEPARTMENT AS THE NAVAJO NATION'S TRIBALLY DESIGNATED HOUSING ENTITY

BE IT ENACTED:

Section One. Authority.

A. The Law and Order Committee of the Navajo Nation Council reviews and makes recommendations to the Navajo Nation Council proposed amendments to the Navajo Nation Code. 2 N.N.C. § 601(B)(14) (2012).

B. The Resources and Development Committee of the Navajo Nation Council exercises oversight authority over housing and establishes policies and legislation appropriate to the housing needs of the Navajo Nation and its People. *Id.* at §§ 500(C) and (C)(3).

C. The Naabik'íyáti' Committee of the Navajo Nation Council reviews proposed legislation which requires final action by the Navajo Nation Council. *Id.* at § 164(A)(9)

D. Enactments of positive law must be reviewed and approved by resolution by the Navajo Nation Council. *Id.* at § 164(A).

Section Two. Findings.

A. Diné Traditional Law declares and teaches that the Legislative Branch leaders shall enact policies and laws to address the immediate and future needs of the Navajo Nation. 1. N.N.C. §203(D) (2009).

B. Diné Traditional Law declares and teaches that the Executive Branch leaders shall implement the policies and laws enacted by the legislative branch. *Id.* at §203(C).

C. In addressing the immediate and future needs, the Navajo Nation identified nine priorities for the Nation, which is in no particular order: infrastructure development and improvement, economy, water rights, housing and public facility, education, human services, governance, public safety and judicial, and natural resources. Navajo Nation Three Branch Agreement, One Nation One Voice (July 20, 2015).

D. Congress enacted the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) to provide affordable homes in safe and healthy environments on Indian reservations and Indian Communities in a manner that recognizes Indian self-determination and tribal self-governance. 25 U.S.C. §§ 4101(6) and (7).

E. Indian tribes exercise their power of self-government to authorize a tribally designated housing entity (TDHE). 25 U.S.C. § 4103(22).

F. The TDHE shall be considered to be the Executive agency in carrying out any program, service, or other activity under NAHASDA. 25 U.S.C. § 4111(j)(1).

G. On January 9, 2004, the Navajo Nation formally designated the Navajo Housing Authority as the Navajo Nation's TDHE. *See* CD-82-03, 20th Navajo Nation Council (Jan. 9, 2004). EXHIBIT A.

H. However, since 2004, Navajo Housing Authority fails to comply with NAHASDA's requirements.

I. In 2009, JJ Clacs & Company conducted the Tribally Designated Housing Entity Feasibility Study. The study assessed the Navajo NAHASDA program and found the Indian Housing Plan is a reactive plan instead of a proactive plan and the review process suffers from lack of guidance, inconsistent evaluation and prioritization and conflicts of interest. JJ CLACS & CO., TRIBALLY DESIGNATED HOUSING ENTITY FEASIBILITY STUDY (2009), EXHIBIT B.

J. On April 30, 2013, HUD notified the Navajo Housing Authority they were in violation of NAHASDA. Specifically stating Navajo Housing Authority failed to spend one hundred forty-nine million two hundred seventy-three thousand one hundred sixteen dollars ($149,273,116). The letter of warning further explained that from 2000 to 2013, Navajo Housing Authority failed to expend four hundred thirty-two million nine hundred fifty thousand one hundred eighty-two dollars ($432,950,182). HUD stated that Navajo Housing Authority's failure to expend these funds negatively impacts Navajo tribal members. U.S. Dept. of Housing and Urban Dev., Letter of Warning (Apr. 30, 2013). EXHIBIT C.

K. On May 23, 2013, Navajo Housing Authority responded to HUD's Letter of Warning stating their reasons why the Letter of Warning was not appropriate, one reason being HUD failed to give Navajo Housing Authority notice of the regulatory violations. Navajo Housing Authority, Response to HUD's Letter of Warning (May 23, 2013).

L. On July 31, 2013, HUD issued a Notice of Intent to Impose Remedy to Navajo Housing Authority. The notice stated that Navajo Housing Authority failed to adequately respond to the Letter of Warning, as such, HUD stated that if Navajo Housing Authority failed to comply HUD may impose the following remedies: terminate, limit, or reduce Indian Housing Block Grant payments to Navajo Housing Authority and/or provide a replacement tribally designated housing entity and may refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted. U.S. Dept. of Housing and Urban Dev. Notice of Intent to Impose Remedy (July 31, 2013).

M. After receiving the Notice of Intent to Impose Remedies, the Navajo Housing Authority requested an informal hearing which took place on November 21, 2013. A second informal hearing was held on May 6, 2014. Neither meeting successfully addressed HUD's concerns. *In re: Navajo Housing Authority*, 14-JM-0121-IH-002 (Dec. 14, 2015).

N. On July 29, 2014, Navajo Housing Authority filed a request for an administrative hearing to contest the Imposition of Remedies. HUD issued a *Complaint for Imposition of Remedies* on August 20, 2014. *Id.*

O. Navajo Housing Authority filed a timely *Answer* on September 3, 2014. On December 17, 2014, HUD filed the *Government's Motion for Summary Judgment*, Navajo Housing Authority countered with *Respondent's Cross-Motion for Summary Judgment*, on January 2, 2015. Both motions were denied on May 12, 2015. *Id.*

P. An administrative law judge conducted a hearing on the matter from June 16-19, 2015, in Phoenix, Arizona. *Id.*

Q. The U.S. Department of Housing and Urban Development Office of Hearings and Appeals found Navajo Housing Authority's failure to expend the grant monies awarded to it prevented them from achieving the goals set forth in their Indian Housing Plan and therefore, violated 24 C.F.R. §1000.534(a). *Id.*

R. Navajo Housing Authority's appeal is pending.

S. To prevent the U.S. Department of Housing and Urban Development from potentially exercising their authority to require a replacement TDHE, authorizing the Navajo Nation Community Housing and Infrastructure Department as the Navajo Nation's TDHE is in the Navajo Nation's best interest. 24 C.F.R. § 1000.542.

Section Three. Rescinding CD-82-03

The Navajo Nation rescinds CD-82-03, *Approving the Designation of the Navajo Housing Authority as the Tribally Designated Entity for the Navajo Nation.* EXHIBIT A.

Section Four. Designating the Navajo Nation Community Housing and Infrastructure Department as the Navajo Nation's Tribally Designated Housing Entity

A. The Navajo Nation designates the Navajo Nation Community Housing and Infrastructure Department as the Navajo Nation's Tribally Designated Housing Entity with all requisite authority to conduct housing activities in accordance with applicable Navajo Nation and Federal laws and regulations. 25 U.S.C. § 4103(22).

B. The Navajo Nation directs and authorizes the Navajo Nation Community Housing and Infrastructure Department to prepare, on an annual basis, the Indian Housing Plan for the Navajo Nation subject to Navajo Nation standing committee review by the Resources and Development and Naabik'íyáti' Committees. 25 U.S.C. §§ 4101-4243.

C. The Navajo Nation directs and authorizes the Navajo Nation Community Housing and Infrastructure Department to prepare and implement any necessary amendments to the Indian Housing Plan with Resources and Development Committee. 25 U.S.C. § 4112(c)(2) and 24 C.F.R. § 1000.232.

D. The Navajo Nation directs and authorizes the Navajo Nation President to execute any required documents including certifications necessary to carry out the purpose of this resolution.

Section Five. Effective Date

The provisions of this Act shall become effective in accordance with 2 N.N.C. § 221(B).

CD-82-03

EXHIBIT A

RESOLUTION OF THE
NAVAJO NATION COUNCIL

Approving the Designation of the Navajo Housing Authority as the Tribally Designated Entity for the Navajo Nation

WHEREAS:

1. Pursuant to 2 N.N.C. §102, the Navajo Nation Council is the governing body of the Navajo Nation; and

2. The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) was enacted by Congress for the purpose of placing primary responsibility for Indian housing activities within tribes, to enhance local accountability, to reflect the local priorities of Indian communities and to reduce Federal oversight and bureaucracy; and

3. The Navajo Housing Authority (NHA) was established by the Navajo Housing Council in 1963 to provide safe, decent and sanitary housing for low income Navajo families on the Navajo Nation and the NHA Plan of Operation is found at 6 N.N.C. §601, et seq.; and

4. Indian Nations are required by NAHASDA, 25 U.S.C. Section 4103 (21), to appoint a Tribally Designated Housing Entity (TDHE) or, if it fails to appoint a TDHE, the existing Indian housing authority conducting housing activities on behalf of the tribe may be designated the TDHE by default; and

5. The TDHE is designated the lead agency for an Indian Nation's NAHASDA funded activities, acts as the recipient of NAHASDA funds on behalf of an Indian Nation, is responsible for preparation of the Indian housing plan for that Indian Nation and monitors NAHASDA funded activities in coordination with the Indian Nation; and

6. The Navajo Nation has not formally designated the NHA as the TDHE for the Navajo Nation, however, pursuant to 25 U.S.C. Section 4103 (21), since 1997, the NHA has been acting as the TDHE for the Navajo Nation by default; and

7. The Navajo Nation through the relevant standing committees has approved all Indian Housing Plans for Fiscal Years 1998 to 2003 for the Navajo Nation and has executed a

certification that the Navajo Nation (a) has had an opportunity to review the plan unless otherwise provided by a duly enacted resolution of the tribe and (b) has authorized the TDHE to submit the housing plan on behalf of the tribe; and

8. Pursuant to 24 CFR Part 1000.232, any amendments to the Navajo Nation Housing Plan that involves new housing activities or affects the funding provided for current housing stock, requires tribal approval, unless the initial Indian Housing Plan (IHP) certification provided by an Indian tribe allowed for the submission of the IHP without tribal certification; and

9. Pursuant to 24 CFR Part 1000.523, the TDHE or Indian Nation is required to obligate NAHASDA funds within two (2) years of NAHASDA grant award; and

10. The NHA has been in operation since 1963 and has been conducting housing development activities, which has vested this tribal entity with the necessary administrative capacity, experienced personnel and internal knowledge relating to administering and monitoring the NAHASDA program on behalf of the Navajo Nation; and

11. The NHA Board of Commissioners, through Resolution NHA-2867-97 (attached and incorporated herein as Exhibit "A"), requested the Navajo Nation to reaffirm the Navajo Housing Authority as the Navajo Nation's TDHE; and

12. The Government Services Committee, through Resolution GSCO-94-03, and the Transportation and Community Development Committee, through Resolution TCDCO-109-03, approved the Navajo Nation Council the designation of the Navajo Housing Authority Entity for the Navajo Nation; and

13. The Intergovernmental Relations Committee disapproved SAS No. 3612 on October 21, 2003, with a vote of 5 in favor, 2 opposed and 3 abstained to recommend to the Navajo Nation Council the designation of the Navajo Housing Authority as the Tribally Designated Housing Entity for the Navajo Nation; and

14. It is in the best interest of the Navajo Nation and the Navajo people to approve the designation of the Navajo Housing Authority as the TDHE for the Navajo Nation.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Council hereby designates the Navajo Housing Authority as the Tribally Designated Housing Entity for the Navajo Nation in accordance with 25 U.S.C. Section 4103 (21) with all requisite authority to conduct housing activities in accordance with applicable Navajo Nation and Federal laws and regulations.

2. The Navajo Nation Council further directs and authorizes the Navajo Housing Authority to prepare on an annual basis in accordance with NAHASDA, the Indian Housing Plan for the Navajo Nation subject to tribal review by the Intergovernmental Relations Committee, the Government Services Committee and the Transportation and Community Development Committee of the Navajo Nation Council.

3. The Navajo Nation Council further directs and authorizes the Navajo Housing Authority to prepare and implement any necessary amendments to the Indian Housing Plan without tribal review subject to providing a report on any amendments within a reasonable time of implementation.

4. The Navajo Nation Council further directs and authorizes the President of the Navajo Nation to execute any required documents including certifications necessary to carry out the purposes of this resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that same was passed by a vote of 57 in favor, 3 opposed and 7 abstained, this 23rd day of December 2003.

Lawrence T. Morgan, Speaker
Navajo Nation Council

30 Dec 03
Date

Motion: Edward Jim
Second: Ralph Bennett

CD-82-03

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby give notice that I will not veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), on this _____ day of JAN 0 9 2004 2004.

Joe Shirley, Jr., President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (c) (10), for reason(s) expressed in the attached letter to the Speaker.

_____
Joe Shirley, Jr., President
Navajo Nation

EXHIBIT "A"

NHA Hooghan–Center of Family Growth, Strength and Beauty
NAVAJO HOUSING AUTHORITY

RESOLUTION NHA-286-97

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE NAVAJO HOUSING AUTHORITY

Requesting the Navajo Nation to Reaffirm the Navajo Housing Authority (NHA) as the Navajo Nation's Tribally Designated Housing Entity (TDHE) Under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) and to Delegate to the NHA the Authority to Submit Housing Plans Required Under NAHASDA.

WHEREAS:

1 Pursuant to 6 N N C 605 and 616(b)(3), the Board of Commissioners of the Navajo Housing Authority (NHA) is the governing body of the NHA with the authority to do all things necessary and desirable in the operation, maintenance and development of safe, decent and sanitary housing and to receive the continued financial assistance of the federal government for housing development, and

2 In accordance with NAHASDA (Pub L 104-330), approved October 26, 1996 and HUD Notice dated January 27, 1997, Indian Housing Authorities (IHAs) shall be the TDHEs unless an Indian tribe decides to designate itself or another entity as its TDHE, and

3 The NHA was established by the Navajo Nation Council in 1963 to provide safe, decent and sanitary housing for low income Navajo families on the Navajo Nation and the NHA's Plan of Operation is found at 6 N N C 601-628, and

4 The NHA operates as a business with twenty-two (22) established policies that govern its activities, thirteen (13) established management offices throughout the Navajo Nation, and established resident organizations and resident management corporations, and

5 The NHA has successfully existed for over thirty-three (33) years with 7,000 units under management and has housing expertise in the areas of development, renovation, maintenance and management, and

6 The NHA has successfully worked on the regional and national level for continued funding for Indian housing and changes in Indian housing to allow Indian tribes the flexibility required to develop innovative housing, including mortgage financing, and

7 The NHA has developed relationships with the U.S Department of Housing and Urban Development (HUD), the United States Congress and regional and national housing organizations, and its staff provide training at national conferences in Indian housing, and

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8 The NHA engages in development and renovation activities, mortgage financing through the Section 184 Indian Loan Guarantee Program, and has successfully implemented a self-insurance program, a drug elimination program, youth sports programs and resident services programs to enhance the living environment of the residents of NHA projects, and

9 The NHA employs approximately 300 permanent employees and 600 other employees in its force account method of construction and renovation, and currently submits five year plans under its Comprehensive Grant Program, and

10 The NHA is experienced in submitting applications for development and renovation funding, and applications for drug elimination, youth sports and resident initiative grants and has staff to successfully administer such funding, and

11 NAHASDA encourages the development of communities by requiring housing plans, such plans to be submitted by the TDHE, and the housing plans must have the following necessary components

a Adequate insurance coverage for all its housing units.
b Established policies in rent collection, eligibility, admission, occupancy, management and maintenance.
c Plan to protect and maintain current IHA housing stock.
d Coordination efforts with tribal and state welfare agencies to ensure residents will be provided with resources necessary for self-sufficiency.
e Coordination of crime prevention activities with tribal and local law enforcement officials.
f Plan to involve resident input.
g Description of all planned housing activity on the reservation.
h Certification that local government will exempt all assisted property from all taxes, and

12 The NHA is equipped to submit a housing plan on behalf of the Navajo Nation and to certify that the above components are in place within the current NHA structure, and

13 The successful implementation of NAHASDA requires the anomity of the TDHE separate from the government to allow for the operation of the TDHE as a business without governmental bureaucracies, and

14 On March 4, 1997 the NHA, the Division of Community Development, the Division of Economic Development, the Veterans Affairs of the Division of Human Services and the Chairperson of the Government Services Committee, met and concurred that the NHA would remain the TDHE, and

15 It is in the best interests of the Navajo Nation and the Navajo people to continue the operations of the NHA with any necessary amendments to its Plan of Operation to ensure consistency with NAHASDA

NOW, THEREFORE, BE IT RESOLVED THAT:

1 The Board of Commissioners of the Navajo Housing Authority hereby requests the Navajo Nation to reaffirm Navajo Nation Council Resolution CJN-21-63 which established the NHA and to reaffirm the NHA as the Navajo Nation's Tribally Designated Housing Entity under the Native American Housing Assistance and Self-Determination Act of 1996 with the authority to submit housing plans on behalf of the Navajo Nation, such plans to be coordinated with other housing providers on the Navajo Nation

CERTIFICATION

Commissioner Carol Kirk-Perry moved that the foregoing Resolution NHA-2867-97 be adopted and this was seconded by Commissioner Betty Patterson

Same was passed by the following vote

AYES 7

NAYES 0

ABSTAINED 0

The Secretary, thereupon, declared said motion carried and said Resolution NHA-2867-97 was adopted this 6th day of March, 1997

Eugene Guerito, Chairperson
NHA BOARD OF COMMISSIONERS

ATTEST:

Sara Sandoval, Secretary/Treasurer
NHA BOARD OF COMMISSIONERS

ON APPROVAL:
L REVIEW:
UTIVE DIRECTOR:
IVE SECRETARY:

TCDC/GSC/EDC/HSC-MA-MEMO-1-97

MEMORANDUM OF AGREEMENT AND SUPPORT OF THE JOINT COMMITTEES OF THE NAVAJO NATION COUNCIL

Affirming the Navajo Housing Authority (NHA) as the Navajo Nation's Tribally Designated Housing Entity (TDHE) for Year One Under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) and Delegating to the NHA the Authority to Submit Housing Plans Required Under the NAHASDA in Cooperation and Coordination with Other Housing and Development Entities

WHEREAS:

1. Pursuant to 2 N.N.C. § 341 (A), (5), the Government Services Committee is established and continued as a standing committee of the Navajo Nation Council with the power to oversee the conduct and operations of entities of the Navajo Nation not otherwise under the oversight authority of other standing committees; and

2. Pursuant to 2 N.N.C. §§ 420 and 423 (B), the Transportation and Community Development Committee is established and continued as a standing committee of the Navajo Nation Council with the power to propose policies and laws relating to housing development; and

3. Pursuant to 2 N.N.C. §§ 721 and 724 (E), the Economic Development Committee is established and continued as a standing committee of the Navajo Nation Council with the power to receive reports and review the operations of the Navajo Nation enterprises, authorities and industries and shall recommend the creation, reorganization, termination or "privatization" of any enterprise to the Navajo Nation Council; and

4. Pursuant to 2 N.N.C. §§ 601 and 604 (B) (2), the Human Services Committee is established and continued as a standing committee of the Navajo Nation Council with the power to represent the Navajo Nation in matters relating to labor, employment and training and veterans services; and

5. On February 28, 1997, the Government Services Committee, the Transportation and Community Development Committee and the Economic Development Committee met in a joint session to hear reports on the plans of housing providers on the Navajo Nation to implement NAHASDA and directed the housing providers to meet and recommend the TDHE and housing plans required under the NAHASDA; and

6. On March 4, 7, and 13, 1997, a work group entitled consisting of representatives from the NHA, the Division of Community Development, the Division of Economic Development, the Division of Human Resources' Veterans Affairs Department and

Department of Personnel Management, Navajo Partnership for Housing, the Division of Education's Department of Headstart, the Office of Navajo Government Development, the Government Services Committee the Transportation and Community Development Committee, (the entitled Navajo Nation NAHASDA work group) met and agreed to affirm the NHA as the TDHE for at least one year and to continue discussions of a future TDHE and to work in cooperation and coordination in the development and submittal of Navajo Nation Housing Plan; and

7. On March 6, 1997 the NHA Board of Commissioners, by Resolution NHA-2867-97, attached hereto as Exhibit A and made a part hereof, requested the Navajo Nation to reaffirm the NHA as the TDHE and to delegate to it the authority to submit housing plans required under NAHASDA, based on its organizational, administrative, technical and financial capability; and

8. Pursuant to Section 102 (d) of NAHASDA, an Indian Tribe may delegate to the TDHE the authority to submit housing plans on behalf of the Indian Tribe if the plans contain a certification that the Tribe has had an opportunity to review the plans and authorized submission of the plan by the TDHE, or the Tribe has delegated to the TDHE the authority to submit plans on behalf of the Tribe with tribal review; and

9. It is in the best interests of the Navajo Nation and the Navajo people to affirm the NHA as the TDHE with the authority to develop and submit housing plans, in cooperation and coordination with the Navajo Nation NAHASDA work group, on behalf of the Navajo Nation, further tribal review.

NOW THEREFORE BE IT RESOLVED THAT:

1. The joint committee consisting of the Government Services Committee, the Transportation and Community Development Committee, the Economic Development Committee, and the Human Services Committee hereby agree to affirm the NHA as the Navajo Nation's TDHE for year one under NAHASDA with the authority to submit housing plans to the United States Department of Housing and Urban Development on behalf of the Navajo Nation without further tribal review, such plans to be developed in cooperation and coordination with the Navajo Nation NAHASDA work group.

2. The joint committee hereby directs that the NHA conduct its activities in accordance with its Plan of Operation found in 5 N.N.C. 601 et. seq. and the housing plans submitted on behalf of the Navajo Nation. The NAHASDA work group shall meet periodically to evaluate the housing plans and make any necessary amendments.

C-E-R-T-I-F-I-C-A-T-I-O-N

I hereby certify that the foregoing Memorandum of Agreement and Support was duly considered by the Government Services Committee, the Transportation and Community Development Committee, the Economic Development Committee, the Resources Committee, the Human Services Committee, and the Budget and Finance Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and the same was passed by a vote of 7 in favor, 4 opposed and 0 abstained, this 14 day of March, 1997.

Ervin Keeswood, Sr., Chairperson
GOVERNMENT SERVICES COMMITTEE

Lawrence Morgan, Chairperson
TRANSPORTATION & COMMUNITY
DEVELOPMENT COMMITTEE

David John, Chairperson
ECONOMIC DEVELOPMENT COMMITTEE

Young Jeff Tom, Chairperson
HUMAN SERVICES COMMITTEE

MOTION: Tom LaPahe SECOND: Milton Bluehouse

GSCO-94-03

RESOLUTION OF THE GOVERNMENT SERVICES COMMITTEE OF THE NAVAJO NATION COUNCIL

Approving and Recommending to the Navajo Nation Council the Designation of the Navajo Housing Authority as the Official Tribally Designated Housing Entity for the Navajo Nation

WHEREAS:

1. Pursuant to 2 N.N.C. §§ 341 and 343(B)(4), the Government Services Committee of the Navajo Nation Council is established and continued as a standing committee with the power to oversee the conduct and operations of entities of the Navajo Nation not otherwise under the oversight authority of other standing committees; and

2. The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) was enacted by Congress for the purpose of placing primary responsibility for Indian housing activities within tribes, to enhance local accountability, to reflect the local priorities of Indian communities and to reduce Federal oversight and bureaucracy; and

3. The Navajo Housing Authority (NHA) was established by the Navajo Nation Council in 1963 to provide safe, decent and sanitary housing for low-income Navajo families on the Navajo Nation and the NHA Plan of Operation is found at 6 N.N.C. § 601, et seq.; and

4. Indian nations are required by NAHASDA, 25 U.S.C. Section 4103(21), to appoint a Tribally Designated Housing Entity (TDHE) or, if it fails to appoint a TDHE, the existing Indian housing authority conducting housing activities on behalf of the tribe may be designated the TDHE by default; and

5. The TDHE is designated the lead agency for an Indian nation's NAHASDA funded activities, acts as the recipient of NAHASDA funds on behalf of an Indian nation, is responsible for preparation of the Indian Housing Plan for that Indian nation and monitors NAHASDA funded activities in coordination with the Indian nation; and

6. The Navajo Nation has not formally designated the NHA as the TDHE for the Navajo Nation, however, pursuant to 25 U.S.C. Section 4103(21), since 1997, the NHA has been acting as the TDHE for the Navajo Nation by default; and

7. The Navajo Nation through the relevant standing committees has approved all Indian Housing Plans for Fiscal Years 1998 to 2003 for the Navajo Nation and has executed a certification that the Navajo Nation (a) has had an opportunity to review the plan unless otherwise provided by a dully enacted resolution of the tribe, and (b) has authorized the TDHE to submit the housing plan on behalf of the tribe; and

8. Pursuant to 24 CFR Part 1000.232, any amendments to the Navajo Nation Housing Plan that involves new housing activities or affects the funding provided for current housing stock, requires tribal approval, unless the initial Indian Housing Plan (IHP) certification provided by an Indian tribe allowed for the submission of the IHP without further tribal certification; and

9. Pursuant to 24 CFR Part 1000.523, the TDHE or Indian nation is required to obligate NAHASDA funds within two (2) years of NAHASDA grant award; and

10. The NHA has been in operation since 1963 and has been conducting housing development activities, which has vested this tribal entity with the necessary administrative capacity, experienced personnel and internal knowledge relating to administering and monitoring the NAHASDA program on behalf of the Navajo Nation; and

11. The NHA Board of Commissioners, through Resolution NHA-2867-97 (attached and incorporated herein as Exhibit "A"), requested the Navajo Nation to reaffirm the Navajo Housing Authority as the Navajo Nation's TDHE; and

12. It is in the best interest of the Navajo Nation and the Navajo people to approve the designation of the Navajo Housing Authority as the TDHE for the Navajo Nation.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Government Services Committee of the Navajo Nation Council hereby approves and recommends to the Navajo Nation Council the designation of the Navajo Housing Authority as the Official Tribally Designated Housing Entity for the Navajo Nation in accordance with U.S.C. Section 4103 (21) with all requisite authority to conduct housing activities in accordance with applicable Navajo Nation and Federal laws and regulations.

2. The Government Services Committee of the Navajo Nation Council further hereby recommends that the Navajo Nation Council direct and authorize the Navajo Housing Authority to prepare on an annual basis in accordance with NAHASDA, the Indian Housing Plan for the Navajo Nation subject to tribal review by the Intergovernmental Relations Committee, the Government Services Committee and the Transportation and Community Development Committee of the Navajo Nation Council.

3. The Government Services Committee of the Navajo Nation Council further hereby recommends that the Navajo Nation Council direct and authorize the Navajo Housing Authority to prepare and implement any necessary amendments to the Indian Housing Plan without tribal review but subject to providing a report on any amendments within a reasonable time of implementation.

4. The Government Services Committee of the Navajo Nation Council further recommends that the Navajo Nation Council hereby direct and authorize the President of the Navajo Nation to execute any required documents including certifications necessary to carry out the purposes of this resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Government Services Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and the same was passed by a vote of 7 in favor, 0 opposed, and 0 abstained, this 20th day of October, 2003.

Ervin M. Keeswood, Sr., Chairperson
Government Services Committee

Motion: Leo R. Begay
Second: Charles S. Damon

RESOLUTION OF THE TRANSPORTATION AND COMMUNITY DEVELOPMENT COMMITTEE OF THE NAVAJO NATION COUNCIL

Approving and Recommending to the Navajo Nation Council to Officially Designate the Navajo Housing Authority as the Tribally Designated Housing Entity for the Navajo Nation

WHEREAS:

1. Pursuant to 2 N.N.C. §§ 420 and 423(B)(2) and (3), the Transportation and Community Development Committee of the Navajo Nation Council is established and continued as a standing committee with the power to propose policies and laws relating to housing development; and

2. The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) was enacted by Congress for the purpose of placing primary responsibility for Indian housing activities within tribes, to enhance local accountability, to reflect the local priorities of Indian communities and to reduce Federal oversight and bureaucracy; and

3. The Navajo Housing Authority (NHA) was established by the Navajo Nation Council in 1963 to provide safe, decent and sanitary housing for low-income Navajo families on the Navajo Nation and the NHA Plan of Operation is found at 6 N.N.C. § 601, et seq.; and

4. Indian nations are required by NAHASDA, 25 U.S.C. Section 4103(21), to appoint a Tribally Designated Housing Entity (TDHE) or, if it fails to appoint a TDHE, the existing Indian housing authority conducting housing activities on behalf of the tribe will be designated the TDHE by default; and

5. The TDHE is designated the lead agency for an Indian nation's NAHASDA funded activities, acts as the recipient of NAHASDA funds on behalf of an Indian nation, is responsible for preparation of the Indian Housing Plan for that Indian nation and monitors NAHASDA funded activities in coordination with the Indian nation; and

6. The Navajo Nation has not formally designated the NHA as the TDHE for the Navajo Nation, however, pursuant to 25 U.S.C. Section 4103(21), since 1997, the NHA has been acting as the TDHE for the Navajo Nation by default; and

7. The Navajo Nation through the relevant standing committees has approved all Indian Housing Plans for Fiscal Years 1998 to 2003 for the Navajo Nation and has executed a certification that the Navajo Nation (a) has had an opportunity to review the plan unless otherwise provided by a dully enacted resolution of the tribe, and (b) has authorized the TDHE to submit the housing plan on behalf of the tribe; and

8. Pursuant to 24 CFR Part 1000.232, any amendments to the Navajo Nation Housing Plan that involves new housing activities or affects the funding provided for current housing stock, requires tribal approval, unless the initial Indian Housing Plan (IHP) certification provided by an Indian tribe allowed for the submission of the IHP without further tribal certification; and

9. Pursuant to 24 CFR Part 1000.523, the TDHE or Indian nation is required to obligate NAHASDA funds within two (2) years of NAHASDA grant award; and

10. The NHA has been in operation since 1963 and has been conducting housing development activities, which has vested this tribal entity with the necessary administrative capacity, experienced personnel and internal knowledge relating to administering and monitoring the NAHASDA program on behalf of the Navajo Nation; and

11. The NHA Board of Commissioners, through Resolution NHA-2867-97 (attached and incorporated herein as Exhibit "A"), requested the Navajo Nation to reaffirm the Navajo Housing Authority as the Navajo Nation's TDHE and to delegate through MOA TCDC/GSC/EDC/HSC-MA-MEMO-1-97, a joint committee of the Navajo Nation Council affirmed NHA as the Nation's TDHE for year one only and the MOA TCDC/GSC/EDC/HSC-MA-MEMO-1-97 has expired; and

12. It is in the best interest of the Navajo Nation and the Navajo people to approve the designation of the Navajo Housing Authority as the TDHE for the Navajo Nation.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Transportation and Community Development Committee of the Navajo Nation Council hereby approves and recommends to the Navajo Nation Council to officially designate the Navajo Housing Authority as the Tribally Designated Housing Entity for the Navajo Nation in accordance with U.S.C. Section 4103 (21) with all requisite authority to conduct housing activities in accordance with applicable Navajo Nation and Federal laws and regulations.

2. The Transportation and Community Development Committee of the Navajo Nation Council further hereby recommends that the Navajo Nation Council direct and authorize the Navajo Housing Authority to prepare on an annual basis in accordance with NAHASDA, the Indian Housing Plan for the Navajo Nation subject to tribal review by the Intergovernmental Relations Committee, the Government Services Committee and the Transportation and Community Development Committee of the Navajo Nation Council.

3. The Transportation and Community Development Committee of the Navajo Nation Council further hereby recommends to the Navajo Nation Council direct and authorize the Navajo Housing Authority to prepare and implement any necessary amendments to the Indian Housing Plan without tribal review but subject to providing a report on any amendments within a reasonable time of implementation.

4. The Transportation and Community Development Committee of the Navajo Nation Council further recommends that the Navajo Nation Council hereby direct and authorize the President of the Navajo Nation to execute any required documents including certifications necessary to carry out the purposes of this resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Transportation and Community Development Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and the same was passed by a vote of 6 in favor, 0 opposed, and 0 abstained, this 14th day of October, 2003.

Mark Maryboy, Chairperson
Transportation and Community
Development Committee of the
Navajo Nation Council

Motion: Willie Tracey, Jr.
Second: Leslie Dele

EXHIBIT B

Tribally Designated Housing Entity

TDHE FEASIBILITY STUDY

Overview of Report

Presented by:

JJ Clacs & Company

August 11, 2009

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INTRODUCTION

PART I Overview of Indian Housing Laws and Regulations

PART II Assessment of Navajo NAHASDA Program

PART III Capacity Assessment of CHID

PART IV Analysis of Alternatives for Administration of the NAHASDA Program

PART V Recommendations and Considerations

INTRODUCTION

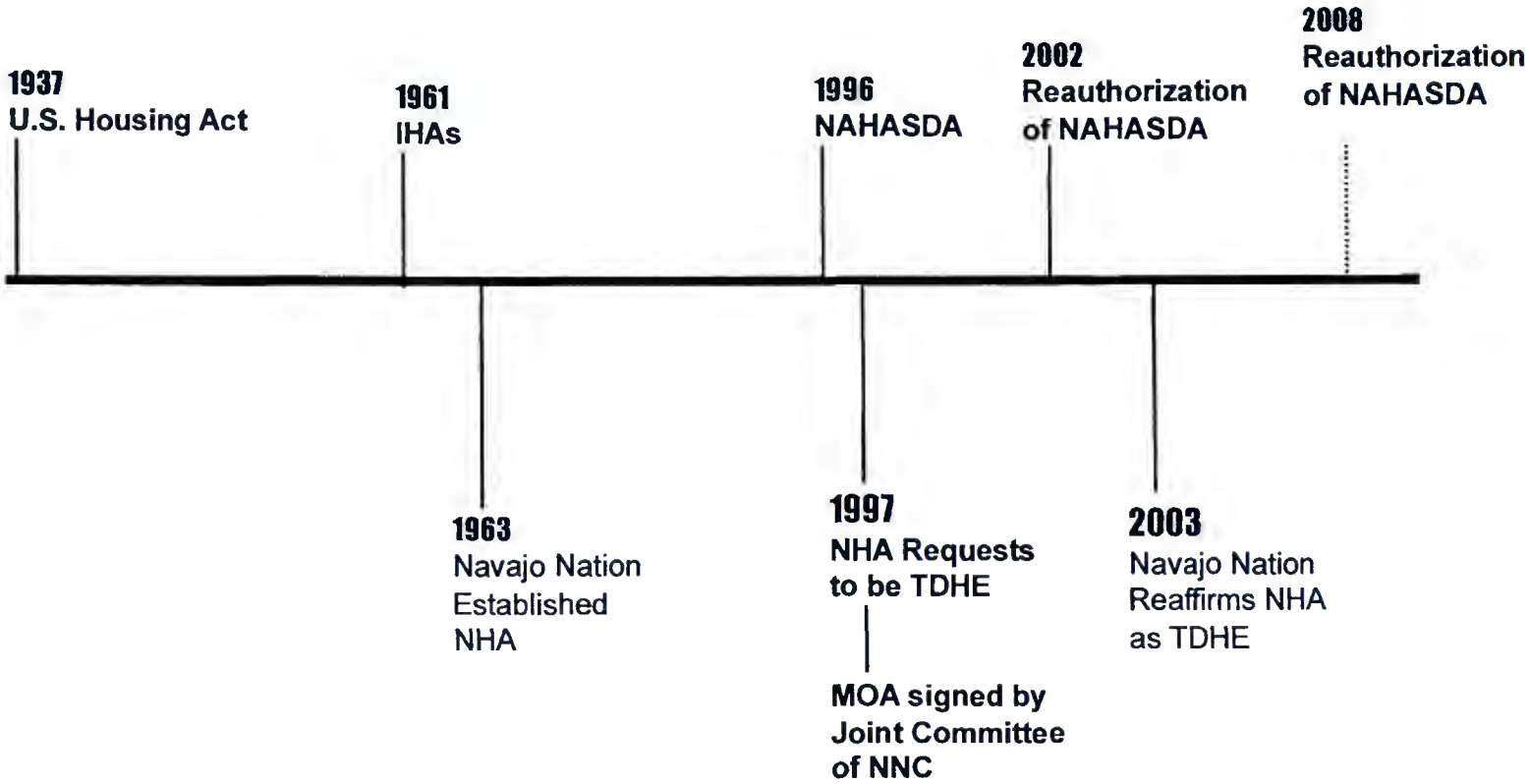
- Navajo Nation is:
  - federally recognized Indian tribe that benefits from being a sovereign nation
  - recipient of IHBG available through NAHASDA
- Navajo Nation has authority to:
  - administer the IHBG itself through one of its departments or
  - delegate administration to external organization as TDHE
- Navajo chose NHA as the TDHE
- As the grant beneficiary, Navajo Nation maintains oversight responsibilities

INTRODUCTION

- 1995 – SWONAP issued finding:
  - Navajo Nation is not in compliance with the monitoring requirements of 24 CFR 1000.502(b)

- CA – Navajo Nation Council issued Condition of Appropriation
  - Navajo Nation as a direct recipient through CHID
  - an alternatives for administration of NAHASDA program

1. OVERVIEW OF INDIAN HOUSING



2. IMPLEMENTION OF NAHASDA

- Recognizes the right of tribal self-governance
- Tribes themselves need to determine the best ways to meet the housing needs of its tribal members
- Assistance based on formula using:
  - Maintain tribe's current existing housing stock under the U.S. Housing Act of 1937
  - Need for additional low-income housing in tribe's service area

3. ROLES AND RESPONSIBILITIIES

- Regulatory Agency - HUD
  - Oversight of NAHASDA – Ensure $$ are spent wisely
  - Authority to make/withhold grants based on IHP
- Grant Beneficiary – Navajo Nation
  - Can receive funds directly or authorize a TDHE
  - In the case of a TDHE, tribe responsible for ensuring the TDHE complies with all NAHASDA requirements including the design and implementation of housing assistance programs
- TDHE - NHA
  - Prepare and implement IHP
  - Comply with statues and regulations

4. NAVAJO HOUSING LEGAL STRUCTURE

- In 1997, NHA requested to be TDHE
- MOA of Joint Committees - NHA would act as TDHE for "year one under NAHASDA"
- 1998 NN President letter to HUD informing NHA would be TDHE "*until such time as the Navajo Nation Council's appropriate standing committees take formal action to re-designate a TDHE*" ...suggesting that the 'appointment' of NHA as TDHE is temporary
- 1998 – 2003, appears NHA continued as the TDHE
- 2003, GSC and TCDC recommended approval of NHA as the TDHE; notably, IGR disapproved
- 2003, NN Council adopted Resolution CD-82-03 formally designating NHA as the TDHE for the Navajo Nation

4. NAVAJO HOUSING LEGAL STRUCTURE

- NHA is creation of Navajo law
- Navajo Nation Code Title 6, Subchapter 5 – Navajo Hsg Authority
  - Establishes the purposes, powers and duties of NHA
  - Provides legal framework for operation of NHA
  - Amended 3 times since its adoption
- July 1995 amendment added the purpose of promoting economic growth and development activities within and near the NN
- The Code also includes a mechanism whereby the Navajo Nation is obligated to assist and cooperate in the planning, undertaking and operation of projects undertaken by NHA

5. ASSESSMENT OF NAVAJO NAHASDA PROGRAM

FY 2009 NAVAJO IHBG COMPONENTS

- Navajo **tribe's current existing housing stock** built under the United States Housing Act of 1937, as amended

LOW RENT	MUTUAL HELP	TURNKEY	DEVELOPMENT
3,528	2,880	0	27

FCAS = Operational cost + Modernization

= $32,818,341

- **Need for additional low-income housing** in the tribe's service area
  - calculated using seven factors weighted as set forth in 1000.324 including AIAA

Persons = 191,071 & Housing Shortage = 27,166

NEED = $52,013,455

FY 2009 Grant = FCAS + NEED

= $84,831,796

5. ASSESSMENT OF NAVAJO NAHASDA PROGRAM

Table 1. Indian Housing Block Grant Funding: 1998 to 2008

Fiscal Year	Total IHBG Appropriation *	Set-Aside: HUD* Implem, Trng & Tech.	Set-Aside: NAIHC* Trng & Tech.	Set-Aside: Title VI Loan Guarantee	Navajo Nation IHBG Amount**	Percent to Navajo Nation
1998	$600 M	$5 M	*		$86,762,085	14.5%
1999	$620 M	$3 M	$2 M		$88,981,744	14.4%
2000	$620 M	$4 M	$2 M		$88,595,779	14.3%
2001	$650 M	$6 M	-		$94,243,721	14.5%
2002	$648.6 M	$5 M	$2.2 M	$6 M	$94,502,939	14.6%
2003	$644.8 M	$4 M	$2.2 M	$2 M	$92,530,695	14.4%
2004	$650.3 M	$4.5 M	$2.2 M	$2 M	$88,388,466	13.6%
2005	$622 M	$4.5 M	$2.2 M	$2 M	$84,510,425	13.6%
2006	$623.7 M	$4 M	$1 M	$2 M	$86,112,736	13.8%
2007	$624 M	$4 M	-		$89,560,522	14.4%
2008	$630 M	$4.3 M	$2 M	$2 M	$74,025,827	11.8%
ARRA	$255 M	$2.3 M*	-		$34,412,126*	11.8%
				NN TOTAL:	$ 1,002,627,065	14%(avg)

Sources: * NAIHC ** HUD SWONAP Reports & NHA Annual Performance Reports

Table 2. Balance of Navajo Nation IHBG 1998-2008

Year	Grant Number	Navajo Nation IHBG Award Amount	Grant Balance as of 6/22/2009
1998	98IH0402810	$86,762,085	-
1999	99IH0402810	$88,981,744	$4,084.31
2000	00IH0402810	$88,595,779	$6,836,830.27
2001	01IH0402810	$94,243,721	$2,471,670.93
2002	02IH0402810	$94,502,939	$10,651,493.80
2003	03IH0402810	$92,530,695	$27,423,252.37
2004	04IH0402810	$88,388,466	$33,159,361.46
2005	05IH0402810	$84,510,425	$49,556,478.77
2006	06IH0402810	$86,112,736	$51,879,401.99
2007	07IH0402810	$89,260,522	$64,089,607.68
2008	08IH0402810	$74,025,827	$60,701,620.25
ARRA	08SH0402810	$34,412,126	$34,412,126.00
	IHBG Subtotals	$1,002,327,065	$ 341,185,927.83

Source: HUD LOCCS June 22, 2009

6. Findings

- 58 SWONAP Monitoring Findings: 1998-2008
- 44 SWONAP Audit Findings: 1998-2008

6.5 Suspension of Sub-Grant Awards

- Beginning in fiscal year 2008, suspend any sub-grant awards for development activities to new or existing sub-grantees for a period of three years. This restriction will not apply to existing sub-grantees with ongoing development projects that are performing at an acceptable level
- Establish a new strategy for more efficient and effective housing development and rehabilitation
- Develop procedure governing the use of sub-grantees to ensure compliance and accountability over development activities

Even with all the directives, it is not clear as to the future of development and construction of homes

There is no guarantees as to what will happen after the suspension of period is concluded

7. IHP Analysis

- IHP must be submitted to receive NAHASDA allocations
- Tribes/TDHE's use the IHP as a tool to prioritize housing needs and outline projects that will be undertaken in the coming year

8. APR Analysis

- Performance measures are developed by each recipient
- APR must be submitted within 60 days of end of program year
- APR reviews the progress made during each fiscal year in carrying out the IHP for the tribe

7. IHP Analysis 1998-2008

Table 8. Number of Units Planned, Constructed or Renovated: 1998–2008

Fiscal Year	Total Number of Goals	Plan/ Design (# of units)	Construct (# of units)	In the APR, NHA reports these #s as the Planned per IHP	Renovate (#of units)	In the APR, NHA reports these #s as being the RENOVATE per IHP
1998	5	1,169*		634	617	60
1999	10	728*		444	343	110
2000	12	545*		671	219	22
2001	12	945*		658	804	231
2002	6	843	338	478	168	16
2003	6	500	300	339	56	94
2004	6	500	300	355	34	74
2005	6	135	590	33	30	14
2006	6	1,773	302	314	800	10
2007	7	95	450	145	393	393
2008	8	66	66	634	7,186	60

Table 9. Unmet Housing Needs for all Navajo Families

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Rental Hsg											
# Units	3,824	2,824	3,824	3,824	3,824	3,824	3,824	5,000	5,000	5,000	5,000
# Need Rehab	4,100	4,100	4,100	4,100	4,100	4,100	4,100	5,000	8000	5,000	5,000
Homeowner Hsg											
# Units	11,471	11,471	11,471	11,471	11,471	11,471	11,471	20,000	20,000	20,000	20,000
# Need Rehab	16,653	16,653	16,653	16,653	16,653	16,653	16,653	18,000	18,000	18,000	18,000
Other Hsg											
Supprt Serv Hsg	60	60	60	60	60	60	60	60	60	60	60
College Housing	300	300	300	300	300	300	300	1,000	1,000	1,000	1,000
Transitional Hsg	500	500	500	500	500	500	500	500	500	500	500
Homeless Hsg	500	500	500	500	500	500	500	500	500	500	500
Elderly Hsg	120	120	120	120	120	120	120	1000	1000	1000	1000
TOTAL NEW UNITS NEEDED:	16,775	16,775	16,775	16,775	16,775	16,775	16,775	28,060	28,060	28,060	28,060
TOTAL NEEDING REHAB:	20,753	20,753	20,753	20,753	20,753	20,753	20,753	23,000	26,000	23,000	23,000

Source: 2008 Annual Performance Reports 1998-2008

Table 11. BIA Housing Needs within Navajo Nation

Agency	Total Existing	Standard Condition	Sub-Standard	Needing Renovation	Needing Replacement	Need for Housing	Total New Houses
Chinle	5,779	2,745	3,034	1,661	1,367	3,974	5,341
Eastern	6,868	2,441	4,427	2,379	2,002	2,999	5,021
Ft. Defiance	8,297	5,250	3,047	2,051	960	1,341	2,301
Shiprock	7,257	3,693	3,564	2,091	1,468	1,482	2,950
Western	7,181	3,127	4,054	2,487	1,550	2,859	4,409
TOTAL:	35,382	17,256	18,126	10,669	7,347	12,655	20,022

Source: Navajo Indian Housing Plans 1998 – 2003

Table 13. Housing Profile 1998-2008

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
1937 Housing Act Inventory Under Management											
Mutual Help	3,283	3,283	3,800	4,011	3,805	4,014	3,947	3,947	2,911	2,845	2,845
Low Rent	3,400	3,400	3,472	3,439	3,478	3,487	3,377	3,377	3,527	3,791	3,791
Units to be Demolished	(1.00)	(1.00)	(37.00)	(61.00)	0.00	(30.00)	(36.00)	(34.00)	0.00	(44.00)	(44.00)
Units to be Conveyed	(440.00)	(440.00)	(450.00)	(450.00)	(200.00)	(300.00)	(300.00)	(216.00)	(200.00)	(200.00)	(200.00)
TOTAL	6,242	6,242	6,785	6,939	7,083	7,171	6,988	7,074	6,238	6,392	6,392
1937 Housing Act Inventory in the Development Pipeline											
Mutual Help	313	313	714	194	600	487	487	487	25	-	-
Low Rent	43	43	154	48	245	300	300	300	-	-	-
TOTAL	356	356	868	242	845	787	787	787	25	-	-
Section 8 vouchers and Certificates as of September 30											
Section 8	76	76	76	76	76	76	0	0	76	76	76
NAHASDA Units as of September 30											
Occupied	-	-	-	372	567	567	146	2,061	2,000	2,000	2,000

Source: IHP 1998-2008

7. IHP Analysis

- Currently Navajo Nation does NOT have a housing directive or master plan that they require NHA to follow
- NHA compiles a list of projects based upon submittals
- Without a Nation-wide housing directive, NHA cannot properly evaluate proposals and prioritize projects
- Development of IHP relies on reactive approach rather than a proactive approach
- As a result, review process suffers from lack of guidance, inconsistent evaluation and prioritization and conflicts of interest

PART II - APR

Figure 1. Number of Units Planned for Modernization, New Construction and Rehabilitation

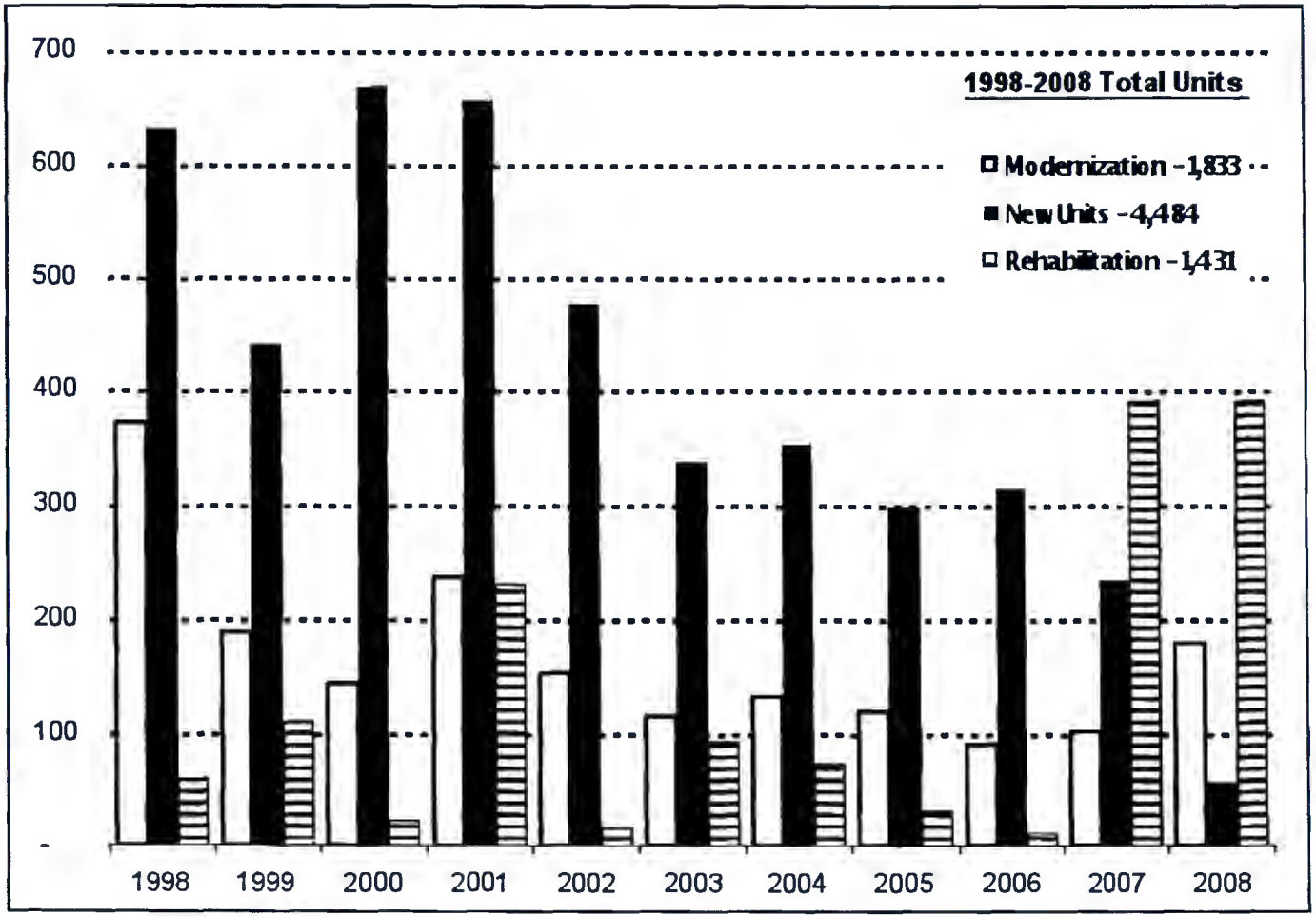


EXHIBIT
C

U. S. Department of Housing and Urban Development

Northern Plains Office of
Native American Programs

Region VIII, Denver
1670 Broadway Street
Denver, Colorado 80202-4801

Phone: 303-672-5465
Fax: 303-672-5003
Web: www.hud.gov

RECEIVED
MAY 3 2013
NHA
EXECUTIVE
OFFICE

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

April 30, 2013

Ms. Aneva J. Yazzie
Chief Executive Officer
Navajo Housing Authority
P.O. Box 4980
Window Rock, AZ 86515

SUBJECT: **Letter of Warning**

Dear Ms. Yazzie:

This letter notifies the Navajo Housing Authority (NHA) that NHA is in violation of the Native American Housing Assistance and Self-Determination Act (NAHASDA) Section 405(b)(1)(A)(iii) because it did not comply with its Indian Housing Plan (IHP) for Program Year (PY) 2012, and has not carried out the planned eligible activities in its PY 2012 IHP in a timely manner in accordance with Section 405(b)(1)(A)(i)(I) of the NAHASDA. This constitutes a formal Letter of Warning (LOW), pursuant to 24 CFR § 1000.530(a)(1).

In reviewing NHA's PY 2012 Annual Performance Report (APR), the Northern Plains Office of Native American Programs (NPONAP) determined that a majority of the program activities identified in NHA's PY 2012 IHP had not been accomplished or had been only partially accomplished. In its PY 2012 IHP, NHA had budgeted $215,898,448 in Indian Housing Block Grant (IHBG) funds for 2012 program year expenditures. However, according to the APR, only $66,625,332 was actually expended during this period, leaving a difference of $149,273,116. In other words, only 31 percent of the planned 2012 expenditures were actually spent. NHA's failure to timely expend the amount of IHBG funds budgeted in its IHP has a direct and substantial negative effect on Navajo tribal members by causing NHA's failure to conduct its planned activities in a timely manner as described in its PY 2012 IHP.

Pattern of Practice – Failure to Timely Expend Funds

Historically, NHA has been slow in implementing its planned activities. Until October 2011, the Southwest Office of Native American Programs (SWONAP) had the lead responsibility for oversight of NHA's IHBG program. As a part of its oversight responsibilities, SWONAP staff provided training and technical assistance to NHA on a regular basis. Notwithstanding SWONAP's program support, NHA continued to show a lack of progress in implementing its affordable housing activities in a timely manner. SWONAP notified NHA of its concerns regarding the lack of program progress in Final Monitoring Reports issued on November 4, 2008, and July 10, 2010. In both of

these reports, SWONAP observed that NHA's inability to expend funds in accordance with its IHP was directly related to a lag in the implementation of eligible activities in a timely manner.

Failure to draw down and expend PY 2012 IHBG funding is not an isolated case on the part of NHA. A review of NHA's Line of Credit Control System (LOCCS) account for the IHBG program indicates that NHA has consistently failed to draw down and expend funds in a timely manner (see below). This egregious pattern of practice has resulted in an enormous unexpended balance of $432,950,182.33 in LOCCS as of April 30, 2013.

Program Year	IHBG Funds Awarded	IHBG Funds Drawn Down	LOCCS Balance (as of October 1)
2000	$88,595,779	$51,127,659	$189,142,067
2001	$94,243,721	$85,810,850	$197,574,938
2002	$94,502,939	$94,092,164	$197,985,713
2003	$92,530,695	$95,616,826	$194,899,582
2004	$88,388,466	$78,621,766	$204,666,282
2005	$84,510,425	$62,353,540	$226,823,167
2006	$86,112,736	$55,525,389	$257,410,514
2007	$89,260,522	$25,351,768	$321,319,268
2008	$74,025,827	$50,834,195	$344,510,900
2009	$84,791,419	$56,498,992	$372,803,327
2010	$94,006,667	$46,931,831	$419,878,163
2011	$88,035,900	$56,554,161	$451,359,902
2012	$90,002,375	$63,929,494	$477,432,783
2013	N/A*	$43,373,359	$434,059,424

*The PY 2013 IHBG, estimated at $88,774,586, has not yet been awarded.

In addition, an analysis of other expenditure information available to NPONAP demonstrates that NHA is significantly behind schedule on construction projects that have, in some cases, been in the pipeline for many years. Enclosed is a spreadsheet that outlines the results of NPONAP's research into the expenditure of IHBG funds as reported on the PY 2011 APR. This spreadsheet includes the percentage of funds that remained unexpended as of September 30, 2011, from each grant awarded prior to PY 2012. Also enclosed are two spreadsheets that identify the percentage of expenditures for a number of construction projects being undertaken by NHA directly, as well as by its sub-recipients. Based on this data, which was taken from the most recently provided project dashboards, NHA has only expended 4 percent of the total amount awarded for activities to be undertaken by sub-recipients and 7 percent for activities to be undertaken directly by NHA during PY 2013.

Additional HUD Technical Assistance to NHA

In an effort to provide additional assistance and resources, HUD enlisted the service of NPONAP, in partnership with SWONAP, to provide technical assistance and oversight as a new approach to address NHA's performance problems. This move was supported by a request by NHA

asking for oversight from NPONAP. In October 2011, NPONAP began providing direct oversight and technical assistance to NHA with regard to its IHBG program.

Very early on, a Tribal Special Assistance (TSA) team was established for NHA that was comprised of key staff from NPONAP, SWONAP, ONAP Headquarters and NHA. During PY 2012, with few exceptions, the TSA team participated in weekly conference calls aimed at discussing important pending and up-coming issues. These calls served to keep both NHA and NPONAP on track with respect to programmatic goals and accomplishments.

In addition to weekly conference calls, NPONAP made a commitment to meet face-to-face with NHA staff as often as possible. These face-to-face meetings took place in Denver, as well as at NHA facilities. The meetings facilitated effective brainstorming on issues or concerns, as well as allowed NPONAP to come to an understanding of the unique or unusual circumstances facing NHA.

During PY 2012, NHA and the TSA team experienced a high–level of collaboration. The TSA team provided technical assistance such as assisting NHA to develop an annual expenditure plan and a PY 2012 Indian Housing Plan, as well as revise business practices, including the process for LOCCS draw downs. Following are examples of specific types of technical assistance that the TSA team provided to NHA:

- **Expenditure Plan** The TSA team identified the reduction of NHA's LOCCS balance as NHA's top priority. NPONAP provided technical assistance towards the development of an expenditure plan for PY 2012, which identified 18 separate programs, including planning and administration. The expenditure plan was designed as a concise reporting tool to highlight the use of IHBG funds for each program area identified in NHA's IHP. This document provided a snapshot of grant expenditures and allowed NHA and NPONAP to effectively identify spending trends as well as target technical assistance to those areas showing a lack of progress. The status of the expenditure plan was regularly discussed on TSA team calls or during face-to-face meetings with NHA.

- **LOCCS** The TSA team worked with NHA to improve its LOCCS draw down system. NPONAP noted that NHA was not making regular LOCCS draw downs of IHBG funding and had a cumbersome process for requesting a draw down. As a result, NHA streamlined its draw down process and began making frequent LOCCS draw downs. NPONAP continues to provide NHA with detailed weekly LOCCS reports that track draw downs.

- **Indian Housing Plan** NPONAP provided extensive technical assistance and training to NHA on the finalization of its PY 2012 IHP, which encompassed the transition of IHBG reporting to total expenditures proposed during a 12-month program year. NPONAP helped NHA identify, describe and quantify all of the housing programs it is currently undertaking with IHBG funding.

However, throughout the year, the TSA team expressed concerns regarding ambitious expenditure amounts in the IHP and the expenditure plan. Notwithstanding the very high level of technical assistance, training and program support the TSA team provided to NHA, NHA did not meet its PY 2012 IHP goals or expenditure plan goals.

Since the beginning of PY 2013, NHA's cooperation has dropped off markedly in its availability for conference calls/meetings, and it has been much less responsive to TSA team requests for information and program actions. For example, please see three letters (enclosed) from NPONAP to NHA dated March 21, 2013, April 4, 2013, and April 16, 2013, to which no response was received from NHA. It is apparent that NHA's pattern of failure to undertake its proposed affordable housing activities and the related failure to draw down LOCCS funds needed to reduce its large unexpended balance continues into PY 2013, where according to the PY 2013 IHP, NHA planned to expend $358,042,018 and has expended only $43,373,358.51 for the first half of their PY.

NHA 2012 Annual Performance Report

Twelve of the 17 planned activities reported on in the APR for PY 2012 are identified below, along with the level of proposed expenditures (as identified in the PY 2012 IHP), actual expenditures, and a brief description of the activity. Based on this analysis, these planned activities for PY 2012 were not substantially accomplished.

Project	Planned Expenditures	Actual Expenditures	Difference
2012-4: Crime Prevention and Safety	$ 2,919,434	$ 407,408	$ 2,512,026
NHA planned to expend $2.9M to enhance security and prevent crime by installing lights, fencing and security cameras, and employ temporary security patrols. NHA reported that only fencing was installed.			
2012-5: Tenant-Based Rental Assistance	$ 920,881	$ 245,220	$675,661
NHA planned to serve 172 households. NHA reported the actual number of households served is 100.			
2012-6: Modernization of 1937 Housing Act units	$ 24,600,000	$ 5,058,028	$ 19,541,972
NHA planned to rehabilitate 246 units. NHA reported the actual number of units rehabbed is 200. Note: Line 1.8 of the APR for this activity describes 156 units were rehabbed, which is inconsistent with the 200 unit total reported elsewhere in the APR.			
2012-7: Rehab of Non-1937 Housing Act Rental units	$ 5,000,000	$ 204	$ 4,999,796
NHA planned to rehabilitate 50 units. NHA reported the actual number of units rehabbed is 0.			

Project	Planned Expenditures	Actual Expenditures	Difference
2012-8: Improvements to Provide Accessibility for Disabled Persons	$ 3,000,000	$ 226,700	$ 2,773,300
NHA planned to rehabilitate 60 units. NHA reported the actual number of units rehabbed is 0.			
2012-9: New Construction of Rental Housing Units	$ 56,400,000	$ 3,646,288	$ 52,753,712
NHA planned to construct 188 units. NHA reported the actual number of units constructed is 30.			
2012-11: New Construction of Homeownership for Non-Low Income	$ 15,000,000	$ 45,988	$ 14,954,012
NHA planned to construct 5 units. NHA reported the actual number of units constructed is 0.			
2012-12: Rental Housing Acquisition	$ 198,000	$ 0	$198,000
NHA planned to acquire 2 units. NHA reported the actual number of units acquired is 0.			
2012-14: Transitional and Group Home Development	$ 4,800,000	$ 2,751,686	$ 2,048,314
NHA planned to construct 47 units. NHA reported the actual number of units construct is 28.			
2012-15: Emergency Shelters	$ 1,300,000	$ 75,244	$ 1,224,756
NHA planned to serve 20 Households. NHA reported the actual number of Households served is 0.			
2012-16: Infrastructure Development	$ 3,736,809	$ 278,247	$ 3,458,562
Note: For approved street and utility projects.			
2012-17: Community Facility/ Office Construction	$ 1,000,000	$ 609,711	$390,289
NHA proposed to expend $1M to construct 4 buildings. NHA reported 1 building constructed.			

This LOW is necessary to prevent the continuance of the performance problems and to mitigate the consequences of the performance problems demonstrated by NHA in its repeated failure to expend its IHBG funds in compliance with its IHPs and to carry out eligible activities it has set out in its IHPs in a timely manner. Although the required corrective actions in this letter pertain to the PY 2012 IHBG, it is clear, based on a review of the levels of expenditures NHA has shown over

the last several years, that this constitutes a pattern of practice resulting in an unacceptable level of unexpended IHBG funds that is still ongoing well into PY 2013.

In its PY 2012 IHP, NHA proposed to carry out the above 12 affordable housing activities during the program year using $118,875,124. Its PY 2012 APR, however, reported that NHA only expended $13,344,724 for these 12 activities. Thus, NPONAP has determined that NHA did not comply with its PY 2012 IHP. As noted above, NHA also reported in its APR that it did not complete 12 projects proposed for the program year. Therefore, NPONAP has also determined that the 12 affordable housing activities were not carried out in a timely manner to substantially accomplish them. To address these identified problems, NHA should provide documentation, to HUD's satisfaction, that shows NHA performed in compliance with its PY 2012 IHP and completed the activities listed above in a timely manner. Otherwise, NPONAP requests that NHA return the funding difference totaling $105,530,400 to HUD.

As a grant recipient, NHA is responsible for ensuring its compliance with all NAHASDA requirements. In accordance with 24 CFR § 1000.530, if NHA fails to address this identified problem, HUD may impose remedies, as prescribed in 24 CFR § 1000.532. Section 1000.532 authorizes HUD to terminate, limit, or reduce grant payments under NHA's current or future grants, and/or provide a replacement tribally designated housing entity for the recipient. HUD may also refer the matter to the Attorney General of the United States with a recommendation that appropriate civit action be instituted.

If NHA does not submit the documentation described above or return the unexpended funds, **within 30 calendar days** from receipt of this letter, HUD will consider taking the necessary actions pursuant to 24 CFR § 1000.532 to enforce this requirement. If HUD proceeds with enforcement, NHA will be provided with an opportunity for an informal meeting. If the issue remains unresolved, HUD may impose any of the remedies listed at 24 C.F.R. § 1000.532. Before imposing remedies, however, HUD will provide NHA with the opportunity for an administrative hearing.

NPONAP looks forward to working with NHA to respond to this matter as soon as possible. If NPONAP may provide you with any assistance, or you have questions on this matter, please contact me at 303-672-5160, or by email Randall.R.Akers@hud.gov.

Sincerely,

Randall R. Akers
Administrator

Enclosures
cc:
President Ben Shelly, Navajo Nation

Edward T. Begay
Chairman, Navajo Housing Authority

Office of Legislative Counsel
Telephone: (928) 871-7166
Fax # (928) 871-7576

Honorable LoRenzo Bates
Speaker
23rd Navajo Nation Council

MEMORANDUM

TO: Chairman Jonathan Hale
23rd Navajo Nation Council Delegate

FROM: C WEST
Carolyn R. West, Attorney
Office of Legislative Counsel

DATE: April 4, 2016

SUBJECT: OLC Service Request Number 16-157-1: An Act Relating to Law and Order, Resources and Development, Naabik'íyáti' Committees and Navajo Nation Council; Recinding CD-82-03 and Designating Navajo Nation Division of Community Development's Community Housing and Infrastructure Department as the Navajo Nation's Tribally Designated Housing Entity

As requested, I prepared the above-reference proposed resolution and associated legislative summary sheet. Based on existing law, the resolution drafted is legally sufficient. However, as with all legislation, the proposed resolution is subject to review by the courts in the event of a challenge. You are encouraged to review the proposed resolution to ensure this is drafted to your satisfaction.

The Office of Legislative Council recommends the appropriate standing committee(s) reviews based on the standing committees powers outlined in 2 N.N.C. §§ 301, 401, 501, 601 and 701. Nevertheless, "the Speaker of the Navajo Nation Council shall introduce [the proposed resolution] into the legislative process by assigning it to the respective oversight committee(s) of the Navajo Nation Council having authority over the matters for proper consideration. 2 N.N.C. § 164(A)(5).

If you are satisfied with the proposed resolution, please sign as "Primary Sponsor" and submit to the Office of Legislative Services where the proposed resolution will be given a tracking number and sent to the Office of the Speaker for assignment.

If the proposed legislation is unacceptable to you, please contact me at the Office of Legislative Counsel and advise me of the changes you would like to make.

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW PUBLICATION

LEGISLATION NO: _0232-16_____ SPONSOR: Jonathan Hale

TITLE: An Action Relating to Law and Order, Resources and Development; Naa'bik'iyati' Committees and the Navajo Nation Council; Rescinding CD-82-03 and Designating Navajo Nation Division of Community Development's Community Housing and Infrastucture Department as the Navajo Nation's Tribally Designated Housing Entity

***Date posted*: July 19, 2016 at 5:10pm**

Digital comments may be e-mailed to comments@navajo-nsn.gov

Written comments may be mailed to:

Executive Director
Office of Legislative Services
P.O. Box 3390
Window Rock, AZ 86515
(928) 871-7590

Comments may be made in the form of chapter resolutions, letters, position papers, etc. Please include your name, position title, address for written comments; a valid e-mail address is required. Anonymous comments will not be included in the Legislation packet.

Please note: This digital copy is being provided for the benefit of the Nav, ajo Nation chapters and public use. Any political use is prohibited. All written comments received become the property of the Navajo Nation and will be forwarded to the assigned Navajo Nation Council standing committee(s) and/or the Navajo Nation Council for review. Any tampering with public records are punishable by Navajo Nation law pursuant to 17 N.N.C. *§374 et. seq.*

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0232-16

SPONSOR: Honorable Jonathan L. Hale

TITLE: An Action Relating to Law and Order, Resources and Development; Naa'bik'iyati' Committees and the Navajo Nation Council; Rescinding CD-82-03 and Designating Navajo Nation Division of Community Development's Community Housing and Infrastucture Department as the Navajo Nation's Tribally Designated Housing Entity.

Posted: July 19, 2016 at 5:10 pm

5 DAY Comment Period Ended: July 24, 2016

Digital Comments received:

Comments Supporting (1)	**1. John I. King; Commander, Iyanbito Veterans**
Comments Opposing	***None***
Inclusive Comments (1)	**1. Aneva J. Yazzie; CEO, Navajo Housing Authority.**

Executive Director
Office of Legislative Services

7/25/2016 10:11am
Date/Time

comment for legislation#232-16

Ruth Allery <spiritleathernlace@hotmail.com>

comments <comments@navajo-nsn.gov>

nizhonispirthorse@msn.com <nizhonispirthorse@msn.com>

NHA doc.docx

July 22, 2016

Please accept my comments for the following Legislation No. 0232-16, sponsored by the Honorable Jonathan Hale:

LEGISLATION NO: _0232-16_____ SPONSOR: Jonathan Hale

TITLE: An Action Relating to Law and Order, Resources and Development; Naa'bik'iyati' Committees and the Navajo Nation Council; Rescinding CD-82-03 and Designating Navajo Nation Division of Community Development's Community Housing and Infrastucture Department as the Navajo Nation's Tribally Designated Housing Entity

COMMENTS:

The proposed Legislation will place the decision making, management, and administration of critical housing need for the Navajo people back into the hands of the Navajo people through Executive direction and services. The NHA has operated as a profit making organization backed by Board of Directors who appear to have not had the best interest of the needy Navajo people in mind and for those whom sorely have critical need for decent, sanitary and safe homes for a period of time.

It is important to make sure there is a well thought out and approved transition plan in place to ensure the current status and plans for the NAHASDA funds and projects are not jeopardized. The NHA, as the current NN Tribal Designated Housing Entity (TDHE), is in a recovery or corrective status that a transition at this time to the NN Community Housing and Infrastructure Department will require thorough and careful planning and ensuring all timelines will be on schedule to minimize further issues or penalties from HUD. The current Administrative Judge decision and pending appeal by NHA will have to carefully weighed into any transition plan.

This proposed transition will also eliminate further discontent and confrontation the NHA has established itself as or made a name for itself of having and continuing and who has been conflicting with its NN Legislative body. The autocratic posture of the NHA leadership have also created unhealthy strains and distrust with its constituents regarding the administration and provision of quality homes for the qualifying and needy Navajo people and Navajo veterans.

The proposed transition should carefully review and consider to retain the existing NHA administrative support and technical staff as subject matter experts to ensure a smooth transition. This also provides a relative effective continuity of existing programs and opportunity for new programs to flourish and succeed.

Change is good! The Navajo people deserve it.

John I. King
Commander, Iyanbito Veterans
P.O. Box 278
Thoreau, NM 87323
505-401-3455
Email: nizhonispirithorse@msn.com

NHA Comments to Legisllation 232-16

Aneva J. Yazzie <ajyazzie@hooghan.org>

comments <comments@navajo-nsn.gov>

Aneva J. Yazzie <ajyazzie@hooghan.org> [illegible]

From

2016 24 NHA Comments on Legislation 232-16 [illegible] Lacks TEHP Study June 2016.docx

Please see NHA comments attached. Thank you,

Aneva J. Yazzie, CEO
Navajo Housing Authority
PO Box 4980
Window Rock, AZ 86515
Phone: 928*871*2602/03
Email: ajyazzie@hooghan.org

Date: July 23, 2016

Comments to Legislation 0232-16 Rescinding CD-82-03 and Transfer TDHE to CHID

The Navajo Housing Authority has reviewed the proposed legislation and provides the following comments related to cited paragraphs in Section Two. Findings:

1. **Paragraph H of Section Two: However, since 2004, Navajo Housing Authority fails to comply with NAHASDA's requirements.**

   NHA agrees that from 2004 to 2007, the NHA was in serious violation of NAHASDA requirements such that a HUD Letter of Warning was issued to NHA in July 2007. However, the Sponsor of legislation 232-16 fails to recognize that as a result of the pre-existing serious protracted nature of the violations, the current NHA administration (which changed in February 2007) closed all of the 2004-2007 violations in January 2011. And in Program Years 2012 and 2013, the NHA had **no** HUD program review findings or stated in another way, the NHA was deemed to be fully compliant with NAHASDA requirements – the first ever feat accomplished in the history of NHA as the largest tribal housing entity in the country. To-date, the most current HUD monitoring review for Program Year 2015 resulted in only one finding -regarding the operation and maintenance of 1937 Act units which is being addressed by NHA Branch of Operations. Additionally, NHA's recent 2015 independent audit released on 06/23/16 is an unqualified opinion for the financial statements review and only two findings were identified under the Single Audit Act for federal awards of which only one related directly to NHA operations and the other was related to its subsidiary component. This profile again reflects very good management and financial management capacity since the administrative turnover in 2007.

2. **Paragraph I of Section Two: In 2009, JJ Clacs & Company conducted the Tribally Designated Housing Entity Feasibility Study. The study assessed the Navajo NAHASDA program and found the Indian Housing Plan is a reactive plan instead of a proactive plan and the review process suffers**

from lack of guidance, inconsistent evaluation and prioritization and conflicts of interest. JJ Clacs & Co., Tribally Designated Housing Entity Feasibility Study (2009), EXHIBIT B.

Legislation 232-16 cites a TDHE study conducted seven years ago in June 2009 by JJ Clacs & Company (see Attachment A). Contrary to the intent of the proposed legislation, the study concluded on page 94 "...it was determined during this study that CHID is not ready to take over the NAHASDA program at this time." In fact, from 2009-2015, approximately $12 million of NAHASDA funds was recaptured by NHA from CHID because of their lack of management capacity. To transfer all of the function of a TDHE to an internal Navajo Nation department will prove detrimental when such department is not knowledgeable of the NAHASDA statute and regulations including other applicable federal programs including the financial system of internal controls for a multi-million dollar operation and the many current legal transactional instruments on-going with private contractors, vendors and sub-recipients. Rather, the Sponsor cites statements regarding the oversight and lack of responsible review of the Indian Housing Plan developed by the TDHE. If this is a basis for determining the transfer of the TDHE, then there is no legitimate basis for such recommendation. There are several responsible layers of review for the IHP each year. The first level of review is the TDHE, then it's the tribal oversight committee- the Resource and Development and then the Office of the President and then HUD. Over the years, the IHP template changed in format beginning in FY 2012; yet, the responsibility for prudent review by the various oversight levels was never brought forward as an issue. If the Sponsor is attempting to state that the IHP instrument is the issue, NHA is always open and willing for a direct dialogue on how to improve its content of addressing the Nations' housing needs but the challenge has always been trying to address the $9 Billion dollar unmet need with very limited IHBG funding when the federal government requires almost one-third of the annual grants to be allocated for operation and maintenance and modernization of 1937 Act units. So funding is limited.

3. **Paragraphs J through Q of Section Two**: [This part comprises of six (6) paragraphs that describe the process of the HUD enforcement process by dates and actions for the issuance of the Letter of Warning, Notice of Intent to Impose Remedies, Informal Meetings, Notice of Impositions of Remedies, Administrative Hearing and Administrative Law Judge Decision.]

   This references the written communication between HUD and NHA for violations cited by HUD and NHA's strong position that there was no violation which ended up in a HUD Administrative Hearing decision. Nonetheless, the HUD Administrative Law Judge upheld the HUD Regional ONAP office determination which was subsequently upheld by the HUD Secretary. The Administrative hearing is an internal process governed by HUD and therefore, this is no surprise when HUD appoints one of its own HUD Administrative Law Judges to conduct a formal hearing followed by a relatively new HUD Secretary that also upheld a major case without truly taking the time to study the facts. These facts need to be understood by all IHP level of authorized reviewers. They need to be fully broken down step by step for the Sponsor and other reviewers to understand how NHA did not violate the law or regulations and HUD needs to be held accountable as well and adhere to its own rules, notices and guidances. Consequently, a final action has NOT been executed by HUD and so $96 million has NOT been returned to HUD to-date. Everyone needs to understand this fact, NO funds have been returned to HUD. Hence, NHA will vigorously defend its position that the HUD agency had no basis for such threat to NHA as the federal appellate court process will demonstrate that NHA has fully complied with NAHASDA statute and regulations including applicable HUD Notices and Guidances.

4. **Paragraph R of Section Two: Navajo Housing Authority's appeal is pending.**

   The single statement in this section is paramount to note as it is a factual statement. NHA did file an appeal to the Ninth Circuit Court of Appeals and the Sponsor is correct that the appeal is now in "pending" status. Therefore, this means that the case has not been adjudicated and yet, the

Sponsor's basis for the legislation on a "pending" matter is very unfair and disingenuous to the Navajo Nation and the NHA as the TDHE. NHA is presumed "guilty" before the case is even completed. NHA is willing to meet with the Sponsor and whomever else so that there is full understanding of this important matter that when the case~~matter~~ is finally decided by a non-biased~~real~~ and impartial J~~j~~udge in the federal court, which ~~it~~ will set major precedence for Indian ~~Country for~~ housing programs in its treatment of IHPs. And so, rather than be victims under the old "~~once again of a~~ divide and conquer" strategy by outsiders, we should stand united because this should be not be a political fight but a fight for our tribal members as ~~nd~~ HUD is disregarding their trust responsibility through their enforcement action.

5. **Paragraph S of Section Two: To prevent the U.S. Department of Housing and Urban Development from potentially exercising their authority to require a replacement TDHE, authorizing the Navajo Nation Community Housing and Infrastructure Department as the Navajo Nation's TDHE is in the Navajo Nation's best interest 24 C.F.R. 1000.542.**

   This is a purely speculative statement with no basis in facts. To make a statement that prevents HUD from "potentially exercising their authority" and to characterize it as a matter in the "best interest of the Navajo Nation" should give serious pause to tribal leadership at every level. The proposed legislation is a very knee-jerk reaction to a matter that has not even completed the legal process. The case should be fully understood and fully adjudicated before there is any contemplation of TDHE replacement. It is very prejudicial and frivolous to conclude that HUD will require replacement of a TDHE when the case against them has not yet been concluded. HUD itself has not even stated that the TDHE replacement would be the appropriate remedy. To enact legislation based on an unknown future outcome is irresponsible. NHA respectfully requests the Sponsor to meet with the NHA officials for an honest dialogue of the issues and the HUD case in order to mutually arrive at a common solution that should be the basis for determining what is in the best interest of the Navajo Nation.

Other Comments:

NHA respectfully requests the Sponsor and Readers to understand the role of a TDHE is not merely to receive funds and dole the funds out to communities, it is more technical and complex than that. NAHASDA funds are not anything like Navajo Nation general funds. This position is also supported by the JJ Clacs study that was done in June 2009 and since that time, no capacity building or transition of CHID was made both organizationally or financially. The NAHASDA funds are not given to Tribes or TDHEs in a lump sum but remains in the US Treasury finance system and is released only when the TDHE needs to immediately pay for work completed or materials supplied or services rendered and supported by invoices or itemized payroll. This process requires an extensive financial management system with strict internal controls that ensure checks and balances for timely funds request and disbursement of federal funds that are audited by HUD and independent auditors and at random by the Office of Inspector General.

More recently, at the request of the Navajo Nation, HUD officials came on site to Window Rock in April 2016 to provide NAHASDA training to the NNC delegates and only 2 delegates were in attendance. Attachment A shows the NAHASDA Training PowerPoint provided by HUD to the delegates. The HUD presentation shows what the TDHE responsibilities entail and the presentation covered regulatory changes, HUD administrative requirements (federal procurement rules, single audits, allowable/allocable cost principles), compliance with NAHASDA statute and regulations including HUD Notices & Guidances, required program policies, program eligibility requirements, HUD income-eligibility limits, treatment of certain non-low income families, essential families, eligible program activities , methods of housing service assistance and program implementation and reporting rules.

Other federal agency rules are also triggered for compliance by a TDHE such as US EPA, US Dept. of Labor, US Dept. of Treasury, US Dept. of Interior, US Veteran Affairs, US Dept. of Justice and US Dept. of Health and Human Services as applicable. When funds are leveraged, this expands to other federal agencies such as US Dept. Agriculture, US Commerce and many more quasi-

public and private sector agencies. This base knowledge ~~based i~~is a key prerequisite in order for a TDHE to be entrusted with the myriad of federal program responsibilities and compliance which cannot occur overnight.

Given these enormous responsibilities of a TDHE, many questions should be asked, some of which immediately are:

- Is CHID ready and able to take on such heavily regulated TDHE responsibilities?
- Is CHID adequately staffed and have a financial management system in place to absorb a multi-million dollar program and ongoing construction work?
- Is CHID ready to provide immediate oversight of Sub-recipients for NAHASDA compliance and report to HUD?

These are a few of the many questions that need answers before such a proposal should be considered. The transfer of operations and responsibilities of the single largest Tribal housing entity in the country to a tribal department should only be considered if it is determined to be more efficient and effective based on a detailed analysis of its full effect and impact from a cost-benefit standpoint.

To do such without a serious detailed analysis and impact is setting up the Navajo Nation for failure. This will lead to major program non-compliance and it is at that point HUD can designate the Navajo Nation as a troubled-agency for non-compliance where HUD can put the housing program into receivership and appoint an independent body to manage the housing program.

Therefore, the NHA Board of Commissioners has passed a Board Resolution NHA-4637-2016 that was passed on July 22, 2016~~as shown in Attachment B~~ which maintains that NHA must remain as the TDHE in the best interest of the Navajo Nation. And furthermore, the Sponsor and the tribal leadership should stand united with NHA in fighting the baseless HUD decision as part of exercising its self-determination and meeting the spirit and intent of executing services in accordance with the NAHASDA statute and regulations.

Respectfully Submitted,

_____/s/_____

Aneva J. Yazzie, CEO

Navajo Housing Authority

Email: ajyazzie@hooghan.org

Phone: 928-871-2602/03

Concurred By:

_____/s/_____ _____

Ervin Chavez, NHA Board Chairman

Attachments:

A- JJ Clacs Study, June 2009
B- NHA Board of Commissioners Resolution NHA-4637-2016

XC: Patterson file

The Navajo Nation

DR. JOE SHIRLEY, JR.
President

BEN SHELLY
Vice President

RECEIVED
SEP 10 2009
LEGAL DEPARTMENT
NHA

MEMORANDUM

TO : Joe Shirley, Jr. President
Office of the President/Vice-President

: Ben Shelly, Vice-President
Office of the President/Vice-President

FROM : _____
Arbin Mitchell, Division Director
Division of Community Development

DATE : July 24, 2009

SUBJECT : Presentation on TDHE Feasibility Study

The Navajo Nation Council by FY'2008 Condition of Appropriation #3, tasked the *"Division of Community Development, Navajo Housing Services Department, Business Unit #108004, to develop a feasibility study for changing the Navajo Nation Tribally Designated Housing Entity (TDHE) from the Navajo Housing Authority to the Navajo Nation, and submit the same as a report to the Transportation and Community Development Committee."* JJ Clacs Consultants were given the contract to conduct the feasibility study and prepare a report.

Your presence is requested to attend a presentation by JJ Clacs Consultants regarding the final draft of the feasibility report. The presentation will be as follows:

DATE : July 30, 2009
TIME : 8:30 a.m.
LOCATION : Education Center, 2nd Floor Conference Room
Window Rock, Arizona

Your attendance will be appreciated. If you have any questions, please contact Mr. Chavez John at extension 6539.

xc: Chrono/File
Chavez John, Acting Department Manager/CHID

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The Navajo Nation

DR. JOE SHIRLEY, JR.
President

BEN SHELLY
Vice President

MEMORANDUM

TO : Patrick Sandoval, Chief of Staff/OPVP

: Cordell Shorty, Contracting Officer/ OCG

: LaTonia Becenti, Attorney/DOJ

: Mark Grant, Controller/OOC

: Charles Long, Office of the Speaker

FROM : _____
Arbin Mitchell, Division Director
Division of Community Development

DATE : July 24, 2009

SUBJECT : Presentation on TDHE Feasibility Study

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xc: Chrono/File
Chavez John, Acting Department Manager/CHID

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A Southwest Office of Native American Program's acting director letter to the President of Navajo Nation, Honorable Joe Shirley, Jr. date April 4, 2008

B Resolution 286-9 by the Navajo Housing Authority Board of Commissioners dated March 6, 1997.

C Letter from the Navajo Nation President, Milton Bluehouse, Sr. to the United States Department of Housing and Urban Development informing the Department that Navajo Housing Authority would be the TDHE

D Resolutions from Government Services Committee (October 2003), Transportation and Community Development (October 2003, and the Navajo Nation Council (December 2003)

E SWONAP issued an amended Letter of Warning

F SWONAP's acting director letter to the Ms. Aneva J. Yazzie, CEO, Navajo Housing Authority date November 3, 2008

G List of Sub-Recipients 1998-2007

H Community Housing and Infrastructure Department Organizational Chart

Acronyms

APR	Annual Performance Report
ARRA	American Recovery and Reinvestment Act of 2009
BIA	Bureau of Indian Affairs
CDBG	Community Development Block Grant
CFR	Code of Federal Regulations
CHID	Community Housing and Infrastructure Department
DOE	Department of Energy
GSC	Government Services Committee
HIP	Housing Improvement Program
HUD	Housing and Urban Development
IGR	Inter-Governmental Relations Committee
IHP	Indian Housing Plan
IHS	Indian Health Services
IHBG	Indian Housing Block Grant
LOW	Letter of Warning
MOA	Memorandum of Agreement
NAHASDA	Native American Housing Administration & Self Determination Act
NHA	Navajo Housing Authority
NTUA	Navajo Tribal Utility Authority
OIG	Office of Inspector General
ONAP	Office of Native American Program
OMB	Office of Management and Budget
SWONAP	Southwest Office of Native Americans Program
TCDC	Transportation and Community Development Committee
TDHE	Tribally Designated Housing Entity
USDA	United States Department of Agriculture

EXECUTIVE SUMMARY

This report provides the Tribally Designated Housing Entity (TDHE) Feasibility Study undertaken by JJ Clacs & Company for the Navajo Nation Division of Community Development (the Study).

The Study was requested as a result of certain findings made by the Southwest Office of Native American Programs (SWONAP), a division of U.S. Department of Housing and Urban Development (hereinafter HUD). The findings related to the Navajo Nation's use of funds under the *Native American Housing Assistance & Self Determination Act of 1996* (NAHASDA).

Although the Navajo Nation is the grant beneficiary of NAHASDA funds, the funds are transmitted directly to the Navajo Housing Authority (NHA) because the Navajo Nation has designated NHA as the TDHE in the current structure. As the TDHE, the Navajo NHA is primarily responsible for administration of the NAHASDA program and funds, including designating funds for specific projects through its Sub-Recipient Program.

The findings from SWONAP included, among others, that the Navajo Nation was not in compliance with certain monitoring requirements of NAHASDA and that the Navajo Housing Authority (as the TDHE and administrator of the NAHSADA funds) was slow to correct certain issues. Other concerns noted regarding NHA were in the areas of policies/procedures, lack of execution or enforcement of guidelines, and administrative capacity.

Because of these concerns, the Study was implemented to determine the feasibility of the Navajo Nation Community Housing and Infrastructure Department (CHID) taking over the management of the federal funds received under the NAHASDA and removing the NHA as the TDHE.

For this Study, the consultants used traditional professional study methods. Working from records from the Navajo Nation, NHA, CHID, NHA Sub-Recipients, HUD (including SWONAP reports), and the internet, consultants captured important data for review and analysis. The consultants also conducted interviews in person and over the phone and held focus groups to provide additional information and insights.

Part I of the Study outlines the general history of Indian housing and the adoption of NAHASDA. As stated in Part I, NAHASDA was enacted in 1996 and was designed to address and reform the housing crisis in Indian country by allowing tribes greater flexibility in designing their housing programs. NAHASDA also allowed tribes to designate a TDHE to administer each tribe's housing plan. The purpose of the TDHE was, among others, to increase financing opportunities and provide direct funds to the TDHE to enable them to put the funds to work quickly. Part I also includes the history leading to the designation of NHA as the TDHE as well as the Navajo law pertaining to NHA.

Part II of the Study discusses the current structure utilized by the Navajo Nation with respect to the administration of NAHASDA funds for the Navajo Nation and provides an in-depth assessment of the Navajo Nation NAHASDA program.

As discussed further in this section, consultants concluded that the housing needs of the Navajo Nation continue to remain unmet and the situation does not appear to have improved since the inception of NAHASDA. In fact, from 1998 to 2008, NHA spent a total of $661,141,137.17 and yet only 2,172 units have been built for the benefit of Navajo families. Meanwhile, despite the increasing needs, thirty-two percent (32%) of the total award from 1998 to 2008 ($1,002,627,065) remained unspent.

The Study further revealed that although NHA has undoubtedly worked hard under its new leadership to try to regain the trust and respect since the findings by SWONAP, support of NHA is inconsistent, especially among various Sub-Recipients of NAHASDA grants. In addition, while NHA seems to be doing an adequate job of managing current housing stock, there is increasing frustration with the past practices and especially of the current

Part III of the Study is an assessment of CHID to determine whether CHID has the capacity to manage, implement and oversee the federal funds received under the NAHASDA. As outlined in this section, the consultants concluded that CHID was not adequately prepared to undertake this task. While CHID is concerned about the housing situation and is enthusiastic about improving housing on the Navajo Nation, CHID's current administrative capacity could not meet the demands required to properly administer the NAHASDA program. However, it is noted that with further capacity building, CHID may develop the capacity to administer the NAHASDA program in the future.

Part IV of the Study sets forth the analysis of alternatives for administration of the NAHASDA. moratorium on funds for construction projects.

The following alternatives are discussed: (1) CHID is designated as administrator (2) NHA continues serving as the TDHE; (3) Navajo Nation becomes the direct recipient of the NAHASDA funds and creates a Division of Housing; and (4) create a new TDHE..

Part V of the Study outlines specific Recommendations and Considerations. The Study finds that because NHA seems to have success with managing the current housing stock, NHA's mission could be narrowed to the housing stock function, with more specific goals established for housing management and completing conveyances by a specific date.

The findings of the Study also lead the consultants to recommend that a new concept be developed and put into place such that more attention is placed on Master Planning across the Navajo Nation, more involvement in and oversight of action plans, and streamlining operations such that more homes are built in an efficient and effective manner. Under this concept, a new entity would be established for concentration on grants management and oversight, including the use of a professional Board of Directors to provide much needed direction in specified areas of

expertise among the membership. Further, it is recommended that the Navajo Nation more closely monitor the operations of the housing entity with the President of the Navajo Nation serving as a non-voting ex-officio member of the Board of Directors.

As further outlined in Part V, the consultants also make specific recommendations related to two other major initiatives designed to improve the housing situation across the Nation. First the consultants recommend establishment of a bank on the Navajo Nation that will have a strong mortgage lending function. Next, of equal importance, the consultants recommend all interested parties come together to resolve the land issues including land withdrawal expedited methods and grazing permit issues resolution.

The Study concludes that appropriate legislation and business processes need to be established to lay the groundwork for meaningful housing initiatives and strongly recommends a specific course of action. Without such action, the housing situation on the Navajo Nation will continue to languish regardless of the organizational or board and oversight structures.

INTRODUCTION

Background

The Navajo Nation is a federally recognized Indian tribe that benefits from being a sovereign nation. As a federally recognized Indian tribe, the Navajo Nation is the beneficiary of housing funds made available through NAHASDA, the Navajo Nation has the authority to either administer the NAHASDA program itself through one of its in-house departments or delegate administrative duties to an external organization as the TDHE. Upon passage of NAHASDA and later receiving the allocation of Indian Housing Block Grant (IHBG) funding in 1998, the Navajo Nation selected the NHA as the TDHE. As the grant beneficiary, however, the Navajo Nation is obligated to oversee the TDHE's administration of the NAHASDA program to ensure that the funds are appropriately managed and that the Navajo Nation can provide the best possible housing services to its people.

After being awarded $1 Billion in IHBG funds over an 11-year period resulting in only twenty-two hundred homes (approximately) being built, as well as other concerns, the Navajo Nation determined there was a need to assess the NAHASDA program. The need for the assessment was further highlighted as a result of the issuance of a letter addressed directly to the Navajo Nation from SWONAP, a division of HUD. The letter pointed to several findings over the years that were never corrected. Of major relevance here is SWONAP's finding that as the grant beneficiary, the Navajo Nation was not in compliance with the NAHASDA monitoring requirements.

Impetus for Study

On April 4, 2005, SWONAP's acting director of its Grants Evaluation Division sent a letter to the President of Navajo Nation, Honorable Joe Shirley, Jr. **(Exhibit A)**, informing him of the status of the findings contained in the following three reports:

- Monitoring Review Report Issued March 4, 2005
- Audit Report Number 04AZ0281 for the Year Ended September 20, 2004
- Audit Report Number 06AZ0281 for the Year Ended September 30, 2006

One of these, Finding No. 5, originated from the Monitoring Review Report Issued March 4, 2005.

> The grant beneficiary is responsible for monitoring programmatic and compliance requirements of the Indian Housing Plan (IHP) and NAHASDA by requiring the TDHE to prepare periodic progress reports including the annual compliance assessment, performance and audit reports. Although monitoring activities are being conducted and reporting is required by the recipient, the activities appear to be limited to specific NAHASDA activities and a comprehensive annual compliance assessment was not identified during the monitoring review. The

> Nation is not in compliance with the monitoring requirements of 24 CFR §1000.502(b).

To address this deficiency, the SWONAP recommended that the Nation submit to them:

> A statement of confirmation from the President, Director, or Chairperson of the applicable Navajo Nation office or committee confirming that all of the NAHASDA recipients' activities are being monitored for programmatic and compliance requirements of the IHP and NAHASDA through the receipt of an annual compliance assessment from NHA in accordance with Section 403(b) of NAHASDA.

As a corrective action for Finding No. 5, the Navajo Nation Council issued a Condition of Appropriation:

> The Division of Community, Navajo Housing Services Department, Business Unit #108004, will by the end of the first quarter of Fiscal Year 2008 develop a feasibility study for changing the Navajo Nation TDHE from the NHA to the Navajo Nation, and submit the same as a report to the Transportation and Community Development Committee (Resolution C8-31-07).

Concurrent to the Nation's issuance of the Condition of Appropriation, the Navajo Nation Division of Community Development made some organizational changes. The Navajo Housing Services Department and the Community Development Block Grant (CDBG) program were consolidated to form CHID.

The CHID department was subsequently responsible for completing the feasibility study. Originally intended to be completed in Fiscal Year 2008, the Nation extended the timeline to accommodate the project's increasing complexity and assess the many administrative layers of the Navajo NAHASDA program including additional time to meet with key stakeholders including CHID, Division of Community Development, NHA, Sub-Recipients, Transportation & Community Development Committee and Government Services Committee.

Tasks to Complete Study

The study includes a total of five major tasks. The first item shown below was designed to provide NAHASDA training for CHID staff and bring all personnel up to date on the current status of the IHBG program and the Nation's IHP. Tasks 2–5 are integral to completing the feasibility study reported herein:

1. Overview of Federal and Navajo Nation Housing Regulations
   - Consultants researched and interpreted HUD and Navajo Nation housing regulations and provided a summary narrative report as part of a workshop presented to CHID personnel
2. Assessment of NAHASDA related housing services on the Navajo Nation

- Consultants analyzed the current IHP, how it is developed, who is involved, processes formulated, funds distributed, how monitoring occurs, how success is monitored and reported, audit results
- Consultants identified issues/concerns of the housing providers (Sub-Recipients)
- Consultants ascertained ideas of where the Navajo Nation wants to be in the future

3. Capacity Assessment on Community Housing & Infrastructure Department
   - Consultants assessed CHID for potential administration and management of housing funds and execution of housing programs
4. Analysis of Alternatives for Administration of NAHASDA Program
   - Consultants explored alternative scenarios, in particular those options that surfaced from the key constituents with interests in Navajo housing and based on the data collected (i.e. HUD audits and monitoring reports, findings, IHP, and APR)
   - Consultants collected data from the various sources to assure the best, most accurate information was assessed and integrated into the alternatives presented
5. Conclusions & Recommendations
   - Consultants reviewed and assessed the captured data; they assessed what has worked and what has not and then developed conclusions and recommendations

Methodology

The study is based on both quantitative and qualitative data. The consultants collected primary and secondary data from the following sources: Navajo Nation Records, NHA, CHID, Sub-Recipients, SWONAP; Transportation and Community Development Committee, and the Internet.

Secondary Research

Consultants gathered documents and information from various sources including the Navajo Nation, NHA, CHID, SWONAP, among other sources. Among the numerous volumes and items reviewed and analyzed are the following:

- Indian Housing Plans – 1998 through 2008;
- 2007 Annual Performance Reports;
- 2008 Annual Performance Reports;

- Navajo Nation's Housing Ordinance & Amendments (including the Housing Ordinance establishing NHA);
- Navajo Nation Council Resolutions;
- NAHASDA statutes and regulations;
- HUD Monitoring Review Reports and Audit Report of NHA;
- Office of Inspector General (OIG) Audit;
- Navajo Nation CDBG Annual Reports;
- Navajo Nation documents; and,
- Sub-Recipient or Navajo Nation Department data.

Further, when possible during site visits, the consultants reviewed documents made available or requested at that time such as strategic plans, process documents, other Navajo Nation policies and regulations, HUD reports, and similar.

Primary Research

In addition to a review of the secondary materials stated above, the consultants also conducted primary research through the use of:

- Focus Groups;
- Telephone or In-Person Interviews; and
- Capacity Assessment.

Focus Groups

The consultants conducted two focus group meetings to gain an understanding of the organizations, their missions, and operations and to identify key subject issues, needs and ideas. These focus groups were held at the offices of NHA and CHID.

Topics discussed during the focus group meetings were wide-ranging and relevant to this study. In addition, the following topics were explored further during each of the focus group meetings:

- History – general overview of the organization's history (significant dates, events, occurrences, etc.);
- Organizational Structure – current organizational structure, background, etc.
- Strategic Plan – highlights of planning process, what is the plan, how is it executed; what are the supporting goals/objectives;
- Metrics – what measurements are used to track successes regarding goals/objectives;
- Processes – what is the process for obligating NAHASDA Funds – incoming process, outflow process;
- Issues – are there any issues or concerns;

- Housing Needs – describe the unmet housing needs throughout the Navajo Nation and plans for resolving; and,
- Future – what ideas/concepts/issues have surfaced regarding the future of administering NAHASDA activities on the Navajo Nation.

In-Person Interviews and Teleconferences

In-person interviews or teleconferences were held with NAHASDA Sub-Recipients listed in the 2006–2007 Indian Housing Plans. Of the members listed in those plans, six out of seven were interviewed individually. The discussions were wide-ranging, relevant, and followed the same general format as the agenda shown above.

CHID Capacity Assessment

To assure that standardized data collection was adhered to, consultants followed housing rules and regulations when developing the CHID capacity assessment. The assessment was developed based on HUD's guidelines (PIH 99-32) for determination of recipients' administrative capacity to undertake the IHBG program in accordance with regulations at 24 CFR Part 1000. Section 1000.6 provides that IHBG recipients must have the administrative capacity to undertake affordable housing activities. This capacity includes the existence of adequate systems of internal control necessary to administer these activities effectively without waste, fraud, or mismanagement.

Thus, the assessment focused on collecting information pertaining to administrative capacity in the following areas:

- Existence of an appropriate organizational structure;
- Experienced employees;
- History of satisfactory performance;
- Compliance with previous awards;
- Financial stability;
- Development and operating policies and systems; and
- Audits.

In general, the basic requirements of 24 CFR §1000.26 and related systems were assessed in making a determination the administrative capacity CHID to undertake the IHBG program.

Accumulating/Assessing Data

Data collection methods included review of records, observation, and interviews with key informants. The data collection instruments included interview guides and observation guides. Data collected from the primary and secondary sources were reviewed, analyzed and summarized to build the findings and recommendations in this report.

PART I
OVERVIEW OF INDIAN HOUSING LAWS AND REGULATIONS

Part I of the Study outlines the general history of Indian housing and the adoption of NAHASDA. The roles and responsibilities under NAHASDA are also presented. Part I also includes the history leading to the designation of NHA as the TDHE and Navajo law pertaining to NHA.

1 Overview of Indian Housing

The U.S. Housing Act of 1937 was created after the Depression era of the 1930s. At that time, Congress decided that low-income people were entitled to decent, safe and sanitary housing and believed building houses would address unemployment and substandard housing. The original program focused on rentals and primarily served people in large cities.

Although the Act, as amended, provided for public housing rental programs, it was not until 1961 that the Public Housing Administration issued legal opinions that Indians living on reservations and in other Indian areas were eligible to participate in the low-rent housing programs and could establish their own Mutual Help Self-Help programs. The opinions of Public Housing Administration paved the way for the development of Indian Housing Authorities, which were considered to be the Indian counterpart of Public Housing Administration.

In 1961, the Oglala Sioux formed the first Indian Housing Authority. The Navajo Nation later in 1963 established the NHA, and in 1964, the San Carlos Apache started the first Mutual Help Self-Help project within their community. Because these programs were based on policies, rules and laws formulated for the Public Housing Program, these Nations soon discovered that although Public Housing Administration concepts facilitated needed housing in Indian country, the Federal public housing requirements did not fit the needs of Indian communities.

Consequently, in 1988, Congress passed the *Indian Housing Act*, which formally separated the Indian housing program and public housing, and provided the impetus for separate Indian housing regulations and handbooks. In fiscal year 1990, HUD published the interim consolidated Indian housing regulations for the first time.

Depending on their status and location, the Indian Housing Act allowed tribes to organize an Indian Housing Authority under either tribal or state law. Once established, an Indian Housing Authority was responsible for developing and managing assisted housing units as authorized under the *U.S. Housing Act of 1937*. Typically, an Indian Housing Authority is operated by a board of commissioners made up of five or more members that are generally selected by the tribal governing body. Most selections are by appointment while some are elected. An Executive Director is hired by the Board to manage the day-to-day affairs of the Indian Housing Authority.

Despite the efforts of the newly created Tribal housing authorities, Indian housing needs were still not being met. According to the 1996 *Assessment of American Indian Housing Needs and Programs: Final Report*:

> This federal assistance provided much needed housing relief in Indian country but it was far too little. By the end of 1993, nearly 100,000 reservation housing units had been funded by HUD. But notwithstanding these advances, in 1996 HUD estimated that to serve the need of Indian country that some 50,000 new homes still needed to be built, some 16,000 existing homes needed to be replaced, and another 40,000 existing homes needed to be renovated. This 1996 report demonstrated that Indian people in Indian country live in substandard housing without the adequate room, kitchen facilities, and sanitary services at a rate far, far exceeding that suffered by Americans living in off-reservation locations.

Congress responded to the 1996 HUD report and to the increasing need for housing in Indian country by enacting NAHASDA, a program designed to allow tribes to charter their own course and exercise their rights to self-governance in developing housing programs to fit the needs of the tribe. This legislation recognized that each tribe is different with a different set of needs and priorities and importantly, NAHASDA allowed and encouraged tribes, to exercise self-governance in using the NAHASDA funds. In fact, self-governance was a key concept in the development of NAHASDA. Congress funded the Act the first year by appropriating $600 million far exceeding the Clinton Administration's request for only $485 million (U.S. HUD, http://papers.ssrn.com/sol3/papers.cfm? abstract_id =1355237, accessed June 1, 2009).

2 Implementation of NAHASDA

The *Native American Housing Assistance and Self-Determination Act of 1996* (25 U.S.C. 4101 et seq.) (Public Law 104-330) is designed to provide federal assistance for Indian tribes in a manner that recognizes the right of tribal self-governance. Since its initial passage, NAHASDA authorization has expired and has been reauthorized twice. NAHASDA is currently authorized through 2013 (Pub. L. 110-411, approved October 14, 2008) (*2008 Reauthorization Act*). The regulations supplementing the statutory requirements of NAHASDA are located in part 1000, Title 24 of the Code of Federal Regulations. In accordance with Section 106 of NAHASDA, HUD developed the regulations with active tribal participation and using the procedures of the *Negotiated Rulemaking Act of 1990* (5 U.S.C. 561-570).

A fundamental point underlying the passage of NAHASDA is that tribes themselves need to determine the best ways to meet the housing needs of its tribal members. Consistent with that approach, NAHASDA is designed to be flexible and encourages tribes to determine their needs and priorities.

As a starting point, it is important to recognize that NAHASDA effectively changed the way that housing assistance is provided to Native Americans. One of the most significant changes was to eliminate several separate assistance programs and replace them with a single block grant program known as the IHBG Program. Under the IHBG Program, HUD provides financial assistance to eligible Indian tribes for affordable housing activities. The amount of assistance made available to each Indian tribe is determined using a formula comprised of two components:

- the statutory requirement and practical necessity to maintain a tribe's current existing housing stock built under the *U.S. Housing Act of 1937*, as amended; and,
- the need for additional low-income housing in the tribe's service area.

Based on the amount of funding appropriated annually for the IHBG Program, HUD calculates the annual grant for each Indian tribe and provides this information to the Indian tribes. Under the IHBG Program, tribes are required to prepare and submit an IHP to HUD which outlines the housing needs and projects the tribe intends to fund. One of the best features of NAHASDA is that tribes, not the federal government, determine housing priorities and needs and select the projects that will be undertaken in the coming year. If the IHP is found to be in compliance with statutory and regulatory requirements, the grant is made to the tribe. The IHBG Program is designed to offer maximum flexibility to tribes to design, implement and administer their own unique housing program consistent with the principles of self-governance.

Under NAHASDA, tribes can receive funds directly or through a TDHE. As originally conceived, tribes could authorize the TDHE to implement the IHP and the TDHE would directly receive the NAHASDA funds. The purpose of the TDHEs was to give tribes flexibility and allow tribes to use TDHEs to leverage federal funds to secure private capital for development activity. Because the NAHASDA funds go directly to the TDHE, tribes can reduce the time it takes to construct or renovate development projects by allowing the TDHE to contract directly with financing agencies and outside developers, as needed.

Section 4(22) of NAHASDA defines TDHE as:

(A) Existing Indian Housing Authority's - With respect to any Indian tribe that has not taken action under subparagraph (B), and for which an Indian housing authority-

(i) was established for purposes of the *U.S. Housing Act of 1937* before the date of the enactment of this Act that meets the requirements under the *U.S. Housing Act of 1937*,

(ii) is acting upon such date of enactment as the Indian housing authority for the tribe, and

(iii) is not an Indian tribe for purposes of this Act, the terms mean such Indian housing authority.

(B) Other Entities - With respect to any Indian tribe that, pursuant to this Act, authorizes an entity other than the tribal government to receive grant amounts and provide assistance under this Act for affordable housing for Indians, which entity is established-

(i) by exercise of the power of self-government of one or more Indian tribes independent of State law, or

(ii) by operation of State law providing specifically for housing authorities or housing entities for Indians, including regional housing authorities in the State of Alaska, the terms mean such entity.

(C) Establishment - A tribally designated housing entity may be authorized or established by one or more Indian tribes to act on behalf of each such tribe authorizing or establishing the housing entity.

Under 24 CFR §1000.206, a TDHE is designated: (1) by a resolution of the Indian tribe to be served; or (2) when such authority has been delegated by an Indian tribe's governing body to a tribal committee(s), by resolution or other written form used by such committee(s) to memorialize the decisions of that body, if applicable.

In addition to the IBHG Program and the provisions allowing for creation of TDHEs, NAHASDA provides additional support to tribes in the form of federal loan guarantees and technical assistance:

Federal Loan Guarantees. Title VI of NAHASDA authorizes federal guarantees for financing of certain tribal activities (Title VI Loan Guarantee Program). Under the Title VI Loan Guarantee Program, HUD guarantees notes and other obligations issued by Indian tribes or TDHEs, for the purposes of financing the eligible activities specified in NAHASDA. A Federal guarantee is a pledge by the U.S. Government to repay all or a portion of the unpaid principal balance and accrued interest for an obligation by a tribe or TDHE to a lender after a default under the terms of the repayment agreement.

Using the Title VI program, the tribe or TDHE leverages IHBG funds to finance affordable housing activities today by pledging future grant funds as security for the repayment of the guaranteed obligation. A private lender or investor provides the financing, and HUD provides the guarantee to the lender or investor. The full faith and credit of the United States is pledged to the repayment of ninety-five percent (95%) of the unpaid principal balance and accrued interest. Lenders or investors assume a five percent (5%) risk.

The tribe or TDHE repays the obligation; however, when a tribe or TDHE fails to repay the debt and a default is declared, HUD honors the guarantee and will seek reimbursement from the tribe's or TDHE's future IHBG funds.

Technical Assistance. A portion of the total annual IHBG appropriation is specifically set aside for HUD training and technical assistance. Training and technical assistance may include inspection of Indian housing units, contract expertise, and training and technical assistance to assist in the oversight and management of Indian housing or tenant-based assistance. It may also include training and technical assistance for Tribal and TDHE staff, residents and HUD Office of Native American Program (ONAP) staff, resident surveys, and data collection and analysis. Technical assistance is also provided through the National American Indian Housing Council (NAIHC). The NAIHC program is at no cost to tribes/TDHE's that are recipients of the IHBG.

3 Roles and Responsibilities Under NAHASDA

The roles and responsibilities under NAHASDA are further outlined and discussed below. Fundamentally, the laws and regulations indicate that HUD maintains a primary role in overseeing NAHASDA activities; the tribe is the grant recipient. As mentioned earlier, tribes have the authority to either administer the NAHASDA program itself through one of its in-house departments or designate a TDHE. If a tribe designates a TDHE, the tribe becomes the grant beneficiary with oversight responsibilities and the TDHE is responsible for implementation of NAHASDA.

With reference to the Navajo Nation, HUD oversees NAHASDA, the Navajo Nation is the grant beneficiary, and the Navajo Nation has designated NHA as the TDHE. As the grant beneficiary, therefore, the Navajo Nation is responsible for monitoring the activities of NHA as the TDHE.

Additional discussion of these key points is provided below.

3.1 Regulatory Agency

HUD's responsibility is to ensure that federal funds are spent wisely. HUD is generally responsible for oversight of NAHASDA. HUD has the authority to make grants on behalf of the Indian tribes to carry out affordable housing activities based on the IHP submitted by the tribe. After the IHP is submitted to HUD, HUD reviews it for compliance and approves or disapproves the IHP. HUD also conducts annual monitoring audits and financial audits. In addition, HUD may provide technical assistance and guidance to tribes.

To aid HUD in its responsibilities, HUD set up the Office of Native American Program (ONAP) to assist with implementation and monitoring of NAHASDA activities. The Southwest Office of Native American Program (SWONAP) serves the Navajo Nation among other tribes. SWONAP assists HUD with its oversight of NAHASDA activities and is responsible for ensuring compliance with NAHASDA regulations.

IHBG recipients are responsible for the design and implementation of housing assistance programs that will meet housing assistance goals and comply with Sections 403(c) and 405 of the NAHASDA statue and the implementing regulations at 24 CFR 1000.524.

3.2 Grant Beneficiary

The tribe (in this case the Navajo Nation) is the grant beneficiary. As such the tribe can receive funding directly or authorize a TDHE to receive the grant funds. As discussed in Section 4 of this Study, the Navajo Nation has designated NHA as the TDHE. In this case, the tribe remains the grant beneficiary and is responsible for ensuring the TDHE (the NHA) complies with all NAHASDA requirements including the design and implementation of housing assistance programs that will meet housing assistance goals and comply with Sections 403(c) and 405 of the NAHASDA statue and the implementing regulations at 24 CFR §1000.524.

3.3 TDHE

The primary role of the TDHE is to prepare and implement the IHP in accordance with NAHASDA regulations. As part of its implementation strategy, NHA implemented a Sub-Recipient program which allowed NHA to award NAHASDA funds to Sub-Recipients, also referred to as housing providers. A Sub-Recipient is a public or private non-profit agency or organization that applies for and receives IHBG funds from NHA to undertake agreed-upon, eligible housing activities. In order to receive funding, Sub-Recipients must compete with other potential Sub-Recipients by way of competitive proposals. Housing activities sponsored by Sub-Recipients are wide ranging but must meet all the requirements of NAHASDA.

An important responsibility of NHA, as the TDHE, is to ensure that all of its Sub-Recipients comply with all NAHASDA program requirements. Because Sub-Recipients are not subject to direct HUD oversight, there is a greater risk that their activities may not be compliant. To better ensure compliance, the NHA Grants Management Office was established in 2002 to review and monitor Sub-Recipient grant activities. Monitoring Sub-Recipient activities normally occur throughout the year and may take various forms, such as reporting (reviewing financial and performance reports submitted by the Sub-Recipient); site visits (performing site visits at the Sub-Recipient to review financial and programmatic records and observe operations); and contacts (regular contacts and progress meetings with Sub-Recipients concerning program activities).

4 Navajo Housing Legal Structure

Section 4 specifically discusses the legal structure that created the Navajo Nation's Housing Program, focusing on the establishment of the NHA and the legal process leading to its designation as the TDHE for the Navajo Nation.

4.1 History Regarding the Appointment of NHA as the TDHE

With the enactment of NAHASDA in 1996, the Navajo Nation was faced with many decisions regarding compliance with the new act. Starting in 1997, NHA requested, pursuant to resolution 286-9 by the NHA Board of Commissioners **(Exhibit B)**, that the Navajo Nation designate NHA as the Navajo Nation's TDHE and delegate NHA the authority to submit housing plans required under NAHASDA.

In 1997, after a series of discussions, the Navajo Nation "designated" NHA as its TDHE pursuant to the Memorandum of Agreement and Support of the Joint Committees of the Navajo Nation Council certified on March 14, 1997 (the "MOA"). The MOA provided that NHA would act as the TDHE for "year one under NAHASDA" with the authority to submit housing plans on behalf of the Navajo Nation without further tribal review.

Pursuant to the MOA, the Joint Committee directed NHA to conduct its activities in accordance with its Plan of Operation in NHA Code and further provided that the NAHASDA work group (consisting of representatives from NHA, the Division of Community Development, the Division of Economic Development, the Division of Human Resources, Veterans Affairs Department and Department of Personnel Management, Navajo Partnership for Housing, the Division of Education's Department of Head Start, the Office of Navajo Government Development, the Government Services Committee and the Transportation and Community Development Committee) would meet periodically to evaluate the housing plans and make necessary amendments.

In 1998, NHA continued to act as the TDHE as evidenced by a letter sent from the Navajo Nation President, Milton Bluehouse, Sr. to HUD informing the Department that NHA would be the TDHE "until such time as the Navajo Nation Council's appropriate standing committees take formal action to re-designate a TDHE." The letter stated that the Navajo Nation was to start the process to formally appoint a TDHE, suggesting that the "appointment" of NHA as the TDHE was temporary. A copy of the letter is included in **Exhibit C**.

From 1998 until 2003, it appears that NHA continued as the TDHE despite the temporary nature of the appointment. During this time, it is suspected that designated committees and working groups attempted to gather information to determine whether NHA should be formally designated as the TDHE.

In 2003, Government Services Committee and the Transportation and Community Development Committee recommended approval of NHA as the TDHE. Notably, the Intergovernmental Relations Committee disapproved of a resolution to recommend to the Tribal Council that it appoint NHA as the TDHE. Copies of resolutions from all three committees are included in **Exhibit D.**

In December 2003, the Navajo Nation Tribal Council adopted Resolution CD-82-03 (the "Resolution") formally designating NHA as the TDHE for the Navajo Nation. The Resolution acknowledged that the Navajo Nation had not formally designated NHA as the TDHE for the Navajo Nation but that NHA had been acting as the TDHE for the Navajo Nation by default.

4.2 Navajo Nation Code Title 6, Subchapter 5 – Navajo Housing Authority

It is important to recognize that NHA is a creature of Navajo law and is subject to specific laws related to its operation. The Navajo Tribal Council authorized the establishment of the NHA in 1963 through a resolution (ACJN-85-63, June 11, 1963). Pursuant to the resolution, the Navajo Nation Council adopted Title 6, Subchapter 5 of the Navajo Nation Code (the NHA Code) which establishes the purposes, powers and duties of NHA. The NHA Code provides the legal framework for the operation of NHA. The NHA Code has been amended three times since its adoption, most recently in July of 2005.

Section 603 of the NHA Code sets forth the reasons and need for the establishment of NHA. In summary, NHA was created because the Tribal Council recognized that unsanitary, unsafe, and overcrowded dwellings existed across the Navajo Nation and that there was a shortage of safe affordable rental homes. Section 603 (E) of the NHA Code also acknowledged that residential construction activity and a supply of acceptable housing are important factors to general economic activity and that the establishment of NHA would make possible a more stable and larger volume of residential construction housing supply which would assist in achieving full employment. This provision was augmented by an amendment to the NHA Code in 2005 designed to stress the importance of job creation. Specifically, Section 603(F) was added to expressly address job creation:

> [It is declared] [t]hat economic development activities in related housing fields will aid in creating employment opportunities within or near the Navajo Nation, assist in fostering a viable local economy and encourage self-sufficiency and self-reliance for the general benefit of the Navajo Nation.

Thus, employment and the creation of jobs within or near the Navajo Nation were recognized as an important consideration in the establishment of NHA and was further emphasized in 2005.

Section 604 of the NHA Code defines the purposes of NHA as:

- Remedying unsafe and unsanitary housing conditions that are injurious to the public health safety and morals;

To ensure that the Navajo Nation can properly monitor the activities of NHA, Section 618 of the NHA Code requires that NHA submit quarterly reports, signed by the Chairperson of the Board to the Navajo Nation Council showing:

- A summary of the quarter's activities;
- The financial condition of NHA;
- The condition of the properties;
- The number of units and vacancies;
- Any significant problems and accomplishments;
- Plans for the future; and
- Such other information as NHA or the Navajo Nation Council deem pertinent.

The powers of NHA are enumerated in Section 616 of the NHA Code and are fairly broad and inclusive. These powers include, among others, the power to:

- Waive sovereign immunity from suit (subject to certain conditions);
- To enter into agreements, contracts and understandings with any governmental agency, federal, state or local (including Navajo Nation Council);
- To lease property from the Navajo Nation and others to hold, manage or sublease;
- To borrow money and issue temporary or long-term bonds;
- To pledge the assets and receipts of NHA as security for debts; and to acquire, sell, lease, exchange, transfer or assign personal property or interests therein;
- To assess housing needs and prepare housing plans and operate projects;
- To employ an executive director and other employees as deemed necessary by the Board;
- To adopt bylaws and take actions as are commonly engaged in by corporate bodies of this character as deemed necessary and desirable by the Board; and
- To invest such funds as are not required for immediate disbursement and to establish and maintain bank accounts.

Section 616 of the NHA Code further provides that NHA shall exercise "any other power, duties or responsibilities as shall be delegated by law or regulation including NAHASDA." This provision is consistent with the Navajo Nation's delegation of NHA as its TDHE.

The NHA Code also includes a mechanism whereby the Navajo Nation is obligated to assist and cooperate in the planning, undertaking and operation of projects undertaken by NHA. Among other things, Section 624 of the NHA Code provides that the Navajo Nation agrees to:

- Furnish tenants of the projects all the services and facilities to the same extent it provides to other dwelling units and inhabitants in areas under the jurisdiction of the Navajo Nation;
- Grant deviations, if lawful, from any present or future building or housing codes of the Navajo Nation as are reasonable and necessary (including changes to the zoning of the site);
- Use its lawful powers to aid and cooperate in the planning, undertaking, construction or operation of projects;
- Use its lawful powers to enforce evictions of a tenant or homebuyer for non-payment or other contract violations, including action through the appropriate courts; and
- Join in any disposition of project property or interest and make assignments or other appropriate disposition of the underlying land as permitted by law.

Generally speaking, the Navajo Nation has the legal obligation to assist NHA in its mission and purpose.

It should also be noted that prior to adoption of an amendment to the NHA Code in 2005, NHA was prohibited from constructing or operating any projects for profit. In July 2005, Section 621 of the NHA Code was amended to allow for-profit projects in instances where NHA was using non-restricted funds:

> The Authority shall not construct or operate any project for profit where the funding agency imposes limitations and conditions upon the use of funds or the funds are otherwise restricted. In those instances where the Authority is utilizing non-restricted funds, the Authority may construct or operate projects for profit.

This provision likely greatly expanded the scope of projects that could be pursued by NHA.

Lastly, like most tribal entities, NHA is not subject to taxes or special assessments of the Navajo Nation. Further, all property and funds acquired or held by NHA are considered exempt from levy and sale by execution and no execution or other judicial process shall issue nor shall any judgment against NHA be a charge or lien on such property (unless NHA lawfully agreed to such a remedy). The foregoing provisions as well as the entire NHA Code are designed for the benefit of NHA and to protect NHA's assets.

PART II
ASSESSMENT OF NAVAJO NAHASDA PROGRAM

Part II of the Study discusses the current structure utilized by the Navajo Nation with respect to the administration of NAHASDA funds for the Navajo Nation and provides an in-depth assessment of the Navajo Nation NAHASDA program.

5 Overview of Block Grant Funding Amounts & Balances

This section provides an overview of congressional funds appropriated for NAHASDA and the grant amounts allocated to the Navajo Nation.

5.1 Congressional and Navajo Nation IHBG Grant Funding Levels

Table 1 lists the funds that Congress appropriated for the IHBG from 1998 through 2008 including the total IHBG for all Indian tribes, set-asides, and the allocation to the Navajo Nation. Set-asides include funds for HUD and NAIHC to provide technical assistance to tribes/TDHEs and for Title VI program. Further, these figures include money received under the *American Recovery and Reinvestment Act of 2009* (ARRA).

As the largest Indian tribe in the U.S., the Navajo Nation has received a significant portion of congressional housing dollars allotted to Indian tribes. In the 11 years since block grants were established, just over one billion dollars ($1,002,627,065) have been awarded to the Navajo Nation for eligible housing activities. Yearly block grants awarded to the Navajo Nation have ranged from over $74 million to almost $95 million, averaging approximately 14 percent of the total IHBG appropriated. As the TDHE, NHA directly received these funds from HUD.

Table 1. Indian Housing Block Grant Funding: 1998 to 2008

Fiscal Year	Total IHBG Appropriation*	Set-Aside: HUD* Implem, Trng & Tech.	Set-Aside: NAIHC* Trng & Tech.	Set-Aside: Title VI Loan Guarantee	Navajo Nation IHBG Amount**	Percent to Navajo Nation
1998	$600 M	$5 M	*		$86,762,085	14.5%
1999	$620 M	$3 M	$2 M		$88,981,744	14.4%
2000	$620 M	$4 M	$2 M		$88,595,779	14.3%
2001	$650 M	$6 M	-		$94,243,721	14.5%
2002	$648.6 M	$5 M	$2.2 M	$6 M	$94,502,939	14.6%
2003	$644.8 M	$4 M	$2.2 M	$2 M	$92,530,695	14.4%
2004	$650.3 M	$4.5 M	$2.2 M	$2 M	$88,388,466	13.6%
2005	$622 M	$4.5 M	$2.2 M	$2 M	$84,510,425	13.6%
2006	$623.7 M	$4 M	$1 M	$2 M	$86,112,736	13.8%
2007	$624 M	$4 M	-		$89,560,522	14.4%
2008	$630 M	$4.3 M	$2 M	$2 M	$74,025,827	11.8%
ARRA	$255 M	$2.3 M*	-		$34,412,126*	11.8%
				NN TOTAL:	$ 1,002,627,065	14%(avg)

Sources: * NAIHC ** HUD SWONAP Reports & NHA Annual Performance Reports

5.2 Balance of Navajo IHBG 1998-2008

Of the grants awarded to the Navajo Nation, **Table 2** shows the grant number, award amount and balance for each fiscal year. As of June 22, 2009, the total balance remaining from the grant awards is $341,185,927.83 or 34 percent.

Table 2. Balance of Navajo Nation IHBG 1998-2008

Year	Grant Number	Navajo Nation IHBG Award Amount	Grant Balance as of 6/22/2009
1998	98IH0402810	$86,762,085	-
1999	99IH0402810	$88,981,744	$4,084.31
2000	00IH0402810	$88,595,779	$6,836,830.27
2001	01IH0402810	$94,243,721	$2,471,670.93
2002	02IH0402810	$94,502,939	$10,651,493.80
2003	03IH0402810	$92,530,695	$27,423,252.37
2004	04IH0402810	$88,388,466	$33,159,361.46
2005	05IH0402810	$84,510,425	$49,556,478.77
2006	06IH0402810	$86,112,736	$51,879,401.99
2007	07IH0402810	$89,260,522	$64,089,607.68
2008	08IH0402810	$74,025,827	$60,701,620.25
ARRA	08SH0402810	$34,412,126	$34,412,126.00
	IHBG Subtotals	$1,002,327,065	$ 341,185,927.83

Source: HUD LOCCS June 22, 2009

IHBG grant awards from 1999 to 2008 remain open indicating the grant activities as agreed upon between the Navajo Nation and HUD have not been completed. Further, the 1998 grant award was only recently closed after it remained opened for over ten (10) years. The fact that over one-third (1/3) of the funds awarded remain unspent is alarming and brings into question the leadership and management of funds over the years, particularly when the housing needs across the Navajo Nation are so desperate and significant. In government or business, such lack of performance should be addressed in a timelier manner with the associated major overhauls needed in policies, procedures and management. With every passing day, the housing needs among the Navajo people continue to grow. Lack of appropriate oversight and corrective actions has been a detriment to the Navajo people.

5.3 Percent of Navajo IHBG Funds Obligated 1998-2008

Under 24 CFR §1000.524(a), within two years of the IHBG award, NAHASDA states that no less than 90 percent (90%) of the grant must be obligated. According to the APRs for program year ending September 30, 2008 submitted by the NHA, the percent of funds obligated range from 0 to 100 percent **(Table 3)**. Of significance, the grants executed in the periods 2002, 2003,

2004, and 2005 have not met the 90 percent regulatory requirement of obligation within two years of grant award. Considering this has been going on for 7 years, it appears that the needed people and process improvements to get back on track have not occurred and the same approach continues with similar negative results.

Table 3. Indian Housing Block Grant Funding; 1998 to 2008

Fiscal Year	Grant Number	IHBG Amount	IHBG Funds Expended on Table II Column (c)	Percent of Funds Obligated (per 08 APR)
1998	98IH0402810	$86,762,085	$86,762,085	100%
1999	99IH0402810	$88,981,744	$88,782,053	99.8%
2000	00IH0402810	$88,595,779	$80,376,560	90.7%
2001 *	01IH0402810	$94,243,721	$91,674,044	97.3%
2002	02IH0402810	$94,502,939	$83,036,411	87.9%
2003	03IH0402810	$92,530,695	$60,242,424	65.1%
2004	04IH0402810	$88,388,466	$49,729,883	60.2%
2005	05IH0402810	$84,510,425	$27,535,877	32.6%
2006	06IH0402810	$86,112,736	$20,378,140	28.9%
2007	07IH0402810	$89,260,522	$11,496,820	0.0%
2008	08IH0402810	$74,025,827	$ 0	0.0%
ARRA	08SH0402810	$34,412,126		
	TOTALS:	$ 1,002,627,065		

Sources: * 2008 Annual Performance Reports submitted by NHA

Further, these results present a concern that has been voiced by SWONAP wherein they highlighted this pattern of lack of performance as a concern in the 2008 Monitoring report discussed in the Section 6.4.2 of this report.

6 Monitoring and Audit Reports

This section provides an overview of the monitoring and audit reports from SWONAP and a general audit reports by OIG while highlighting some of the findings and associated concerns.

6.1 Overview of 2007 and 2008 Final Monitoring Reports

In the 2007 Final Monitoring Report SWONAP addressed NHA's progress in correcting previous monitoring and audit findings and stated that their review revealed that limited action had been taken to address open findings since their prior on-site visit in 2006. SWONAP findings also state that the monitoring and audit findings continue to be repeated in subsequent monitoring and audit reports. SWONAP findings point to deficiencies directly on and question NHA's housing program efficiency and administrative capacity. In any organization, leadership is the driving force behind forging the needed changes, and these changes were lacking.

In the 2008 Final Monitoring Report SWONAP reported four findings and three concerns. Further, SWONAP noted significant improvement in the management and organization of NHA since the 2007 Final Monitoring Report. The four monitoring findings were all closed by April 27, 2009.

The concerns identified in the 2008 Final Monitoring Report, are deficiencies in program performance that do not constitute a violation of statutory or regulatory requirements. However, the concerns should be addressed they are:

Concern Number 1: *Program Performance*

Grants executed in 2002, 2003, 2004, and 2005 have not met the 90 percent obligation within two years of the grant award as required by 24 CFR §1000.524(a). Further, as of July 31, 2008 (prior to award of the 2008 IHBG funds) there were $267,277,967.49 available for NHA to expend and drawn down on eligible and approved IHBG compliant activities.

In addition, the completion of NHA's grant activities, specifically construction-related projects (both in-house NHA and Sub-Recipients) has experienced delays and significant cost overruns. Sub-Recipient delays were addressed in OIG report; that audit finding has been resolved. However performance issues are not isolated to the Sub-Recipients. NHA's in-house Construction Services Division continues to experience delays in project construction.

Concern Number 2: *Waiting List Administration (Repeat)*

This is a repeated concern regarding the use of parallel waiting lists. Section 207(b) of NAHASDA requires the grantee to adopt and utilize written tenant and homebuyer selection policies, and develop criteria that provide for the selection of tenants and homebuyers from a waiting list.

Concern Number 3: Minimum Payment Amounts (Repeat)

This is a repeated concern of the file review of the NHA Housing Management Office did not reflect NHA's public rental and admissions and occupancy policy. The Housing Management Office requires a $25 minimum rent while the NHA policy states that no minimum payment is required and a resolution mandating the minimum rental payments of $150 be collected from units built with NAHASDA funds. Regulations at §1000.124 permit minimum payments provided the rent does not exceed 30 percent of adjusted family income.

6.2 Summary of Monitoring and Audit Findings: 1998 - 2008

A finding is a deficiency in program performance that represents a violation of statutory or regulatory requirement(s). Corrective actions must be taken to address findings in timely and appropriate ways.

For the period of 1998 to 2008, SWONAP reported a total of 58 monitoring findings and 44 audit findings (audit findings for fiscal year 2008 were not available). **Tables 4 and 5** show the number of findings per fiscal year, the year the final finding was closed, number of open findings, and the number of years to close all findings for each respective year.

The number of monitoring findings fluctuated over the years, reaching a high of 13 in the years of 2005 and 2007. Similarly, audit findings were the highest in 2005 and 2007 with 11 and 12 findings, respectively.

It took the NHA up to seven years to close monitoring and audit findings for each fiscal year which would indicate lack of appropriate changes and improvements in a timely manner and consistent poor performance. As a result of the extended length of open findings and in some cases repeated similar findings, SWONAP compiled outstanding findings into the 2007 Final Monitoring Report and subsequent Letter of Warning (LOW). Repeating the same mistakes would indicate lack of leadership, learning, and growth from past incidents or mistakes.

Table 4. Summary of SWONAP Monitoring Findings: 1998-2008

Fiscal Year	Number of Findings	Year Final Finding Closed	Number of Current Open Findings	Number of Years to Close Findings
1998				
1999	5	2006	0	7
2000	2	2005	0	5
2001	3	2006	0	5
2002	6	2008	0	6
2003	7	2005	0	2
2004	5	2008	0	4
2005	13	Open	2	Open
2006	0	-	0	-
2007	13	Open	3	Open
2008	4	2009	0	1
Totals:	58		5	

Source: SWONAP Monitoring Report June 30, 2009

Table 5. Summary of SWONAP Audit Findings: 1998-2008

Fiscal Year	Number of Findings	Year Final Finding Closed	Number of Current Open Findings	Number of Years to Close Findings
1998	2	2004	0	6
1999	0	-	0	-
2000	1	2005	0	5
2001	1	2006	0	5
2002	4	2004	0	2
2003	1	2004	0	1
2004	7	2008	0	4
2005	11	2009	0	4
2006	5	2007	0	1
2007	12	Open	1	Open
2008	Final Audit Report not available as of this writing			
Totals:	44		1	

Source: SWONAP Audit Report June 30, 2009

To date, five (5) monitoring findings and one (1) audit finding remain open as summarized in **Table 6**. The NHA attributes the considerable decrease in outstanding findings to its change in management in 2007 as priority was given to the closure of outstanding findings. Nonetheless, the significant and desperate housing needs continue across the Navajo Nation with little indication that this is changing.

Table 6. Summary of Current Open Findings

Finding/Year	Finding Number	Finding Description	Target Date	Current Status
AUDIT FINDING				
07AZ0128	3	Separation of Duties Internal Control	6/16/2009	Open
MONITORING FINDING				
2005	2	Ineligible Families	3/6/06	Open
2005	6	Eligibility of Costs	9/30/06	Open
2007	1	Administrative Capacity	Until Resolved	Open
2007	6	Calculating, Recording, and Reporting Program Income and Non-Program Income	4/16/08	Open
2007	7	Eligibility of Costs	2/17/08	Open

Sources: SWONAP Audit Report June 30, 2009

6.3 IHBG Program Letter of Warnings

As a result of the repeated similar findings, SWONAP compiled outstanding findings into an IHBG Program LOW pursuant to 24 CFR §1000.53(a)(1) for program non-compliance and issued the document to NHA on July 7, 2007. The July 7, 2007 LOW was based on a delinquency in meeting target dates to resolve 13 monitoring findings identified in SWONAP's final Monitoring Reports issued in 2002, 2004, and 2005. In response to the LOW findings, NHA reported that the reorganization plan would finalize how it intended to correct many of the program deficiencies and enhance administrative capacity.

On November 4, 2008 SWONAP issued an Amended LOW to the letter SWONAP issued on July 7, 2007 **(Exhibit E)**. This Amended LOW acknowledged NHA provided documentation to close six (6) of the 13 outstanding findings. However, seven (7) findings were reported at that time and were significantly past the target dates for resolution. The November 4, 2008 Amended LOW also includes 10 additional findings identified under the Final Monitoring Report for July 21-25, 2008.

Finally, the amended Letter of Warming provided the following warning:

> As a grant recipient, NHA is responsible for ensuring compliance with all NAHASDA requirements. In accordance with §1000.530, if NHA fails to satisfactorily address the above delinquent findings by the established target dates, HUD may impose remedies, as prescribed in §1000.532 and/or §1000.538. Upon HUD's determination that NHA failed to comply substantially with any provision of NAHASDA, the regulations at §1000.538 and 1000.532 authorize HUD to terminate, reduce, or limit grant payments, or replace the recipient.

Even after receiving the momentous LOW and the follow-on Amended Letter of Warning, dates were missed and additional findings were added which further brings into question the

leadership, administrative capacity and appropriate procedures needed to move forward to resolving the significant housing needs on the Navajo Nation.

6.4 Office of Inspector General Audit

6.4.1 Audit Report Number 2007-LA-1008

The OIG issued Audit Report Number 2007-LA-1008 to the NHA on April 9, 2007. The objective of the audit was to determine whether NHA's procedures for selecting and monitoring sub-grantees were adequate to ensure compliance with NAHASDA's policies.

The results of that 2007 audit revealed that NHA's procedures for selecting and monitoring sub-grantees did not ensure that NAHASDA grant funds were used in accordance with applicable program requirements or that performance goals were achieved. To address this deficiency, the OIG recommended 12 corrective actions.

1A. Consider discontinuing the use of subgrantees for construction-related projects and establish a new strategy for more efficient and effective housing development. If the Authority continues its use of subgrantees for construction activities, better procedures must be put into place and enforced.

1B. Implement procedures to ensure that funds are used in accordance with NAHASDA requirements and in a manner that will ensure performance goals are achieved in a cost-effective manner.

1C. Analyze housing conditions to better target resources to geographical areas of need. The Indian housing plan should include a description of the manner in which the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance.

1D. Implement a coordinated approach to managing housing provider activities, including the development of standard operating guidelines and procedures for use by Authority staff and subgrantees.

1E. Provide pre-contract award oversight of sub-grantee procurement procedures and consider requiring and enforcing the use of standardized fixed-price construction contracts. Require procurement be performed for construction services based upon specific plans and specifications rather than allowing consultants or general contractors to assume the entire grant amount without the controls provided by specific project requirements.

1F. Establish and implement procedures for analyzing proposed sub-grantee planning and development costs to ensure that projects are not overfunded or underfunded. Before awarding sub-grant funds, determine the appropriateness of sub-grant amounts based upon detailed, supportable cost estimates.

1G. Require the use of certified inspectors to ensure that projects are completed in accordance with building codes and with plans and specifications.

1H. Require and enforce, through preconstruction verification, construction bonding or deposit and insurance requirements.

1I. Perform more effective reviews of sub-grantee administrative capacity, including consideration of 1) sub-grantee management and staff's understanding of NAHASDA requirements and the sub-grantee's written policies and procedures, 2) the implementation of written policies and procedures, 3) the capacity of primary staffing involved in the administration of the construction and management of the project, 4) the sub-grantee's plans for use of predetermined consultants or general contractors, 5) the verification of references for prior projects or activities, 6) the sub-grantee's capacity to manage the units once completed, and 7) the sub-grantee's plans for overseeing its general contractor or consultant. Provide funding only to subgrantees that have a demonstrated capacity to carry out the planned activities effectively and in accordance with NAHASDA requirements.

1J. Implement more effective controls over sub-grantee payment requisitions such as requiring detailed schedules of values, independent inspection reports, and lien waivers.

1K. Implement procedures to ensure that monitoring review findings are consistently tracked and resolved within established timeframes.

1L. Implement consistent procedures to ensure that subgrantees properly account for and use program income and that this matter is fully addressed and resolved during the grant award process.

Corrective actions associated with each OIG finding have been implemented and approved by HUD-SWONAP. A table outlining these corrective actions, required documentation, and comments is presented in **(Exhibit F)**. The status of the audit report was closed as of October 30, 2008.

6.5 Suspension of Sub-Grant Awards

SWONAP sent a letter to NHA dated August 8, 2007 specifically addressed finding 1A in the OIG audit. The letter indicated that in consultation with their Board of Commissioners and HUD, NHA agreed to suspend the sub-grant awards for a period of three (3) years.

In a subsequent letter dated August 24, 2007, however, SWONAP revised this management decision and informed the NHA of the new language contained in Corrective Action 1A (Audit Report Number 2007-LA-1008 2007). The more stringent revised language approved by the OIG reads as follows:

1. Beginning in fiscal year 2008, suspend any sub-grant awards for development activities to new or existing sub-grantees for a period of three years. This restriction will not

apply to existing sub-grantees with ongoing development projects that are performing at an acceptable level.

2. Establish a new strategy for more efficient and effective housing development and rehabilitation
3. Develop procedure governing the use of sub-grantees to ensure compliance and accountability over development activities.

Even with all the directives discussed here related to required improvements and the potential role of sub-grantees, it is not clear as to the future of development and construction of homes on the Navajo Nation as to who will build and when. Further, there are no guarantees as to what will happen after the suspension period is concluded.

7 Indian Housing Plan Analysis 1998–2008

Under 24 CFR §1000.212, federally recognized tribes or their TDHE must submit an IHP to receive their NAHASDA allocation, which is the IHBG. tribes/TDHEs use the IHP as a tool to prioritize housing needs and outline projects that will be undertaken in the coming year. The IHP has two components: 1) Five-Year Plan and 2) the One-Year Plan. Upon completion of the program year, they must also submit an Annual Performance Review. The five-year plan consists of a mission statement and long term goals and objectives. The one-year plan consists of five elements: goals and objectives, a statement of need, housing resources, and certification of compliance. There are some changes, however, to the 2008 *Reauthorization Act* in which the five-year plan is no longer required. Therefore, this analysis is based on NAHASDA prior to the enactment of the *2008 Reauthorization Act.*

Developing the Indian Housing Plan

Currently, the Navajo Nation does not have a housing directive or master plan that they require the NHA to follow when the NHA develops the IHP. This creates a major information deficit because instead of building a plan that will fit into an existing rubric of predefined needs, NHA compiles a list of projects and goals and objectives for the IHP based on what project types happen to be submitted in the NAHASDA grant proposals every year. Thus, the NHA annually initiates the preparation of the IHP by soliciting funding proposals from various programs and entities within the Navajo Nation. Further, without a Nation-wide housing directive, NHA cannot properly evaluate proposals and prioritize projects from potential Sub-Recipients.

Currently, the NHA Executive and Grants Management staff use their own in-house evaluation of grant proposals to select projects for funding. According to NHA, the evaluation team includes a representative from the Office of the President/Vice President of the Navajo Nation. Once all funding has been awarded and the NHA staff has notified the Sub-Recipients that their grant requests were approved, the NHA Grants Management Department gathers the individual work plans from the winning proposals and inserts them into a document that will serve as the IHP. The Grants Management Department of NHA monitors the Sub-Recipient grants thereafter.

After the NHA Board of Commissioners endorses the IHP, it is subsequently approved via legislation. Pursuant to 2 N.N.C. §164 (A)(4), the Navajo Nation Speaker assigns the prospective legislation to the appropriate Navajo Nation Council committees. Because the IHP relates to housing, government services, community development and intergovernmental relations, the legislation is considered by all of the following: the Government Services Committee; Transportation and Community Development Committee; and the Intergovernmental Relations Committee of the Navajo Nation Council.

Approval through these committees is completed simply by the committee hearing the presentation of the legislation and then voting to approve the IHP. There is no formal review process, no checklist to approve the IHP by the Navajo Nation, and no guidance or direction

provided by the legislative body or President of the Navajo Nation. Instead, the Navajo Nation gives complete authority in NHA to meet the housing needs of the Navajo People while complying with NAHASDA rules and regulations. Considering the Navajo People's sizable and urgent needs for adequate housing, it would be more appropriate to have stronger involvement and more appropriate oversight of housing initiatives.

In retrospect, development of the IHP relies on a reactive approach wherein whatever happens to be brought forward becomes the plan rather than a proactive approach that relies on an overarching housing directive or master plan that directly addresses regional areas of focus, the innovative construction necessary, and the best practices to be followed. As a result, the grant review process also heavily suffers from lack of guidance, inconsistent evaluation and prioritization, and what some may see as conflicts of interest. This argument carries weight because the NHA Construction Services Department includes itself as a Sub-Recipient, which sets up the NHA as a direct competitor with Sub-Recipients. Thus, the NHA is preparing proposals for funding, evaluating proposals, and awarding itself funds. Both the method for developing the IHP and the grant evaluation process must be addressed.

7.1 Five-Year Plan

As referenced above, the TDHE develops a five-year plan as per NAHASDA, Section 102(b). The five-year plan begins with the fiscal year for which the plan is submitted. Each five-year plan contains a mission statement, goals and objectives, and activities plan.

The NHA has submitted a five-year plan for each year from 1998 –2008. From those plans, the following mission statements were extracted **(Table 7)**:

Table 7. Summary of Mission Statement

Year	Mission Statement
1998 to 1999	To provide affordable housing, to increase housing opportunities and to contribute to the economic growth and community development of the Navajo Nation
2000 to 2005	To meet the housing needs by providing affordable quality homes, professional management services and promote economic growth.
2006 to 2008	To meet the housing needs as the TDHE by promoting and providing affordable quality homes, professional management services and economic growth

Source: IHP 1993-2008

Within each five-year plan, there have been five to nine goals per plan with topics ranging from new construction development, renovation or rehabilitation, modernization, to tenant self-sufficiency.

7.2 One-year Plan

A one-year plan containing information relating to the upcoming fiscal year is required as per NAHASDA, Section 102(c). The one-year plan is critical because it outlines the activities for the upcoming year and is used as the baseline for analyzing the how well NHA met their stated goals and objectives. Accordingly, NHA has submitted a one-year plan each year from 1998 – 2008.

7.2.1 Goals and Objectives

Section 102(c)(1) of NAHASDA requires a statement of goals and objectives to be developed in the one-year plan. According to the IHP's submitted by NHA for the period of 1998 – 2008, 5 to 12 goals covering a wide range of planning, construction, maintenance, renovations, crime prevention, and administrative areas were submitted per fiscal year.

The goals in the areas of maintenance, administrative and crime prevention were consistent from year to year. Maintenance goals consisted of maintaining existing Current Assisted Stock (CAS) in acceptable condition and at a 90 percent occupation rate. Administrative standards included the development of educational homeownership training programs for new low-income home buyers, maintaining the TDHE, administrative capacity and leadership development, and monitoring and enforcing compliance for all NAHASDA programs. The NHA also planned to promote comprehensive crime prevention, a culturally-based education and recreation program, as well as assist with proposing tax credit or other innovative financing.

Although there was some consistency in the goals and objectives from year to year, the number of units planned, constructed, or renovated not only varied from one IHP to the next, these numbers in the IHPs and APRs were inconsistent within the same program and fiscal years. The number of goals shown in **Table 8** represents the overall total per fiscal year for each IHP submitted since 1998. Table 8 also shows the amended number after the initial drafts of the APRs were written.

From 1998 to 2001, the number of units in the plan/design and construct were combined each year. Without these combined amounts, NHA's objective was to construct 2,346 units for the period 2002 to 2008. If the combined amounts are included, the number of units to be constructed rises to 4,040 units. The number of units to be renovated totals 10,650 over the 11 year period. The numbers highlighted in the blue in Table 8 are taken from Table 15 for comparison. The actual number of units completed is shown in Table 16 under the next section – Section 8 Annual Performance Reports.

On an annual basis over the last 10 program years, NHA has amended the IHPs post facto to bring their goals closer in line (but still not consistent) with the actual accomplishments shown in the APRs. Even though this practice is acceptable under NAHASDA as long as the grants for those years remain open, the Navajo Nation is obligated as the oversight administrator not only to question this behavior but to ask why decade old grants remain open. The Nation should also set the expectations for NHA and hold them accountable to meet their projected goals and objectives. Lastly, the Nation, as the grant beneficiary, needs to conduct a comprehensive review

of the APRs by identifying a task force in-house or by contracting an outside agency that is impartial to perform this function and report directly to the Nation.

Table 8. Number of Units Planned, Constructed or Renovated: 1998–2008

Fiscal Year	Total Number of Goals	Plan/Design (# of units)	Construct (# of units)	In the APR, NHA reports these #s as the Planned per IHP	Renovate (#of units)	In the APR, NHA reports these #s as being the RENOVATE per IHP
1998	5	1,169*		634	617	60
1999	10	728*		444	343	110
2000	12	545*		671	219	22
2001	12	945*		658	804	231
2002	6	843	338	478	168	16
2003	6	500	300	339	56	94
2004	6	500	300	355	34	74
2005	6	135	590	33	30	14
2006	6	1,773	302	314	800	10
2007	7	95	450	145	393	393
2008	8	66	66	634	7,186	60

Design/Plan and Construct are combined

Source: Navajo Indian Housing Plans 1998 - 2008

7.2.2 Statement of Needs

Section102(c)(2) of NAHASDA requires a statement of the housing needs for low-income Indian families residing in the jurisdiction of the Indian tribe and dictates the approach to be used when providing the information:

(A) A description of the estimated housing needs and the need for assistance for the low-income Indian families in the jurisdiction will include a description of the manner in which the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance.

(B) A description of the estimated housing needs for all Indian families in the jurisdiction will also be included.

Using resident population data from the U.S. Census Bureau, Division of Community Development and Dine' Community College to estimate housing needs of the Navajo Nation, unmet needs for all Navajo families and for low income Navajo families are presented in **Tables 9 and 10**, respectively. The unmet needs are identical from year to year for the period of 1993 to 2004 wherein 1990 census data were used. The unmet needs increased in 2005 wherein 2000 census data were used, but remain constant through 2008.

Table 9. Unmet Housing Needs for all Navajo Families

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Rental Hsg											
# Units	3,824	2,824	3,824	3,824	3,824	3,824	3,824	5,000	5,000	5,000	5,000
# Need Rehab	4,100	4,100	4,100	4,100	4,100	4,100	4,100	5,000	8000	5,000	5,000
Homeowner Hsg											
# Units	11,471	11,471	11,471	11,471	11,471	11,471	11,471	20,000	20,000	20,000	20,000
# Need Rehab	16,653	16,653	16,653	16,653	16,653	16,653	16,653	18,000	18,000	18,000	18,000
Other Hsg											
Supprt Serv Hsg	60	60	60	60	60	60	60	60	60	60	60
College Housing	300	300	300	300	300	300	300	1,000	1,000	1,000	1,000
Transitional Hsg	500	500	500	500	500	500	500	500	500	500	500
Homeless Hsg	500	500	500	500	500	500	500	500	500	500	500
Elderly Hsg	120	120	120	120	120	120	120	1000	1000	1000	1000
TOTAL NEW UNITS NEEDED:	16,775	16,775	16,775	16,775	16,775	16,775	16,775	28,060	28,060	28,060	28,060
TOTAL NEEDING REHAB:	20,753	20,753	20,753	20,753	20,753	20,753	20,753	23,000	26,000	23,000	23,000

Source: 2008 Annual Performance Reports 1998-2008

NHA reports an estimated population growth rate of 2.7 percent per year. They also report that 40.1–57.4 percent of families live below the poverty level. Even with these numbers, it is unclear how the unmet needs were calculated and why 1990 census results were used to calculate needs after Census 2000 became available.

Table 10. Unmet Housing Needs Low Income Families

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Rental Hsg											
# Units	3,250	3,250	3,250	3,250	3,250	3,250	3,250	3,750	3,750	3,750	3,750
# Need Rehab								4,000	4,000	4,000	4,000
Homeowner Hsg											
# Units	8,603	8,603	8,603	8,603	8,603	8,603	8,603	12,000	12,000	12,000	12,000
# Need Rehab								16,000	16,000	16,000	16,000
Other Hsg											
Supprt Serv Hsg	60	60	60	60	60	60	60	60	60	60	60
College Housing	300	300	300	300	300	300	300	300	300	300	300
Transitional Hsg	375	375	375	375	375	375	375	375	375	375	375
Homeless Hsg	50	50	50	50	50	50	450	450	450	450	450
Elderly Hsg	120	120	120	120	120	120	120	1000	1000	1000	1000
TOTAL NEW UNITS NEEDED:	12,758	12,758	12,758	12,758	12,758	12,758	17,158	37,935	37,935	37,935	37,935
TOTAL NEEDING REHAB:	-	-	-	-	-	-	-	23,000	23,000	23,000	23,000

Source: 2008 Annual Performance Reports 1998-2008

Further, it is unclear how this data counter or compliment geographic housing needs based on recent BIA reports that NHA cites in the IHPs for 1998–2004. In these IHPS, NHA presents a profile from the BIA Housing Improvement Programs Consolidated Report of Tribal Inventories. This profile shows housing needs within the Navajo Nation for each BIA agency **(Table 11)**. As shown in Table 11, Western agency has the greatest need for housing renovations (2,487), Eastern agency has the greatest need for housing replacements (2,002), and Chinle agency has the greatest need for new housing (3,974). According to the BIA, as of 2004, the total number of houses needing rehabilitation was 10,699. NHA's estimate was wildly off in stating the number to be 20,753. Based on NHA's reports, there is no way to evaluate which of these numbers is closer to the actual need, and this is the case for every program year where grants remain open.

Table 11. BIA Housing Needs within Navajo Nation

Agency	Total Existing	Standard Condition	Sub-Standard	Needing Renovation	Needing Replacement	Need for Housing	Total New Houses
Chinle	5,779	2,745	3,034	1,661	1,367	3,974	5,341
Eastern	6,868	2,441	4,427	2,379	2,002	2,999	5,021
Ft. Defiance	8,297	5,250	3,047	2,051	960	1,341	2,301
Shiprock	7,257	3,693	3,564	2,091	1,468	1,482	2,950
Western	7,181	3,127	4,054	2,487	1,550	2,859	4,409
TOTAL:	35,382	17,256	18,126	10,669	7,347	12,655	20,022

Source: Navajo Indian Housing Plans 1998 – 2003

For the period 2005 to 2008, NHA presents certain geographical housing data provided by the Division of Economic Development based on 2000 census data **(Tables 12)**. Although this data shows the number of existing houses by agency, it does not show unmet housing needs.

Table 12. Navajo Division of Economic Development Housing Data

Agency	Total Existing Houses	Occupied	Lacking Complete			Mobile Homes
			Plumbing Facilities	Kitchen Facilities	Telephone Services	
Chinle	11,647	7,394	38.70%	30.6%	67.6%	1,771
Eastern	13,156	9,704	36.7%	32.2%	59.4%	2,510
Ft. Defiance	18,941	12,823	28.7%	25.2%	57.3%	3,038
Shiprock	11,849	8,418	21.7%	18.7%	55.3%	2,608
Western	13,561	9,675	34.2%	33.2%	61.3%	2,958
TOTAL:	69,154	48,014	31.7%	27.9%	59.8%	12,885

Source: Navajo Indian Housing Plans 2004 – 2008

In summary, the sources for the statement of need include Census 1990 and 2000 as interpreted by NHA and the Navajo Division of Economic Development and the BIA's Housing Improvement Programs Consolidated Report of Tribal Inventories from 1998–2004. Given the enormous inconsistencies among these sources, the data used for the statement of need for all Navajo Families and low-income housing families is unreliable. Not until the true needs of the Navajo People are assessed and a consensus is reached regarding unmet needs, the TDHE, whether it is the Nation, NHA, or any other designee, will not be able to properly evaluate and prioritize NAHASDA IHBG grant proposals with any level of efficacy.

7.2.3 Financial Resources

Section102(c)(3) of NAHASDA requires an operating budget that includes an identification and a description of the financial resources reasonably available to the recipient to carry out the

purposes of this Act including an explanation of the manner in which amounts made available will leverage additional resources and the uses to which such resources will be committed, including eligible and required affordable housing activities.

Over the years, NHA has consistently stated that in order to implement the grant more efficiently and to minimize duplication of services, the TDHE continues to develop a broad base of collaborations with other Navajo housing services, social and human service agencies. The collaborative partners provide complementary administrative support in housing initiatives. The primary partners and expanded list of partnerships included Sub-Recipients from year to year.

7.2.4 Affordable Housing Resources

Section 102(c)(4) of NAHASDA calls for a statement of affordable housing resources currently available and to be made available during the program period. Thus, a housing profile is prepared as part of the IHP that provides an inventory of units under the *Housing Act* of 1937, Section 8 and NAHASDA. The housing profile for the period of 1998 to 2008 is shown in **Table 13.**

Table 13. Housing Profile 1998-2008

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
1937 Housing Act Inventory Under Management											
Mutual Help	3,283	3,283	3,800	4,011	3,805	4,014	3,947	3,947	2,911	2,845	2,845
Low Rent	3,400	3,400	3,472	3,439	3,478	3,487	3,377	3,377	3,527	3,791	3,791
Units to be Demolished	(1.00)	(1.00)	(37.00)	(61.00)	0.00	(30.00)	(36.00)	(34.00)	0.00	(44.00)	(44.00)
Units to be Conveyed	(440.00)	(440.00)	(450.00)	(450.00)	(200.00)	(300.00)	(300.00)	(216.00)	(200.00)	(200.00)	(200.00)
TOTAL	6,242	6,242	6,785	6,939	7,083	7,171	6,988	7,074	6,238	6,392	6,392
1937 Housing Act Inventory in the Development Pipeline											
Mutual Help	313	313	714	194	600	487	487	487	25	-	-
Low Rent	43	43	154	48	245	300	300	300	-	-	-
TOTAL	356	356	868	242	845	787	787	787	25	-	-
Section 8 vouchers and Certificates as of September 30											
Section 8	76	76	76	76	76	76	0	0	76	76	76
NAHASDA Units as of September 30											
Occupied	-	-	-	372	567	567	146	2,061	2,000	2,000	2,000

Source: IHP 1998-2008

The *Housing Act of 1937* inventory shows the units under management as well as those still in the development pipeline. When NAHASDA was implemented in 1998, several projects were still slated under the *Housing Act of 1937*. As seen in the table, these grants remained open through 2006 when the remaining 25 units were completed. Assistance provided under the Section 8 program remained constant at 76 throughout NHA's tenure as TDHE except for years

2004 and 2005. Section 8 provides rental assistance to Navajo families residing off the reservation.

The housing profile also records the number of NAHASDA units occupied by the end of September 30 of each year. Three years after the enactment of NAHASDA, in 2001, 372 units became occupied. The number of NAHASDA units increased to 567 for the next two years and dropped to 146 in 2005 before rising to 2000 the following three years.

In addition to this housing profile, NHA lists the number of units from other sources such as the public school districts, Bureau of Indian Affairs (BIA), Indian Health Services (IHS), and the Navajo Nation employee housing program.

The structure, coordination and means of cooperation between NHA and other governmental entities is to be accomplished by a task force consisting of the following:

- NHA;
- Navajo Partnership for Housing;
- Navajo Division of Economic Development;
- Navajo Division of Community Development;
- Navajo Department of Veterans Affairs;
- Navajo Nation Government Services Committee;
- Navajo Nation Transportation & Community Development Committee; and
- Other interested social services programs.

7.2.5 Certification of Compliance

NAHASDA Sec.102 (c)(5) requires evidence of compliance for certification in area such as civil rights, insurance, and policies governing eligibility, rent, management and maintenance. NHA submits all required certifications with the appropriate signatures with the IHP. The IHPs are signed by the CEO of NHA and the president of the Navajo Nation. Resolutions include the NHA Board of Commissioners, Navajo Nation Government Services Committee, Transportation & Community Development Committee and the Intergovernmental Relations Committee.

8 Annual Performance Report 1998–2008

NAHASDA (25 U.S.C. 4104 et seq.) requires recipients of IHBG Program funds to submit an Annual Performance Report (APR) to HUD within 60 days of the end of their program year. Statutory reference is contained in Section 404 of NAHASDA. The regulatory reference is found at 24 CFR §1000.512 through §1000.521.

The APR reviews the progress made during each fiscal year in carrying out the Indian Housing Plan (or plans) for the tribe. As the TDHE, NHA prepares an APR each year for which the grant is open. At the end of the 2007 fiscal year, NHA prepared an APR for each year from 1998 to 2007. At the end of the following year, NHA prepared APRs for each of the same years in addition to 2008. Thus, eleven (11) APRs were prepared simultaneously and submitted upon the close of fiscal year 2008.

8.1 Comparison of Actual Accomplishments to the Objectives

The regulations at 24 CFR §1000.512(a)(1) requires a comparison of actual accomplishments to the objectives established for that period.

An important part of managing any organization is to prepare good records that provide feedback and guidance within an operation. However, it is difficult to compare actual accomplishments to the objectives stated in the IHPs because amendments have been made to the original IHPs, particularly in the areas of new development, planning, and construction. An attempt was made to compare the number of units for plan and constructed from the IHP to the numbers reported in the 2008 APR **(Table 14)**. The numbers vary considerably from the original IHP to the reported number of completed units in the 2008 APRs under accomplishments.

Table 14. Comparison of Plan and Construct Number of New Units to Actual Completed Units

Fiscal Year	IHP plan	IHP Construct	2008 APR
1998	1,169*		444
1999	728*		444
2000	545*		573
2001	945*		345
2002	843	338	54
2003	500	300	621
2004	500	300	319
2005	135	590	280
2006	1,773	302	1907
2007	95	450	386
2008	66	66	799

Planned Units

However, based on the data provided in Table II – Use of Funds in the 2008 APRs, the numbers are much closer but still show low productivity overall. **Table 15** shows number of units reported in the 2008 APRs as the planned units from the IHP (column [g] of Table II – Use of Funds).

Indian Housing Assistance includes operational and modernization costs associated with the current assisted housing stock, namely units built under the *Housing Act of 1937*. Development includes construction of new units, unit acquisition, and rehabilitation of units not under the *Housing Act of 1937*. Model activities include facilities other than housing units such as office buildings and multi-purpose buildings.

Table 15. Number of Units Planned under Grant Award: 1998-2008

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Housing Assistance (1937 Units)											
Modernization	373	189	143	236	153	115	133	120	90	102	179
Operations	7,000	6,888	7,000	6,910	7,552	7,562	7,757	7,000	6,514	6,636	6,636
Development – Rental											
New Units	366	246	224	56	171	23	70	33	62	235	56
Acquisition	-	-	-	-	-	-	-	-	-	-	-
Rehabilitation	-	50	-	74	13	58	-	14	10	393	288
Development – Homeownership											
New Units	268	198	447	602	307	316	285	265	252	316	2
Acquisition	-	-	-	1	-	-	1	-	-	0	-
Rehabilitation	60	60	22	157	3	36	74	16	-	-	103
Model Activities											
	3	-	2	-	14	3	2	-	2	-	664
TOTAL	8,070	7,631	7,838	8,036	8,213	8,113	8,322	7,448	6,930	7,682	7,928

Source: 2008 APR: 1998-2008

The number of units planned for construction of new units and rehabilitation under development are summarized in **Table 16**. Basically, the planned units for rental and homeownership are combined.

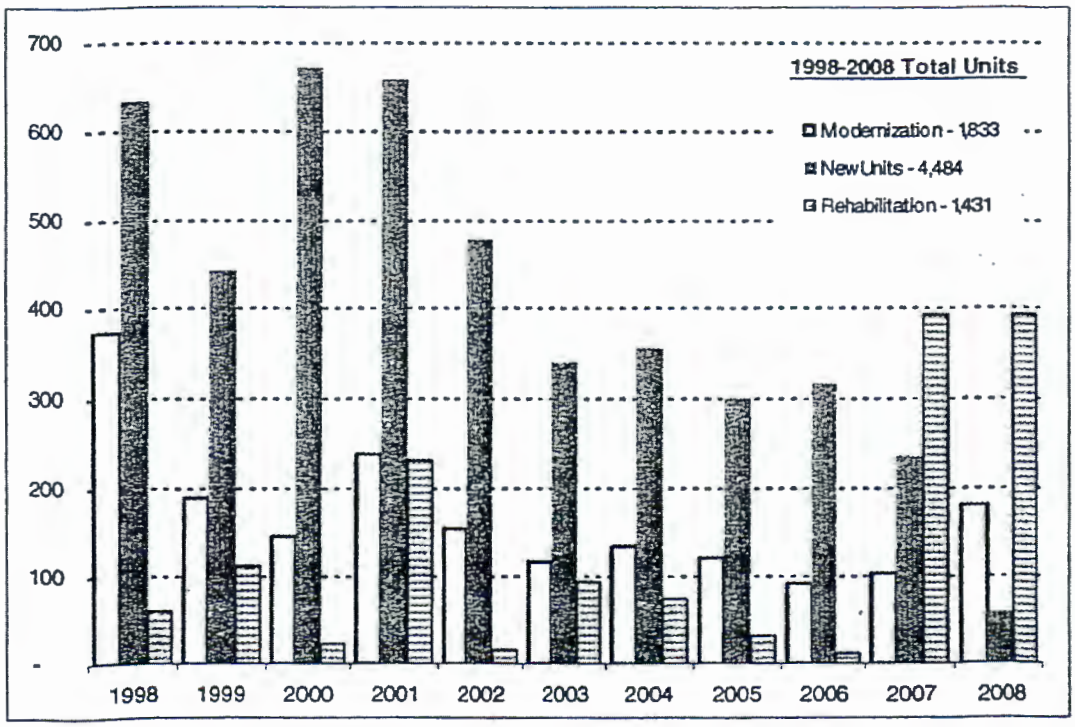
The number of units planned for modernization, new construction and rehabilitation are compared in **Figure 1**. In 1998, 634 units were planned for new development for rental and homeownership combined while 60 were planned for rehabilitation. The number of planned new units reached an all time high in 2000 with 671 new units planned for construction. The number of new units planned for construction continued to decrease reaching its lowest level in 2008 with 58 units.

Table 16. Development Units Planned under Grant Award: 1998-2008

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Development											
New Units	634	444	671	658	478	339	355	298	314	145	58
Rehabilitation	60	110	22	231	16	94	74	14	10	393	391

Source: 2008 APR: 1998-2008

Figure 1. Number of Units Planned for Modernization, New Construction and Rehabilitation



Completed Units

The next table **(Table 17)** shows the number of units completed thus far under each grant award from 1998 to 2008. These numbers are based on the Table II – Use of Funds in the 2008 APRs. The number of units decreases considerably in 2004 for development and modernization. However, housing assistance for units under operations appears to be on target.

Table 17. Number of Units COMPLETED under Grant Award: 1998-2008

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Housing Assistance (1937 Units)											
Modernization	373	169	143	235	98	75	70	-	-	-	-
Operations	7,000	6,888	7,000	6,910	7,552	7,562	7,562	7,000	6,514	6,636	-
Development – Rental											
New Units	224	215	160	56	181	13	8	13	-	-	-
Acquisition	-	-	-	-	-	-	-	-	-	-	-
Rehabilitation	-	50	-	44	12	18	-	-	-	-	-
Development – Homeownership											
New Units	34	178	246	366	229	216	33	-	-	-	-
Acquisition	-	-	-	6	-	-	1	8	-	-	-
Rehabilitation	60	60	22	65	3	-	5	-	-	-	-
Model Activities											
	3	-	-	-	10	1	-	-	-	-	-
TOTAL	7,694	7,560	7,571	7,682	8,085	7,885	7,679	7,021	6,514	6,636	-

Source: 2008 APR: 1998-2008

As was done with the planned units, the number of units completed under development is delineated by new units and rehabilitation as shown in **Table 18.** Basically, the planned units for rental and homeownership are combined.

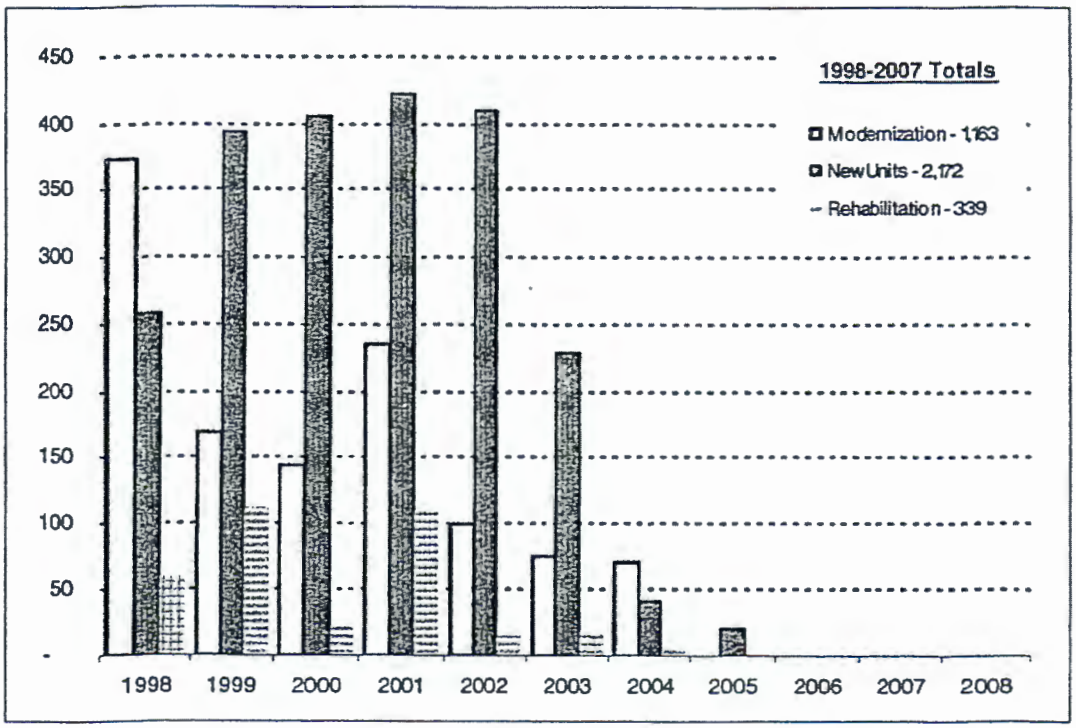
Table 18. Development Units COMPLETED under Grant Award: 1998-2008

	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008
Development											
New Units	258	393	406	422	410	229	41	21	-	-	-
Rehabilitation	60	110	22	109	15	18	5	-	-	-	-

Source: 2008 APR: 1998-2008

The number of units planned for modernization, new construction and rehabilitation are compared in **Figure 2.** For the 1998 grant award, 373 units were completed for modernization; 258 for new development for rental and homeownership combined; and 60 for rehabilitation. The number of completed new units reached an all time high under the 2001 grant with 422 new units for construction. The number of new units completed for construction slows to no units being constructed under the 2006 through the 2008 grant awards.

Figure 2. Number of Units Completed



Planned versus Actual Ratio

Figure 3 shows that NHA has a better track record in operating the current housing stock under the *Housing Act* of 1937; however, in the same graph, ratios indicate that NHA lags behind in keeping up with its modernization projects. Comparing the planned to the actual, the ratio for modernization drops to approximately 60 percent under the 2002 and 2003 grant awards and continues to decline until it drops to zero in 2005. According to the graph, the planned activities for modernization of current housing stock were not reached under the 1999 grant and the 2002 to 2008 grant awards. The graph can also mean that the modernization planned activities are approximately seven years behind schedule.

Figure 4 shows the fluctuation in rates for development activities including construction of new units and rehabilitation of rental and homeownership units. Construction and rehabilitation of homeownership show the lowest rates. All rates dropped in 2003 indicating that projects were lagging behind by about five years.

Figure 3. Planned vs. Actual Ratio of 1937 Housing Units

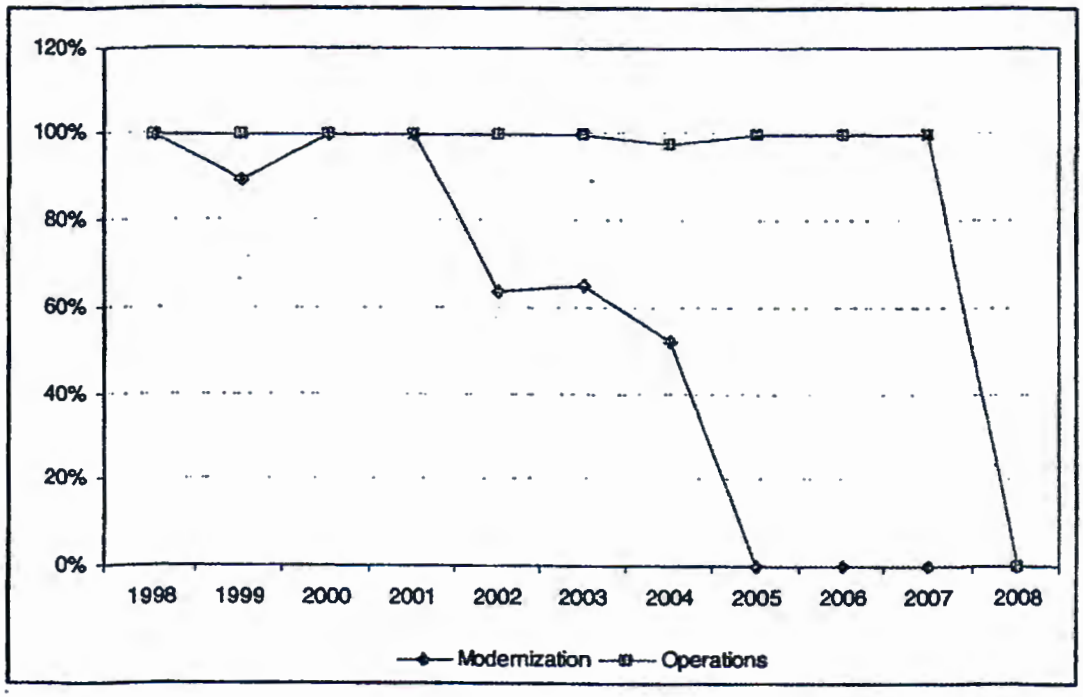
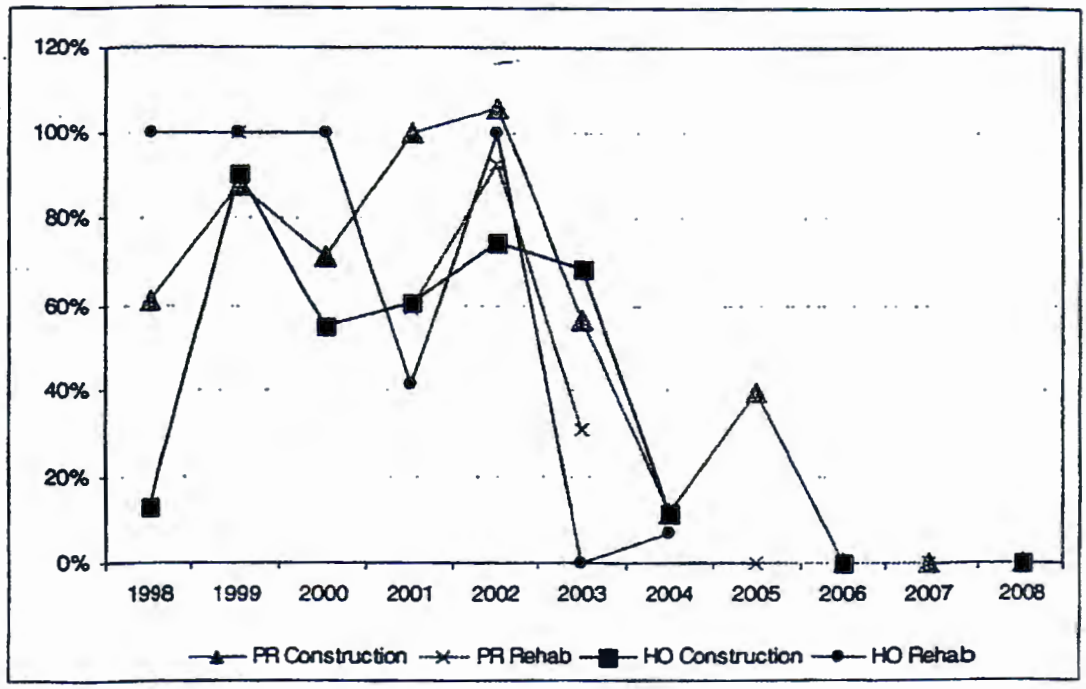


Figure 4. Planned vs. Actual Ratio of Development



8.2 Reason and Explanation for the Slippage

As part of the APR, NHA is required to describe the use of IHBG funds and how the use of those funds has moved them closer to achieving the goals, objectives, and performance objectives developed in the IHP.

The NHA is not currently on track to meet their goals identified in the IHP. NHA provides the following explanation for the slippage:

> Goals and objectives are not on schedule due to project planning and implementation delays. Environmental compliance requirements for certain projects and the lengthy process of obtaining land clearances with the Navajo Nation and BIA has also derailed NHA's funding efforts. Further, construction delays beyond NHA's or the Sub-Recipients control have caused additional difficulty. There were also some Sub-Recipients who did not obligate their funds in a timely matter and let their projects become stagnate, which resulted in the NHA having to recapture NAHASDA funding and reallocate those funds to other organizations in order to comply with NAHASDA regulations.

To address some of the issues, NHA provides the following explanations:

> The NHA Grants Management Department was implemented two years after NAHASDA legislative action. To date, this department is an evolving grant program established to carry out monitoring and grant compliance responsibilities.
>
> The majority of the NHA monitoring functions are devoted to NHA Sub-Recipient's projects and activities to verify grant compliance, especially for those determined as High Risk Sub-Recipients. The NHA is also re-assessing its overall management functions of the NAHASDA grant program including a current assessment of the first five years of the IHP (FY 1998-2007).
>
> In addition, the NHA developed the NAHASDA IHBG Management System Policies and Procedures and received approval from the Board of Commissioners on May 7, 2005. This policy system is designed to improve the delivery and management of affordable housing services.
>
> Furthermore, opportunities exist to expand NHA Monitoring and Self Assessment Measures, to document effectiveness and impact of NAHASDA funded activities; conduct comprehensive Navajo Nation Housing Needs Assessment; explore feasible opportunities for sub-contracting of development projects; and establishing project management services at the community/regional levels. NHA also plans to conduct preliminary evaluations of potential grants recipients in advance of any awards to validate administrative capacity, fiscal integrity and assess risk potential.

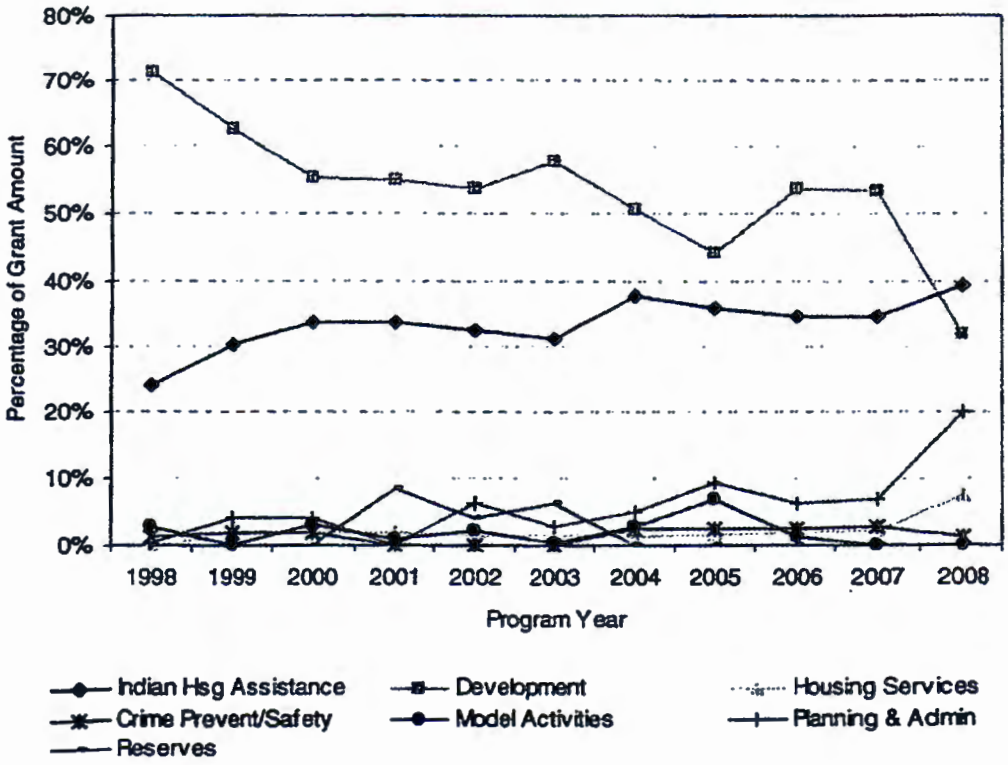
8.3 Analysis of Allocations for Budgeted Grant Amounts

Over the last decade, the budgeted amounts in the annual APRs show that the majority of IHBG funding is budgeted for development and Indian Housing Assistance **(Figure 5)**.

The other funding allocations remained under 10 percent except Planning and Administration for Fiscal Year 2007. During 2008, planning and administration doubled because more funding was given to support cost for TDHE administration ($15.2 million) and Grants Management ($2 million). Additionally, although development made up the majority of obligations, spending in this arena went down roughly 50 percent over the last decade and approximately 20 percent from 2007 to 2008.

From 1999–2003, the number of new units remained substantially higher than overall expenditure on rehabilitation and modernization. After 2003, all spending dropped dramatically and ceased altogether in 2006 and 2007. This reversal is most likely a response to the initiation of the HUD audits.

Figure 5. Percentage of Grant Amounts Budgeted: 1998-2008



8.4 Summary of APR Analysis

In summary, the APRs for the last decade show that NHA has allocated the majority of IHBG funds to the development and Indian Housing Assistance that includes modernization and rehabilitation of units associated with the *Housing Act of 1937*. New unit construction was substantially higher than rehabilitation of units not associated with the 1937 Housing Act. A

comparison of actual accomplishments with projects goals shows low productivity and that NHA is not on track to meet their five-year plan.

As referenced above, NHA prepares proposals for IHBG funding, evaluates their own proposals, awarding themselves funds, and alongside these conflict of interest, they are expected to evaluate their own performance. Until some of, if not all of these functions are removed from the TDHE, no matter what governing body it is, administrators will not be able to properly focus on and manage NAHASDA funding on the scale necessary to make the program run efficiently. In effect, it is a set up for failure.

9 NHA and Sub-Recipients Budgeted Amounts

This section is based on NHA's financial status report provided to the Transportation and Community Development Committee in November 2008. the financial status report covers the period of 1998 to 2007.

9.1 Budget Amounts for NHA and Sub-Recipients

In the ten years since NAHASDA block grants were established, over three-quarters of a billion dollars (approximately $890,862,812) have been awarded to the Navajo Nation for housing. Yearly block grants have ranged from over $86 million to almost $95 million. The allocation of resources covers operating costs (19.4 percent), modernization (18.8 percent), development (26.9 percent), and Sub-Recipients (34.8 percent) **(Table 19).**

Table 19. Total Fund Distribution of Indian Housing Block Grant Funds 1998 through 2007 (Based on Budget Totals)

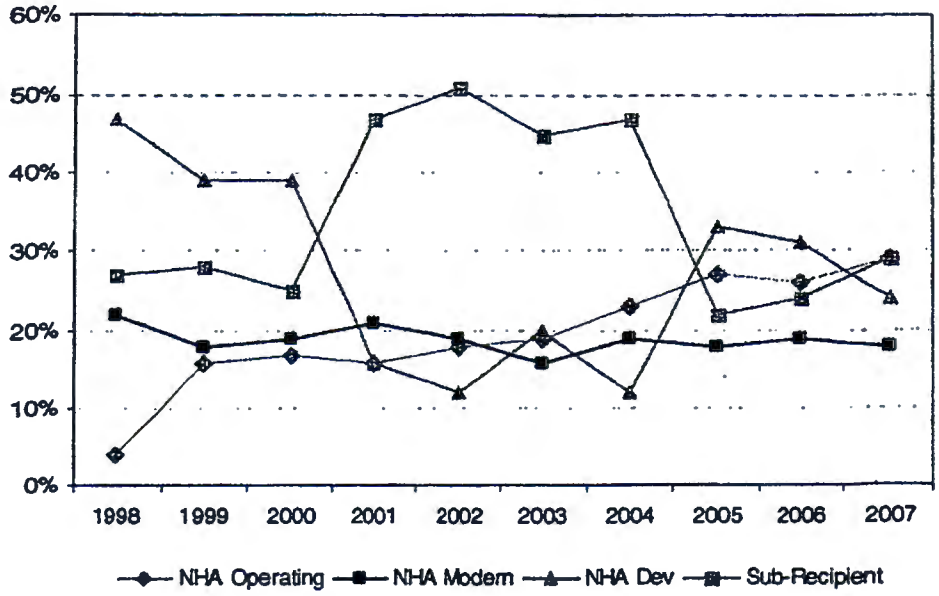
Fiscal Year	Navajo Nation IHBG	Navajo Housing Authority				Housing Sub-Recipients
		Operating	Modernization	Development	Total	
1998	$86,762,085	3,402,325	18,966,345	40,944,215	63,312,885	23,449,200
1999	$88,981,744	13,947,324	15,591,440	34,480,091	64,018,855	24,962,889
2000	$88,595,779	15,431,355	17,147,988	34,284,186	66,863,529	21,839,840
2001	$94,243,721	15,409,848	19,917,465	15,091,814	50,419,127	43,824,594
2002	$94,502,939	16,776,637	17,757,352	11,623,349	46,157,339	48,345,600
2003	$92,530,695	17,535,197	15,005,030	18,675,860	51,216,087	41,314,608
2004	$88,388,465	20,041,292	16,380,240	10,249,804	46,671,336	41,717,130
2005	$84,510,425	22,819,693	15,000,000	28,171,375	65,991,068	19,000,961
2006	$86,112,736	21,823,100	15,545,806	25,354,040	62,722,946	19,774,296
2007	$89,260,522	25,973,825	16,000,000	21,184,373	63,158,198	23,102,324
Totals:	$890,862,812	$173,160,596	$167,311,667	$240,059,107	$580,531,370	$310,331,442

Source: NHA Financial Status Report November 2008.

NAHASDA regulations require that planning and administration costs can not exceed 20 percent of the IHBG without HUD approval, funding data indicate that over the last decade, NHA's operating went as high as 30 percent. The funding that NHA spent on modernization since 1998 increased 25 percent. Modernization activities include minor and major rehabilitation of existing homes. Spending on new development went down substantially. The decline in NHA development could be attributable to the backlog of incomplete housing projects and the growing

number of Sub-Recipients also developing new housing projects. Awards to Sub-Recipients went as high as 51 percent in 2002 but declined in the following years **(Figure 6)**.

Figure 6. Percentage Distribution of Indian Housing Block Grant Funds 1998 through 2007 Based on Budget Totals



Further, substantial funding has been directed toward modernization versus new home building/construction. With the exception of the first year noted, the expenses associated with modernization have averaged around 20 percent. Considering these two areas (overhead/operating and modernization) consume approximately 40 percent of funding; only 60 percent of the funding was left for actual building/construction of new homes.

9.2 Overview of Sub-Recipient Funding

As shown in **Figure 7**, IHBG funds dedicated to external Sub-Recipient funding versus funds used internally by the NHA indicates that in earlier years, more funds went to the NHA than to Sub-Recipients. During 2001 through 2004, funding to Sub-Recipients increased while NHA's portion of the IHBG declined and then remained fairly equal with external Sub-Recipients. Subsequently, the NHA's funding behavior returned to much as it was earlier from 1998-2001.

Figure 7. Comparison of Distribution of Indian Housing Block Grant Funds To Sub-Recipients Versus NHA as a Recipient 1998 through 2007

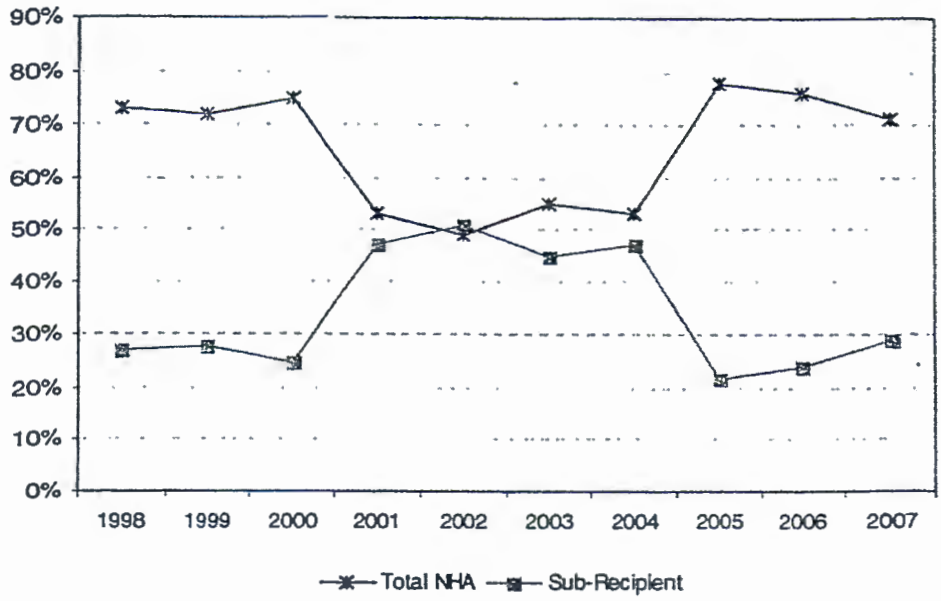
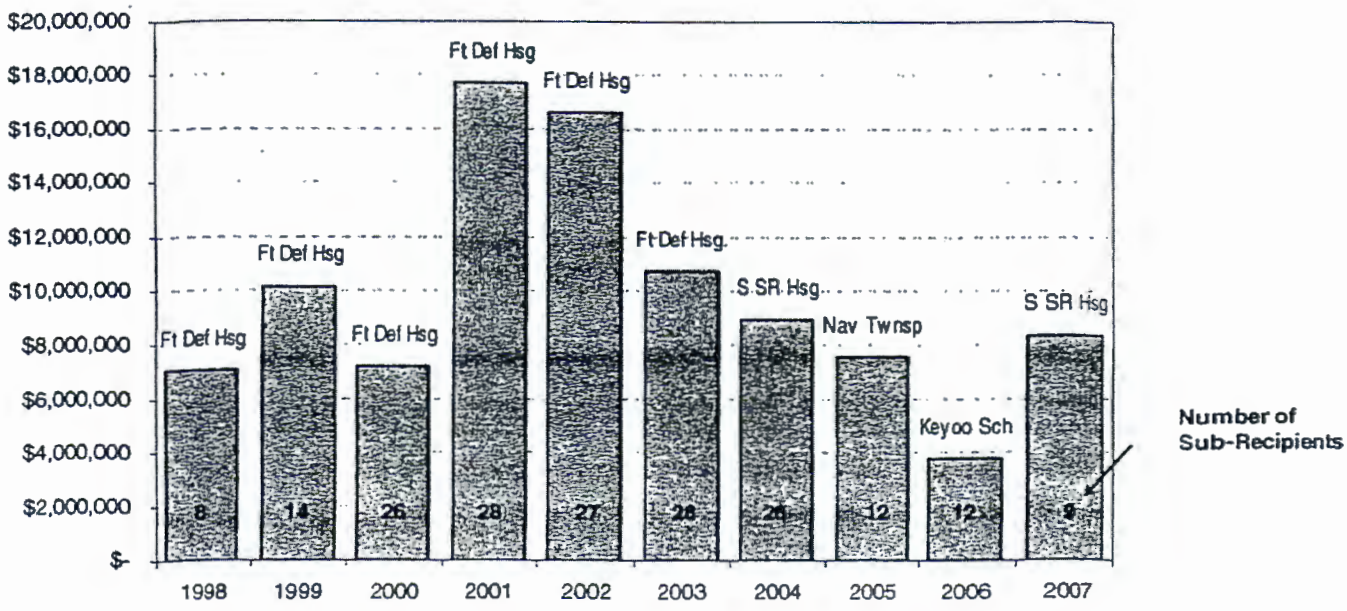


Exhibit G provides a complete list of Sub-Recipients and the total amount each was awarded over the 10-year period. **Figure 8** shows the Sub-Recipients who received the highest awards over the 10-year period as well as the number of Sub-Recipients for each year.

Figure 8. Highest Sub-Recipient Awards 1998-2007



10 Evaluation of Issues and Concerns of Sub-Recipients

To obtain direct data from Sub-Recipients, the consultants conducted teleconferences and/or online surveys with Sub-Recipients. A set of questions was developed and asked of each group during the phone interview, and Sub-Recipients were also allowed to interject any points they felt were important.

10.1 Participants

The list of those groups that participated in Indian Housing Block Grant housing initiatives in the 2007 fiscal year was used as participants for this study. Interviews were conducted with the following:

- Southwest Indian Foundation;
- Community Development Block Grant;
- Navajo Partnership for Housing, Inc.;
- Bee Hooghan Shelter Foundation;
- Indigenous Community Enterprise, Inc.;
- Shandiin Incorporated ; and
- South Shiprock Housing.

10.2 Survey Question

The participants in this segment of the study were forthright in their responses and provided their keen insights in an open and helpful manner. During the interviews, the participants were asked the direct questions:

- With NHA as the TDHE, what worked well?
- With NHA as the TDHE, what did not work well?

While conducting the interviews, the consultants specifically asked the above question and also encourage other inputs from the participants that they felt was relevant to the study.

10.3 Analysis

Results of the interviews show substantial and highly negative responses from the Sub-recipient interviewees. While participants indicated they try to remain positive, throughout the interviews they expressed that there were relatively few aspects of the current program that had worked well.

Sub-Recipients expressed very negative feelings and feedback with reference to the NHA's rather abrupt suspension of awards. The interviewees indicated that throughout their involvement with NHA, they had been told that the Sub-Recipients were invaluable to addressing the

substantial housing needs across the Navajo Nation. They were told that in order to address the housing needs, NHA needed the Sub-recipient program. Further, the interviewees indicated that if there were issues, they were not given any time for corrective actions. They also felt that the training and guidance provided by NHA was non existent or subpar and that depending upon who was asked, responses from NHA staff would differ, making it difficult for them to do their jobs.

To review additional details from the Sub-recipient participants, cumulative responses are listed below. If a number appears in parenthesis at the end of a response, that number indicates the times (greater than one) that comment was mentioned among all participants.

With reference to the question regarding what worked well at NHA, recipients indicated the following responses:

- Their organization worked well with the CEO; open door policy with CEO (N= 2);
- NHA means well and some personnel work hard: The one Quality Inspector works hard and tries; holds meetings and shares reports. The Environmental Review Inspector works hard and tries. (N=2);
- Training Meetings to disseminate information from Grants Management;
- NHA is good at collecting rent;
- Some new homes have been built; and
- Establishment of the resident organizations.

With reference to the question regarding what has not worked well at NHA, a total of 34 comments were voiced:

- Reimbursements take too long (N= 6):
- NHA does not respond promptly (N= 4):
  - NHA takes too long to get things accomplished. There are too many people in "management" and not enough people in technical and support roles (such as more trained and qualified Quality Inspectors and Environmental Review Inspectors, for instance). There are absolutely too many projects for just one QI and one ER. NHA is sorely understaffed because these are the only two people in these positions for the entire Navajo Nation.
- Lack of communication (N= 4):
  - Poor communication and follow up causes Sub-Recipients to have to personally go to top leadership to get any attention at all.
  - Limited to poor feedback on evaluation/rating of submitted proposals.
- Policies and laws are not clearly articulated (N= 3):

- NHA had three contracts on hold for four years.

- Lack of training (N= 3):
  - Transfer of knowledge issues. NHA seems to go to training programs off-reservation but does not provide that knowledge and information to other organizations.
  - NHA needs to do more frequent audits, but more importantly provide more intense training up front so that the audit becomes a formality.
- NHA losing submittals (N= 3):
- Unfair competition: NHA gets preferential treatment as a receiver of NAHASDA funds, directly competing with Sub-Recipients(N= 3):
- Lack of support of proven initiatives and methods:
  - University collaborations and support, including volunteer student builds.
- Conflict of Interest (N= 3):
  - Members of the Board appear to be in conflict of interest in that they either work for NHA, Government Services Committee, and/or have close relative/spouse who works for NHA.
  - NHA gets preferential treatment as a receiver of NAHASDA funds, competing with Sub-Recipients.
- Duplication of efforts by NHA (N= 2):
  - Environmental reviews completed by Sub-Recipients and then redone by NHA.
- In earlier years; negative (pessimistic) attitude:

10.4 Summary of Issues and Concerns

In summary, the interviews and surveys indicated that additional training and communication are needed and that only qualified Sub-Recipients should be allowed to participate in the program. Sub-Recipients also strongly felt that newly developed policies were poorly communicated. As a result, the lack of information dissemination and proactive training programs has given rise to the view that NHA has supported more of a "got-ya" after-the-fact approach to problem solving rather than helping participants understand right up-front what they need to do.

Further, it was also felt that depending upon the person with whom the Sub-Recipients spoke the answer might be different from each NHA staff member. And, a number of Sub-Recipients also feel that it is especially unfair that they compete for NAHASDA funds along side the NHA; it was felt that NHA's own projects get funding preference as highlighted above.

Some Sub-Recipients felt that more focus needs to be placed on new home development and construction rather than maintenance of current stock. They also would like to see more coordinated energies be put into using some best practices and new technologies.

Areas that were suggested to be strongly considered include:

- A focus on Sweat-equity builds across the Navajo Nation (such as the Habitat for Humanity model);
- Student training builds (to teach the trades to Navajo Nation young people);
- Coordinated purchasing centers (a sort of in-region "Home Depot" arrangement) and similar programs; and
- Green builds.

As indicated, there was significant frustration with the Suspension of Sub-grants placed on any funding from the NHA going forward. This Suspension has been in effect since FY2008. Sub-Recipients indicated that the Navajo people are being punished for poor performance among the organizations that are supposed to be there to help them.

While some Sub-Recipients spoke positively about the NHA and its policies and support of their efforts, a larger number of others indicated significant frustration with lack of support provided by the organization. However, even with their considerable frustrations, the Sub-Recipients are hopeful that improvements will be made and things will get better based on the results of this study.

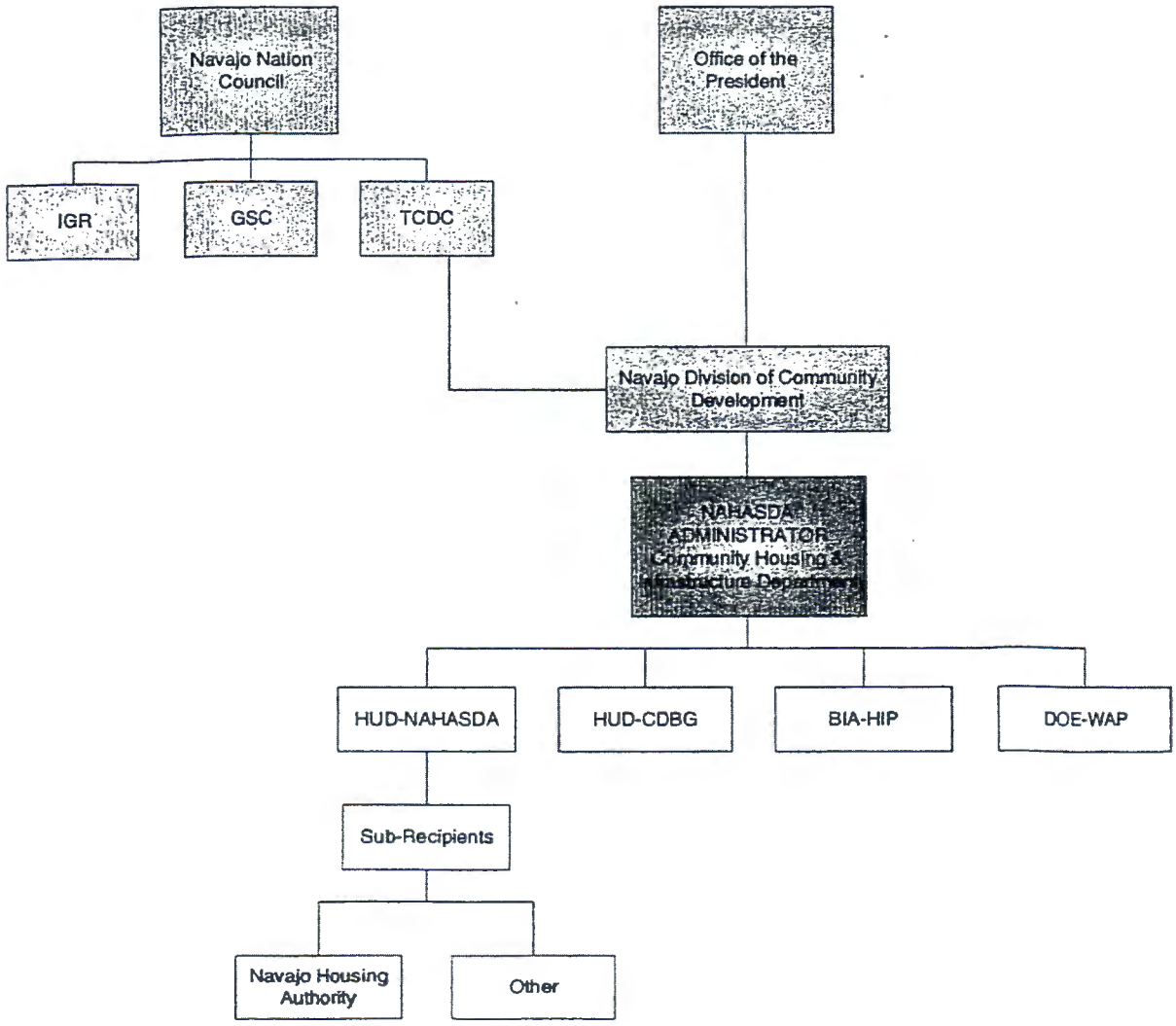
PART III
CAPACITY ASSESSMENT OF CHID

Part III of the Study is an assessment of CHID to determine whether CHID has the capacity to manage, implement and oversee the federal funds received under the NAHASDA.

11 Conceptual Framework – CHID is IHBG Grant Recipient

Under this scenario, CHID would take on the role of the NAHASDA administrator in addition to their current programs such as CDBG, Bureau of Indian Affairs-Home Improvement Program (BIA-HIP), and DOE-Weatherization among others. The structure would look like **Figure 9.** It would consolidate governmental functions firmly under the Navajo Nation, putting more responsibility for achieving housing goals directly on the Nation. To effectuate this change, the designation of the current TDHE would be dissolved, and NHA would become one of the Sub-Recipients and would thereafter compete for funds along with other housing providers and be held accountable under the same oversight regulations as all others.

Figure 9. CHID as the NAHASDA Administrator



12 Administrative Capacity Assessment

Regulations at 24 CFR §1000.6 provide that IHBG recipients must have the administrative capacity to undertake affordable housing activities. This capacity includes the existence of adequate systems of internal control necessary to administer these activities effectively without waste, fraud, or mismanagement.

Thus, CHID capacity assessment was developed based on HUD's Notice *PIH 99-32: Determination of Recipient Administrative Capacity to Undertake the Indian Housing Block Grant IHBG Program.* The notice establishes how HUD determines if a recipient of block grant funds has the administrative capacity to undertake the block grant program. Accordingly, the following basic requirements were evaluated to determine CHID's administrative capacity to undertake the IHBG program:

- Existence of an appropriate organizational structure;
- Experienced employees;
- History of satisfactory performance;
- Compliance with previous awards;
- Financial stability;
- Policies and procedures that meet the requirements of Part 1000;
- Development and operating policies; and
- Audits.

The consultants used two main resources for the assessment:

- Interviews with CHID staff; and
- Review of relevant documents relating to, for example, plan of operation, strategic plan performance reports and similar.

Generally, the ratings for each aspect of the guidelines included: Missing or non-existence, Exists but weak, Functional but could be stronger, Functioning well, and Exceptional / Best in class.

Following is an assessment of each of the areas described in the HUD guidelines as outlined above.

12.1 Existence of an Appropriate Organizational Structure

The evaluation of the existence of an appropriate organizational structure concerns the organization of CHID and its effect on program implementation.

Assessment Findings

1. On January 15, 2008, Government Services Community established CHID by amending the Master Plan of Operation for the Division of Community

Development pursuant to Title II N.N.C. §343(B)(2) and 1456 and upon recommendation of the Transportation and Community Development Committee. The amended master plan of operation merges the CDBG and the Navajo Housing Services Departments, restructures the staffing pattern, and consolidates all duties and responsibilities. According to the plan of operation for CHID, its purpose is:

"To promote and develop improved living conditions for Navajo families and strengthen communities through programs for community housing, utility services, public facilities and economic development improvements"

To carry out its purpose, the objectives of CHID are:

- Provide high quality and efficient housing and infrastructure improvements;
- Seek and implement opportunities for home ownership and renovation through partnerships and non-profits;
- Promote and support private sector involvement in financing and implement of projects;
- Encourage decentralization of housing development and renovation projects;
- Seek and secure financing for planning, design and construction;
- Improve collaboration with other governmental departments, utility agencies, other government offices, private companies, non-profits and chapters;
- Promote the use of improved building standards, appropriate technology, resource conservation, energy efficiency and sustainability;
- Recommend and institute policies, procedures, and standards that will improve performance;
- Raise awareness of home ownership and renovation issues and opportunities; and
- Monitor NHA, NAHASDA and other housing improvement programs to ensure compliance.

2. The main offices of CHID are located within the Division of Community Development on the second floor of Administration Building 2 in Window Rock, AZ with outlying operations in five Housing Improvement Program (HIP) agency offices across the Navajo Nation.

3. CHID does not have a website although its CDBG program has a website.

4. CHID reports itself as still being in the transitional period, continuing since the reorganization.
5. Based on the approved Plan of Operation, a professional manager was assigned as the Acting Department Manager on April 29, 2008 to develop a transition plan and to implement the Plan of Operation.
6. CHID is led by an acting department manager who oversees 25 full-time staff and approximately 40 part-time laborers.

Conclusions

1. CHID exist as a department within the Division of Community Development with an approved written plan of operation. The one specific CHID objective referencing NAHASDA is the last item that states it will monitor results of NHA, NAHASDA and other housing programs to ensure compliance.
2. The newly formed department is still in transition and not all positions are filled. The Department Manager is in an 'acting' status which could mean there is some uncertainty or lack of direction.
3. The organizational chart **(Exhibit H)** depicts the functional relationship of the programs/areas within CHID. It does not clearly reflect the numbers of positions and their lines of authority.
4. To organizational effectiveness, CHID indicates that it is still in transition after the reorganization.

Rating

Functioning but could be stronger

12.2 Experienced Employees

Leadership, adaptive/performance and management/administrative capacities were reviewed to evaluate the experience of employees.

Assessment Findings

1. As a department of the Division of Community Development within the Navajo Nation, CHID's guidance comes from the overall high-level goals of the Navajo Nation President and the Navajo Nation Council. CHID communicates with the President and the Transportation and Community Development Committee regularly and provides a written report on a quarterly basis.
2. The acting department director holds a degree in business administration and has served on boards of directors such as the Navajo Partnership for Housing where he was chair for 12 years. As to background and experience in housing, the acting

department director works on certain housing activities, albeit in a smaller scale, in his current role as acting director of CHID. In addition to his current work, the acting department director has worked within the Navajo Nation for some 32 years where he served as planner, program manager, director of water development, land development, community development, CDBG/chief information officer, and in transportation. In addition to his work with the Youth-build program that has its first graduation class coming up, the acting department director was also instrumental in bringing in the Federal Home Loan Bank to assist financing housing. In his current role at CHID he has focused on upgrading policies and procedures and clearing up issues with HUD and NHA by getting records up to date and appropriately reported.

3. The acting department director is able to provide an articulate compelling path that his staff follows. Under the acting department director's leadership, CHID developed a one-year Strategic Plan including mission and vision statements.

4. CHID staff members were not able to confidently discuss the vision, mission and goals of the department.

5. While no formalized values system was established, the CHID staff indicated that it tries to follow strong values in the work that it does.

6. The one overarching goal that seemed to be present was the one associated with becoming the TDHE. The strategic plan also incorporated the transition into a new department as well as the assessment of the capacity to bring NAHASDA administration more fully under the Navajo Nation. The department wished to address issues related to lack of clarity and problems with inspections.

7. The department staff includes two contract "on-loan" employees from NHA. Thee two staff members appear to have more direct experience in housing having come from NHA. These staff members also seem to have a better grasp of the overall mission and processes than most other staff, and they were able to easily articulate the mission and goals of the organization.

8. There is strong enthusiasm within the leadership ranks to try some new ideas and get housing initiatives moving more effectively and efficiently on the Navajo Nation. The acting department director seems to be a good motivator, encouraging participation and decision making among his staff. He works towards a win/win inside and outside his organization.

Conclusions

1. The direct background and experience in housing is good. Organizational effectiveness is improving. Analytical and strategic thinking would be considered

good considering the forward-looking, more creative approaches being taken and/or discussed.

2. When considering adaptive and performance capacity, the department leadership worked with his team to develop a strategic plan, albeit for one year, and is in the process of working with the team on planning for future years.

3. There was not a great deal of evidence in the planning process of evaluation and performance measurements (milestones and benchmarks) within the department, but the department shows progress in clearing up previous findings and recommendations. Perhaps those milestones and benchmarks will be added during the upcoming planning sessions.

4. The department has a very small staff with few professional positions. CHID has some good staff members, but very few who have had any extensive exposure to or experience in housing policy, oversight, development or construction.

Rating

The items in this section were generally rated as functional but could be stronger.

12.3 History of Satisfactory Performance

This area looks at whether CHID has a proven record of acceptable compliance and performance in implementing federal, tribal and other programs of a similar nature and scope to NAHASDA activities. Since CHID is the merger of the former Housing Services Department and the CDBG program, the performance of these two programs is used in this assessment.

Assessment Findings

1. As a department of the Division of Community Development within the Navajo Nation, Community Housing and Infrastructure Development has an annual budget of $8 million. Projects that were the focus of this budget included one (1) CDBG power line through support from the U.S. Department of Urban Development; 20 units with 7 scattered units through USDA and NAHASDA funds; 16 units with HIP (in-process though contract expired 12/31/08); weatherization project(s) through Department of Energy support; contracting to help community members pay electric bills through support from APS; and, the $100,000 Navajo Nation funds for roofing projects.

2. As to future plans, the CHID department indicated that it would continue periodic meetings with finance, work to complete projects in a timely way, and within one (1) year be prepared to potentially take on TDHE for the Navajo Nation.

Conclusions

1. While CHID, a Department of the Division of Community Development, has some history of work on certain housing and infrastructure development projects, the size and scope of the projects is nothing near the magnitude of the current Navajo NAHASDA programs.

2. The needs are so great among the Navajo people that there is question whether an organization of this size and scope could be prepared, considering its history, for such involvement on such an accelerated scale.

Rating

For the limited scope and the work that is being completed by CHID, the rating is functioning but could be stronger.

12.4 Compliance with previous NAHASDA awards

This area looks at whether CHID has a proven record of acceptable compliance and performance in implementing previous NAHASDA activities.

Assessment Findings

1. The former Navajo Housing Services Department was award NAHASDA sub-grants from NHA from 1998 to 2005.

2. For fiscal year 1998, 15 scattered units were completed as planned with $2,227,380.

3. For fiscal year 1999, the number of planned units decreased from 24 to 17 units due to an overrun of the 20 percent maximum allowable for administration. The grant amount was $2,932,199.

4. Grant funds, in the amount of $5,450,000, for fiscal year 2000 were recaptured per NHA 3401-2002 on August 1, 2002 due to no activity; however Navajo Housing Services Department indicated planning for the 46 scattered units was completed and there were issues with NHA misfiling Navajo Nation requisitions for this grant fund. The units were subsequently completed by the NHA force account.

5. For fiscal year 2001, $5,450,000 were awarded. The general contractor defaulted therefore NHSD in-house Labor Force completed 15 units, though construction continues on the utilities. The 150 bathroom units decreased to 78 units due to increase of costs in materials and changes to client listings. The planned 150 renovated units in Alamo were decreased to 11 units due to findings that the existing homes were not feasible for renovations, resulting in a complete set of new units. Planning for three elderly group homes failed due to improper land withdrawal by the chapter, though one elderly group home was built in Crownpoint, New Mexico.

6. For fiscal year 2002, $3,075,000 were awarded. The NHSD in-house Labor Force completed 15 units, though construction continues on the utilities. However, $1.2 million was recaptured due to lack of activities and improper land withdrawal for the elderly group home.
7. For fiscal year 2003, $1.3 million were awarded. For fiscal years 2001 and 2002 there were 15 unfinished unites all lacking the utilities, which are under construction. The 10 new construction plans were approved by the NHA for funds but due to too many staff overturns to oversee the NAHASDA projects causing the hindering of progress and lack of funding the project failed to develop.
8. For fiscal year 2004, $3,250,000 were awarded. Of the 25 scattered sites planned, 15 were completed in Alamo with another 10 pending. Another 25 scattered sites are to be constructed, seven are on Big Navajo with an additional 3 pending and 15 are in Alamo, New Mexico.
9. For fiscal year 2005, $168,960 were awarded. There are plans for 16 scattered sites however that has been decreased to 14 units and the project is in progress.
10. All previous NAHASDA awards remain open. CHID indicates the work have been completed on most and it is in NHA's hands.

Conclusions

1. Part of any organization's role is to find ways to expedite and work through political and other barriers. Methods and relationships must be developed such that work moves forward.

Rating

As to overall rating in this area, it would be that it partially exists and can use some additional focus and work to get up to functioning.

12.5 Financial Stability/Financial Management Policies

At a minimum it is important to know if the organization has financial management systems in place which meet the standards contained in 24 CFR Part 85 and Part 84.

Assessment Findings

1. The CHID has been in the process of clearing up some previous findings and indicates it is well on its way. There are a few items that appear to have some political implications and are being allowed to drift.

2. As to written procedures, there was no evidence that the department has it own policies and procedures established, but instead indicates that it uses the Navajo Nation's policies and procedures.

3. It appears that the department follows the applicable OMB principles.

Conclusions

1. The question of effective internal controls and accountability of grant funds, property and other assets, there appear to be the basics in place that would need to improve if more responsibilities are taken on

Rating

For the limited scope and the work that is being completed by CHID, the rating would be functioning but could be stronger.

12.6 Policies and Procedures That Meet Requirements

Policies and procedures that meet the requirements of Part 1000 include maintaining policies on Indian preference, prevailing wages, human resources, environmental clearances, and accessibility.

Assessment Findings

1. When asked about the various policies and procedures in place (Indian preference, environmental clearances, accessibility, human resources, travel, procurement, and travel), it was stated that the department uses the Navajo Nation's policies and procedures.

2. There was no evidence of any particular department policies that would perhaps provided additional guidance to those used from the Navajo Nation, and no particular process manual outlining laws and required approaches to housing under NAHASDA.

3. While CHID staff had difficult stating the mission of the organization, they did appear to understand the various functions of the organization.

Conclusions

1. While little other than the Navajo policies and procedures are in place, efforts to follow those seem to be genuine. .

Rating

Based on this information, the planning processes that are being executed again this year, and the desire to continue to improve, the rating for this area would be functioning but could be stronger.

12.7 Audits

This area looks at whether the organization obtains audits in a timely manner and resolves any findings in accordance with established timeframes.

Assessment Findings

1. An audit by the KPNG consulting firm contracted by the Navajo Nation determine that CHID had two findings related to: Fixed Assets/document from Finance and NHA grants with reference to unit costs, inventory of building materials and lack of monitoring projects.
2. CHID is aware of the findings from the audit conducted by KPNG consulting firm. Staff and leadership indicate they are working to clear up those findings.

Conclusions

1. More focus needs to be placed on developing and following best practices particularly with reference to assets, finance, and similar business functions.

Rating

These functions exist but need to be developed and monitored further.

13 Challenges

A major challenge is the transfer of all assets and liabilities from NHA to CHID. It would also necessitate all of the existing contracts to be reissued. Another important concern is that the Nation's indirect cost relatively high, 21.6 percent, which exceeds the 20 percent allowed for administration expenses under NAHASDA. Additionally, any housing initiatives under this alternative would have to go through the Navajo 164 Review Process.

Specific pros and cons of implementing this scenario are listed below.

Pros

- The CHID has a strong desire to make a difference on the Navajo Nation to provide adequate housing;
- Currently conduct construction of infrastructure and construction of certain segments of homes;
- Familiar with Navajo Nation rules and regulations;
- tribe can take credit for the program's success or accept responsibility if there is failure; and
- The program will be treated as any tribal program and considered in the oversight activities and overhead of the tribal government.

Cons

- Disruptive to the two major organizations involved;
- Major change management and planning processes would be needed;
- Limited capacity exists now for CHID to take on the TDHE responsibilities;
- Staff size may not be scalable for the broader responsibilities;
- CHID would continue to be a Sub-Recipient and might be considered as competing with outside Sub-Recipients as is the case now with NHA; and
- The Navajo Nation would assume all assets, liabilities and investments; potential for additional overhead costs.

14 Summary of Capacity Assessment

This section focused on whether CHID, a department within the Navajo Division of Community Development, could be designated as the recipient and administrator of NAHASDA funds. While such a designation is certainly a possible organizational structure within the statutes and regulations, it was determined that CHID is not ready to take over the NAHASDA program at this time. This notwithstanding, the Navajo Nation is behooved to reconsider the current arrangement, re-examine the substantial housing needs of the Navajo people, and consider other options and what next steps should be. Further, it is believed that several alternatives should be considered for future administration of NAHASDA funds.

PART IV
ANALYSIS OF ALTERNATIVES FOR ADMINISTRATION OF THE NAHASDA PROGRAM

Part IV of the Study presents the ideas ascertained through primary research and sets forth the analysis of alternatives for administration of the NAHASDA. The following alternatives are discussed in Part IV: (1) CHID (2) NHA continuing serving as the TDHE; (3) Navajo Nation becoming the direct recipient of the NAHASDA funds and creating a division of housing; and (4) Creating a new TDHE.

15 Ideas Regarding the Administration of the NAHASDA Program

The consultants ascertained ideas of where the Navajo Nation wants to be in the future with reference to the administration of the NAHASDA program. The consultants posed this question during focus group or individual interviews such that everyone involved had the opportunity to respond openly and freely.

15.1 Participants

A list of appropriate groups interested in or otherwise involved in IHBG housing initiatives was developed, and consultants reached out to those groups on the list. The following interviewees were included.

- Community Housing and Infrastructure Department;
- NHA;
- Southwest Indian Foundation;
- Community Development Block Grant;
- Navajo Partnership for Housing, Inc.;
- Bee Hooghan Shelter Foundation;
- Indigenous Community Enterprise, Inc.;
- Shandiin Incorporated;
- South Shiprock Housing; and
- Transportation and Community Development Committee.

Although the question of where the Navajo Nation wants to be in the future with reference to the administration of the NAHASDA program was asked to the Government Services Committee, the committee members indicated they would reserve their response to this question until they reviewed the results of this study.

15.2 Question

The participants in this segment of the study were forthright in their responses and provided their insight in an open and helpful manner. During the interviews, the participants were asked more specifically this question:

- If you had a clean slate / a clean white board, what would the future of the NAHASDA program look like?

15.3 Analysis

Those responses mentioned most frequently were crystallized into central themes from the consultants' review and analysis of the data. Below are the major views and future visions of the participants in the study with the responses ordered generally with the more important items are listed first:

1. **Eliminate BIA** in conveyances, titles, leases, survey standards.
2. **Do Master Planning** on a large scale.
3. **Develop financing on the Navajo Nation** such that builders can obtain construction loans and homeowners can obtain mortgages and similar financing needed to help individuals and families become homeowners.
4. **Develop bonding programs** for businesses on the reservations.
5. **Establish a professional Board of Directors** that is charged with the responsibility of strong direction setting, guidance and oversight of the housing organization. Include in the board membership specific expert designations for each membership slot for the following areas
   - finance/accounting;
   - innovation and alternative methods including green construction and alternative energy;
   - construction;
   - utilities;
   - regional and land use planning;
   - environmental and similar areas;
   - architectural and engineering services; and
   - infrastructure.
6. **Continue off-reservation support** of enrolled Navajo members by assisting with mortgage buy-down, down-payment or similar programs.
7. **Develop methods to revise or otherwise interpret** the Federal policies in a way that is fitting for a sovereign nation, taking the NAHASDA self-determination to a whole new level. Apply policies and procedures equitably across <u>all</u> providers and use common sense when doing so.

8. **View the NAHASDA laws and regulations** as opportunities versus restrictions; move rapidly opening the pipeline of funds for construction of Navajo homes such that unspent funds do not get recaptured by the Federal government.
9. **Focus on tribal self-determination** in decision making.
10. **Assure transparency** so that everyone can see what is going on within the TDHE; use technology (i.e., post regular updates on NHA website that now seems to be rather static) and traditional methods (postings at Chapter houses) to keep people informed.
11. **Assure that policies and procedures are well communicated and trained** (and re-trained) throughout the Navajo Nation and that these are not used in a punitive way but instead are used in a way to partner with and help home builders move forward rapidly and appropriately.
12. **Assure that internal staff members are appropriately trained** such that each subgroup and individuals provide the same consistent, correct information to questions asked.
13. **Revise or otherwise establish Navajo Nation building codes** versus county codes
14. **Consider new organizational structures** that are put into place to help avoid conflicts of interests that either exist or are perceived today. [Note: Concepts captured during the interviews helped focus the consultants on the alternative options outlined in more detail elsewhere in this report. The basic concepts include leaving NHA as is but with the other areas being addressed; moving the housing organization to the Navajo Nation Transportation & Community Development Committee's CHID; or combining all housing related organizations into an organization not under Community Development nor the NHA, but also combining veterans housing, into one housing entity/consortium under the Navajo Nation wherein the Navajo Nation is the TDHE.]
15. **Eliminate real and/or perceived conflicts of interests and overlapping board membership,** regardless of the organization structure.
16. **Keep NHA as the TDHE**. Don't reinvent the wheel.
17. **Focus** Navajo government on regulatory role, NHA on implementation, and form a steering committee consisting of NHA, NTUA, Economic Development, HIS and BIA.
18. **Establish** a consortium to oversee NAHASDA program.
19. **Change culture** of the designated housing organization within the Navajo Nation in a revolutionary way versus evolutionary way such that the organization can move forward more rapidly. Individuals who are not willing to change must be

encouraged and helped to move into other opportunities outside the organization. Such culture change should focus on

- Innovation and creativity;
- Motivation and action-orientation;
- Partnering/helping builders versus being seen as advisories;
- Quality and continuous improvement as a key segment of the culture;
- Life-long learning (people need education on homeownership, mortgage process; self-help initiatives; financial literacy/budgeting for all to get into a home); and
- Ethics (duty and responsible to uphold the interest of the Navajo people, the Federal Government, and tax payers who ultimately provide the money).

20. **Immediately move into more creative and innovative construction and building initiatives** that are appropriate within the Navajo Nation culture. These building concepts and proven approaches must guide planners and builders' construction of homes that can withstand the years well beyond the current 20 years stated. A focus on the following is believed to be critical:

    - Construction;
    - Green build;
    - Sustainable and local resources;
    - Log, straw bale, adobe, sips, natural building materials/methods;
    - Education/training/jobs;
    - Youth builds;
    - Volunteer builds (Habitat for Humanity concept, for example); assure that outsiders who come onto reservation to assist also actively involve themselves in knowledge and skills transfer so that Navajo people become trained for paying jobs; and
    - Culture transfer (elders work along side native youth and outsiders to share culture of Navajo Nation).

16 Alternatives

Throughout this project, various alternatives to the existing management structure have been contemplated, but only a few surfaced as worthy for additional consideration and study. The alternatives range from keeping the current structure with some modifications all the way to entirely reorganizing the administration of the IHBG.

Study and consideration of how best to proceed regarding Navajo housing and any potential change have been arduous and extensive. Several key factors were considered when developing the alternatives:

- Need to keep the focus on meeting the housing needs of the Navajo people;
- Increasing the housing development process to more rapidly develop homes;
- Need for transparency, and training on regulations and policies; and
- Equal treatment – providing an even playing field for all.

The scenarios below provide potential viable solutions for improving the IHBG for the Navajo Nation. Each one will require a commitment to change and recognition of new leadership. Regardless of which alternative is ultimately chosen, the Navajo Nation will continue to perform oversight for the IHP and the goals will remain: to provide safe affordable housing for Navajo families.

16.1 CHID Manages NAHASDA

As a result of the CHID Capacity Assessment (See Part III), this Study concludes that CHID is not currently capable of managing the federal funds received under NAHASDA. However, with increased resources, CHID could potentially manage NAHASDA funds. As outlined in Part III of this Study, it was determined that the challenges of allowing CHID to administer the NAHASDA funds are likely too great and such an approach does not take advantage of the strengths of CHID. As a result of the CHID Capacity Assessment, this Study concludes that the other alternatives outlined herein have a greater likelihood of success.

16.2 NHA Remains as TDHE

One alternative is to allow NHA to remain as the TDHE with significant changes to policies and procedures, the Sub-Recipient Program and the oversight function of the Navajo Nation. As a result of the Study, it was determined that NHA has been successful in managing current housing stock but has not made any significant progress with respect to the other goals of the IHP, in particular construction of new homes. Further, the Sub-Recipient Program, as currently structured, creates conflicts of interest and is not structured in a way to effectively or efficiently meet the housing needs of the Navajo People. If NHA is to remain as the TDHE, significant changes to the existing policies and procedures would need to be made (particularly as it relates

to the Sub-Recipient Program) and NHA would have to develop meaningful initiatives with respect to meeting all of the goals of the IHP with a focus on new housing development. In addition, the Navajo Nation would have to increase its monitoring function over NHA and create additional mechanisms for oversight of NHA. Regardless of whether NHA remains as the TDHE, the Navajo Nation (as the grant beneficiary) remains responsible for oversight for monitoring programmatic and compliance requirements of the IHP and NAHASDA such that the Navajo Nation has the ultimate responsibility to ensure that NHA is operating and administering NAHASDA properly.

As a practical matter, it is critical to recognize that several tribes have authorized their tribal housing authority to act as the TDHE for many of the following reasons:

- To remove the housing operations from the politics of tribal government and its processes and give it autonomy;
- To protect the tribe from the legal consequences of the entity's activities, including any claims filed against the entity;
- To create an entity whose funding is protected from taxation, assessments and judicial executions;
- To create an entity that can conduct business activities in an efficient manner and make decisions without undue delay. (The entity would have the authority to enter into agreements with persons, entities, agencies and governments related to its housing activities.);
- To give the entity the privileges and immunities of the tribal government while allowing it to transaction business as a separate entity; and
- To allow the entity to borrow money to leverage the federal funding.

Thus, before removing NHA as the TDHE, it is important that the foregoing considerations be examined and that the alternative selected does not result in a loss of the benefits of a TDHE. The focus of this Study was to determine whether CHID could manage NAHASDA funds, not whether NHA should remain as TDHE therefore an assessment of NHA and further study of this alternative is recommended.

Despite the limitations of this Study, there are some basic recommendations and observation made as a result of the findings of the Study. First, if NHA is to remain the TDHE, the Study recommends that its current organizational structure remain intact. As shown in **Figure 10**, the NHA currently has a Board of Commissioners that would be composed of professionals in the various relevant fields. The Board of Commissioners reports to the Navajo Nation. Various other Navajo entities, in addition to NHA, manage housing programs funded in part or entirely through NAHASDA. Among these are Veterans Affairs and CHID. Under this alternative and to fulfill its oversight responsibilities, the Navajo Nation could assign the CHID to monitor NHA as the continuing TDHE. In this case, CHID would fulfill the monitoring and oversight roll and will not participate as a Sub-Recipient. This alternative creates the least amount of disruption because it

keeps current organization structures the same with only minor modifications such as the CHID monitoring role. The legal impact would also be minor and contracts, assets and liabilities would remain intact.

Below are listed certain pros and cons of retaining the current NHA structure.

Pros

- NHA is actively working to resolve findings from HUD;
- It is working on strengthening its organization and practices;
- NHA has a working relationship with HUD and has developed updated policies based on HUD requirements; and
- NHA indicates it is working on new ideas to improve housing initiatives as well as other methods of capturing needs (survey) in order to obtain additional funding.

Cons

- Historically, NHA has made little headway in making a dent in meeting the housing needs on the Navajo Nation;
- Processes and procedures are too slow and laborious;
- Many of the selected Sub-Recipients of NAHASDA are not prepared to develop/build homes;
- Sub-Recipients feel distress with the bureaucracy and also indicate they have to compete with NHA itself which is also a Sub-Recipient;
- The Board of Commissioners is not made up of professionals in the various relevant fields such as development, construction, infrastructure and similar which are considered essential in providing stronger guidance and direction to any housing organization; and
- Much of the effort of the organization appears to be focused and/or distracted with maintaining current stock (collecting rent, repair/maintenance) versus developing/constructing new homes.

Again, because this Study did not include a formal assessment of NHA, it is recommended that a formal assessment of NHA be done to determine specific changes to the current structure and in particular changes to the policies and procedures for the Sub-Recipient Program and additional mechanisms for oversight by the Navajo Nation.

16.3 No TDHE -Navajo Nation Manages NAHASDA Funds Directly

Another alternative would be for the Navajo Nation to manage the NAHASDA funds without a TDHE. Under current federal law, the Navajo Nation may designate itself as the recipient of the NAHASDA funds in accordance with the provisions of 24 CFR § 1000.204. From a legal perspective, an Indian tribe may designate itself the recipient by (1) resolution of the

Indian tribe; or (b) when such authority has been delegated by an Indian tribe's governing body to a tribal committee(s) by resolution or other written form used by such committee(s) to memorialize the decisions of that body, if applicable. In making a determination as to whether the tribe should designate itself as the recipient, the following should be considerations:

- The ability to make quick business decisions;
- The ability to develop and renovate housing;
- The ability to manage and maintain housing units;
- The ability to enter into contractual agreements without putting the tribe at high risk;
- The ability to provide housing services in a fair and efficient manner. This means policies must be in place to ensure all applicants receive the same treatment. This is important since one of the biggest complaints about tribal governments is favoritism to relatives and friends; and
- The ability to procure materials and services and initiate timely payment on such procurement. A contracting officer should be designated with sufficient procurement authority to make timely decisions.

As mentioned previously, any alternative, however, the policy issues that are raised require the Navajo Nation to carefully consider whether this action would be in the long term best interests of the tribe and whether it would best serve the needs of the Navajo people.

Under this alternative, the Navajo Nation becomes the direct recipient of NAHASDA funds and the administration of NAHASDA funds would be administered by a newly created division, the Navajo Nation Housing Division, which would work directly under the President and lateral to the Division of Community Development as shown in **Figure 11**. This new housing division would be the NAHASDA administrator thereby consolidating housing initiatives from NHA, CHID, Veterans Administration under one umbrella. This Organization would have a professional Board of Directors established with specific professional designations for each board appointment and intended to give guidance and direction to the leadership of the organization. The NHA would then primarily focus on housing management of both 1937 housing units and NAHASDA units as a Sub-Recipient.

This new organizational structure would be more closely and clearly linked to the Navajo Nation government putting more responsibility on the Nation for achieving housing goals and would consolidate governmental functions firmly under the Nation.

Under this alternative, oversight of the IHBG program would be provided by the Office of Management and Budget (OMB) fulfilling the oversight and monitoring responsibilities of the Navajo Nation. The CHID would be moved into this new division with its various functions being split among the departments as appropriate.

In addition, under the current Transportation and Community Development's plan of operation, there exist a provision for establishing an advisory group that includes the general managers from NTUA, IHS and certain professional leaders. The consultants recommend this advisory group concept be instituted within this alternative; thus the Transportation and Community Development would request the services of appropriate general mangers to work on this advisory group. Regular advisory group meetings would be held monthly after the new entity is underway. Further, like other professional advisory groups, it would establish certain essential sub-committees to oversee and do more hands-on work to provide guidance, insights, and direction to the organization..

Major departments proposed in the new housing division are Planning (supported by the Division of Community Development), Grants, Technical Assistance, and Quality. Grants would be responsible for overseeing and monitoring all housing grants with the Sub-Recipients. The housing division would not do not do any construction or development and instead the Sub-Recipients would be responsible for this function.

Under this alternative, NHA would primarily focus on managing housing stock with the intent of conveying larger numbers of units to ownership status. NHA would be a Sub-Recipient along with other housing providers and builders.

The pros and cons of this approach are discussed below:

Pros

- Centralizes housing activities into one organization;
- Focuses effort on the development and construction of new homes to help ease the major needs among the Navajo people;
- Uses services of professionals in specified fields such as planning, finance, chapter communication, legislative/government/policy, land development, architecture, engineering/infrastructure, construction for Board of Director membership;
- Coordinates funding requests/proposals to various government, grant, and charitable organizations; and
- Eliminates redundancies among various departments and may reduce the overhead/headcount needed; potential to move staff to more direct planning, development, and building roles.

Cons

- Disruptive to the various organizations involved; a large-scale major change initiative project would need to be put into place;
- Time required to put professional Board of Directors in place and bring up to speed may slow housing initiatives initially;

- Certain redundant positions would require staff reductions for more cost effective operations thus people could lose their jobs;
- Transferred to department of the tribe, the tribe would assume all assets, liabilities and investments; potential for additional overhead costs; and
- potential for additional overhead costs.

Under this alternative, many of the benefits of the TDHE would no longer exist and substantial revision to the Navajo Code would be required to scale back the authority currently granted to NHA. Thus, this alternative requires substantial changes both legislatively and procedurally.

16.4 Create New Entity to Serve as TDHE

The last alternative presented is to create a new entity to serve as a TDHE. Using its powers of self-governance, the Navajo Nation may, pursuant to 24 CFR §1000.204 designate itself (or another entity) as the recipient of the NASHSDA grant. Under this concept, a new entity would be created and designated as the TDHE **(Figure 12)**. Under this structure, the TDHE would be more closely linked to the Navajo Nation's Council and solely focused on managing grants to Sub-Recipients such as Navajo oversight organization(s), the NHA for housing maintenance of current stock, to CHID for guidance in policy and oversight, and others who are designated as providing services to the new organization. This Organization would have a professional Board of Directors established with specific professional slots designated for each board appointment (based on experts areas designated) and intended to give strong professional guidance and direction to the organization's leadership.

A banking organization is also recommended as part of this overall organizational structure. One of the major functions of the bank would be the education of potential homeowners and granting of mortgages for home purchases. The banking entity would have its own professional Board of Directors made up of financial and banking professionals with extensive and specific successful experience in the types of banking intended for this organization, especially mortgage lending.

This alternative establishes an overall design that focuses on construction, housing stock management, finance, and strong oversight. The concept centers on a new entity for the purpose of refocusing the energies and talents of the Navajo Nation and its leadership towards construction of homes so desperately needed. To assure less distraction, the general functional areas of construction and current housing management would be moved into different organizational structures.

Oversight of the TDHE/housing entity would be provided by the Office of Management and Budget (OMB) fulfilling the oversight and monitoring responsibilities of the Navajo Nation. The CHID would be moved into this new organization with its various functions being split between Construction and Regulatory Departments as appropriate. Within the new organization,

under Regulatory, the function of policy development, standards and building codes will be developed and enforced.

The overall structure of the new TDHE/housing organization, yet to be named, would include the use of a professional Board of Directors with specific designations for each of the nine (9) seats. In addition to eight professionally designated seats, the board would include the Navajo Nation President as an ex-officio, non-voting member. Regular Board meetings would be held monthly at the beginning of the organization's development and for some time thereafter and later perhaps meetings could be quarterly after the new organization is underway and functioning well for perhaps a period of years.

Further, like other professional boards, it would establish certain essential committees to oversee and conduct more hands-on work in segments of the operation such a Finance Committee, Regulatory Committee (intersect with CHID), and New Technology, for example. The Board would have a rotating tenure of 4-year terms and be made up of the following professional designations:

- Planning;
- Finance;
- Chapter Communication / Liaison;
- Legislative/government/policy;
- Land Development (including environmental, etc.);
- Architecture;
- Engineering;
- Infrastructure; and
- Construction.

From those who may express interests in board positions, the CEO of the TDHE/housing entity and the President of the Navajo Nation would select and make recommendations for board seats to Government Services Committee. Strict attention must be paid to the selection and recommendations of Board members; such members may be from inside or outside the Navajo Nation but must obtain significant successful professional experience in the particular Board-designated slot. It is important to note that Council delegates and those with family members within the new organization should not be considered for these slots. The Government Services Committee would approve Board appointments based on formal guidelines yet to be developed.

Major departments in the new TDHE/housing (grants management) are Planning (supported by the Division of Community Development/Construction and Infrastructure Department), Regulatory, Construction, Inspection, and Administration (including finance, insurance, human resources, and information systems). Note that Grants Management is under the Administration umbrella within the new entity. The Grants Management group would be responsible for overseeing and monitoring Sub-Recipients.

Included in this Alternative would be another new entity focused on Banking for the Navajo Nation with a significant department engaged in educating future homeowners in financing options and for the purpose of mortgage lending. This entity would also have a Board of Directors with appropriate specific seats for professionals with significant successful experience in finance, banking, and mortgage lending. Membership may be made up of Navajo and non-Navajo Board members.

NHA would have primary responsibilities of managing and maintaining the current housing stock. This entity would also have a major goal of continuing to educate current residents and tenants regarding conveyance initiatives with a goal of transferring a certain number of homes annually to private ownership among Navajo individuals and families. Further, following HUD requirements, NHA would maintain occupancy of 90 percent or better. The NHA would maintain the current Board of Commissioners concept with five (5) members. However, a review of overlapping responsibilities and potential nepotism should take place and Board members selected accordingly wherein these issues would be resolved and not occur in the future.

While NHA's new focus would be housing management, the newly created entity would be focused on rapidly constructing suitable homes to significantly decrease the housing needs among the Navajo people. The pros and cons of this approach are discussed below:

Pros

- Focuses on cooperation among the various interested parties within the Navajo Nation; expects cooperation, support and certain segments of oversight from IGR, TCDC, and GSC;
- Improving processes and helps remove bureaucracy; teamwork on development of a Master Plan in which all parties participate (chapters, NTUA, etc. pulled in on determine housing needs; major focus areas developed for pre-engineering, land withdrawal, etc. as part of Master Plan so that planning and construction can proceed more rapidly and efficiently);
- Uses services of professionals as Board of Director members with specified expertise such as planning, finance, chapter communication, legislative/government/ policy, land development, architecture, engineering/infrastructure, construction. Such a Board can provide pro-active and accurate guidance to housing and housing construction;
- President of Navajo Nation more actively involved as Ex-officio member of Board of Directors;
- More clearly sets up all Sub-Recipients with visibility to the Grants Management group;
- Encourages Navajo Nation to establish a bank with specific focus on mortgages for homeownership;

- Sets up NHA to concentrate on current housing stock and its maintenance/upkeep, rent collection, and most important—conversion to homeownership; and
- Eliminates overlapping responsibilities and potential nepotism among current commissioner structure.

Cons

- Resistance to change;
- Strong leadership needed to establish and drive the change associated with the new organization, to attract appropriate board members, and to set up the supporting organizations such as banking;
- Disruptive to the various organizations involved; a large-scale major change initiative would need to be put into place;
- Time required to put professional board into place and bring up to speed may slow housing initiatives initially;
- Certain redundant positions may require staff reductions for more cost effective operations thus people could lose their jobs; and
- Potential for Grants Management department to become distracted by the maintenance of current stock (collecting rent, repair/maintenance) versus the NHA construction group also competing for funding for developing/ constructing new homes.

In addition, significant changes would be needed to the Navajo Code to reduce the authority currently granted to NHA and this alternative would require a strong commitment of time and resources.

Figure 10. NHA Remains as TDHE

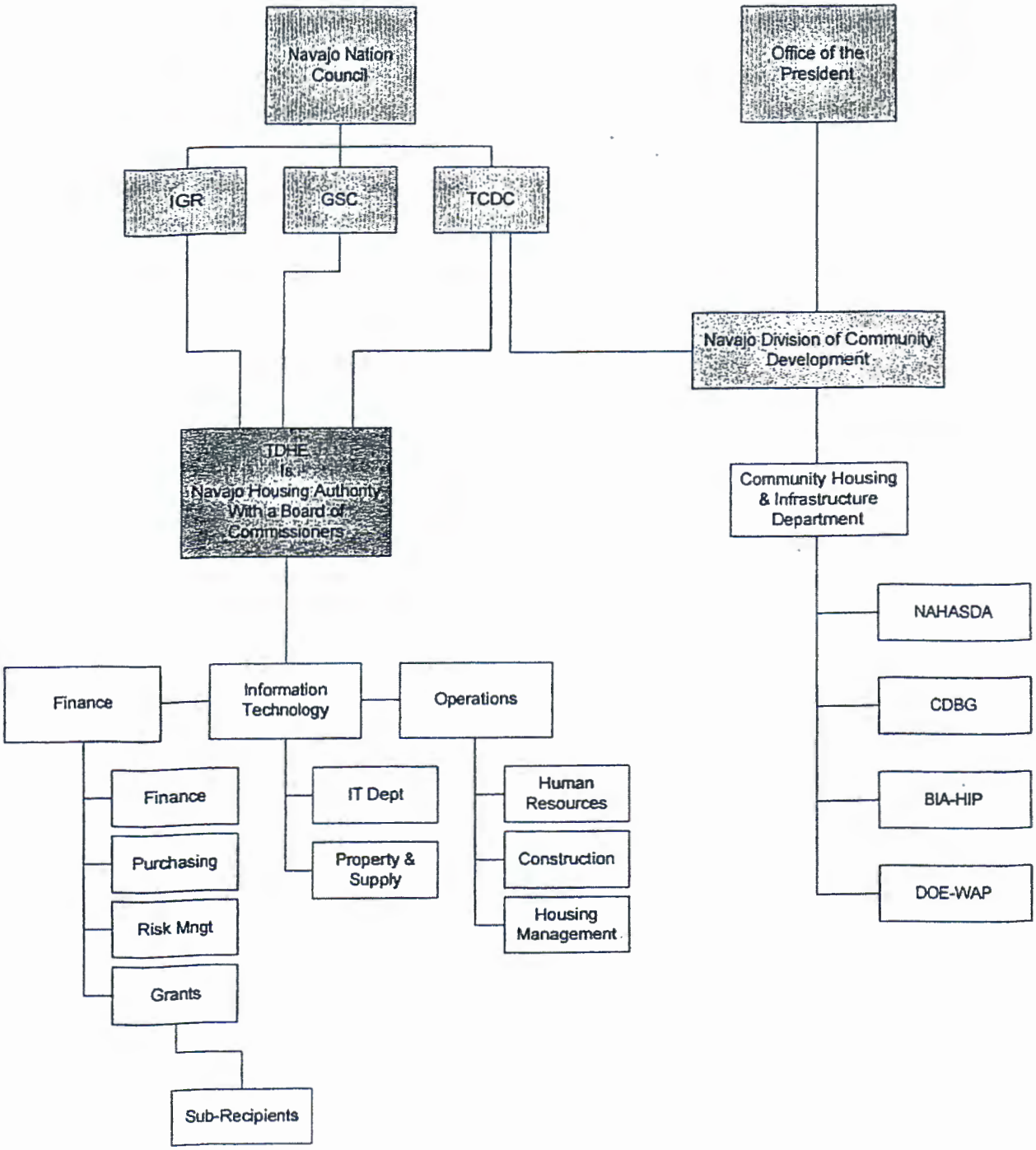


Figure 11. No TDHE -Navajo Nation Manages NAHASDA Funds Directly

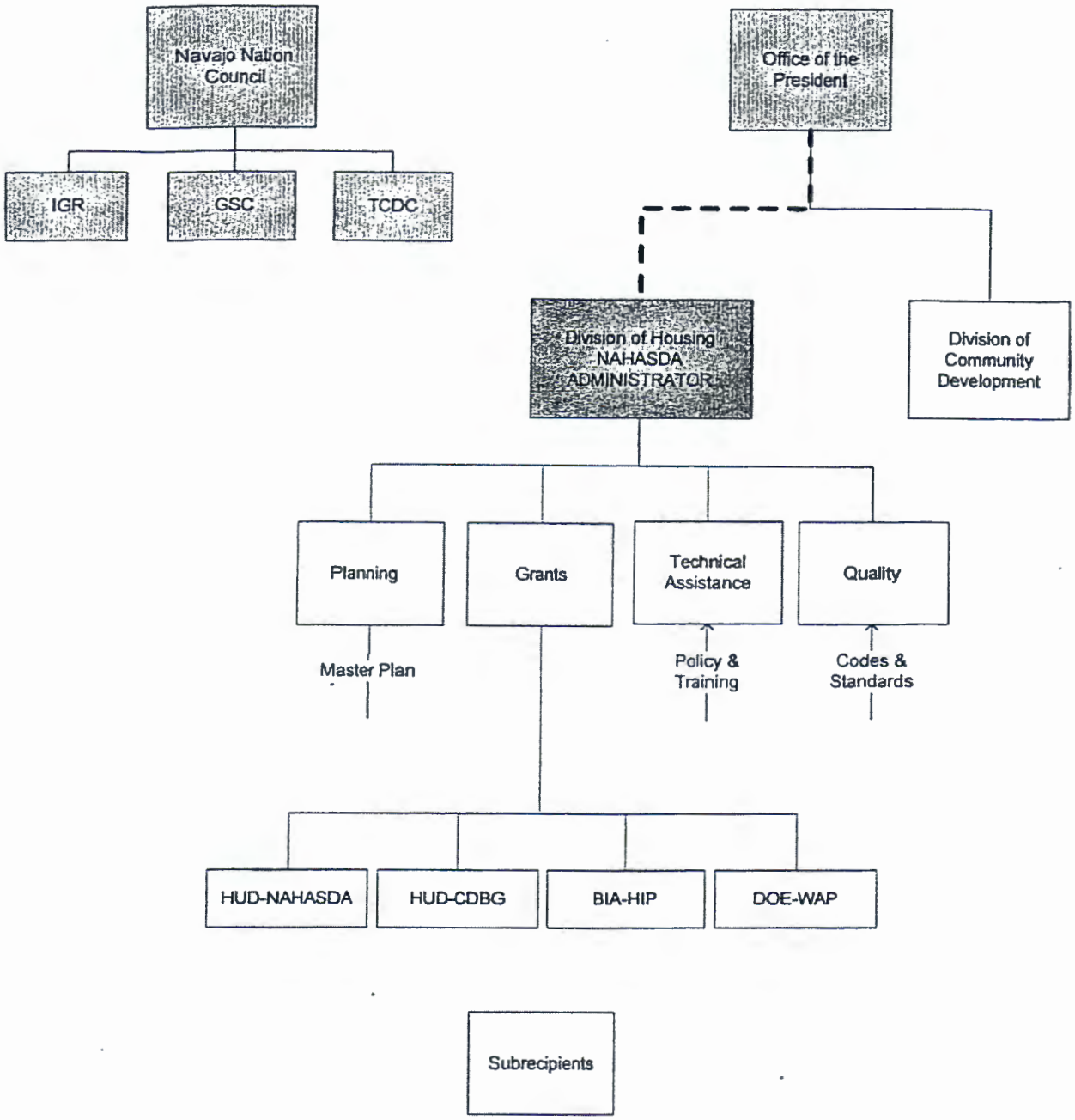
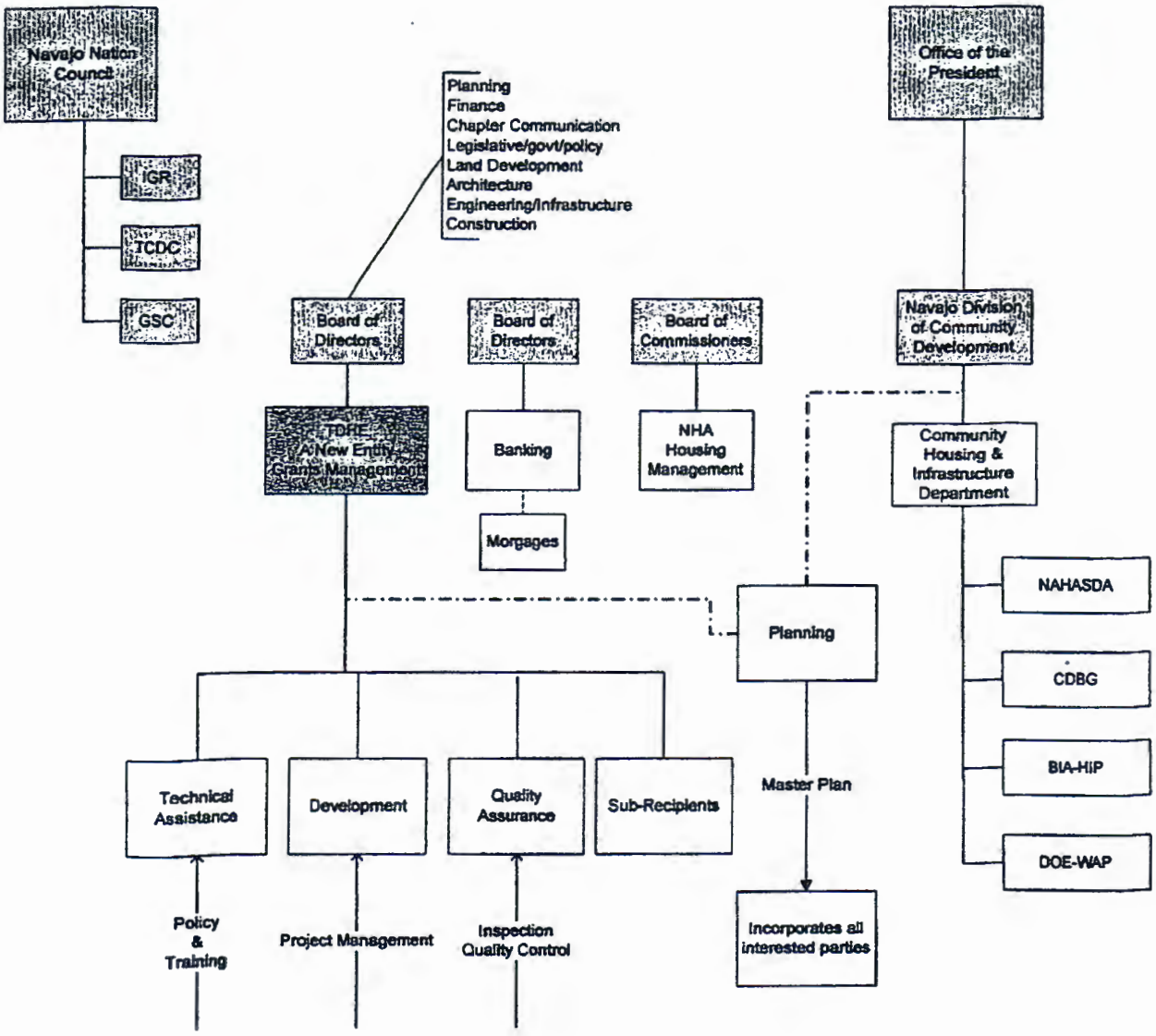


Figure 12. Create New Entity to Serve as TDHE



PART V
RECOMMENDATIONS AND CONCLUSIONS

Part V of the Study presents the final conclusions and outlines specific recommendations and considerations.

17 Recommendations

The task of managing housing for the Navajo Nation is monumental to say the least, and administering NAHASDA funds adds its own layer of complexity to the process. Regardless of direction taken regarding housing for the Navajo people, great care must be taken to strengthen the focus on the housing needs of the Navajo people while also putting into place the required and significant planning and change management processes.

The following are recommended as part of the high-level Action Plan:

- immediately put a hold on IHBG funds from fiscal year 2008 forward with appropriate notification of HUD as to plans in process; this step will require appropriate legislations and resolutions;
- establish a housing work group or task force to develop the processes; put in place necessary structure that will address issues and lay the groundwork for housing initiatives for the alternative selected;
- establish a major goal statement regarding a new organizational structure and professional Board of Director make-up;
- develop master housing plan by using and enhancing currently available housing needs information (NTUA records, chapters, NHA needs assessment, etc.) and map those needs within each chapter to show the housing needs geographically;
- Refine expected outcomes including refinement of the new organizational structure, issues/solutions regarding the potential reorganization, steps required to execute the change, timing and responsible party for each activity, expectations of each participating group and consequences;
- Assure improved processes and systems are used to implement the changes established;
- resolve land issues and develop methods to expedite land withdrawal and grazing permit issues;
- Develop appropriate resolutions and legislative documents to enact changes as developed and defined more fully by the housing work group participants;
- Communicate broadly and regularly; bring chapter leadership together as the work group and gathering input for going forward and to share progress to date. Provide information to be taken back to the chapter membership for posting and communication (assure input and share progress along the way); and,

- Measure progress to plans established; celebrate successes and rectify issues immediately.

18 Conclusions

This project was designed to study the feasibility of changing the Navajo Nation TDHE Tribally from the NHA to the Navajo Nation. The short answer to whether this is possible is yes. The NAHASDA is designed to encourage self-government by tribes, thus the Navajo Nation. The NAHASDA regulations encourage the Tribe, as a sovereign nation, to decide who should receive the NAHASDA funds. NAHASDA implicitly recognizes that the tribe is in the best position to make these policy decisions as an exercise of its self-governance powers. It is not clear that the Navajo Nation fully comprehends the strength of its powers in that it has not been particularly strong in its providing guidance to and/or oversight of the Navajo NAHASDA program..

A segment of this study was focused on whether CHID, a department within the Navajo Division of Community Development, could be designated as the recipient and administrator of NAHASDA funds. While such a designation is certainly a possible organizational structure within the regulations, it was determined during this study that CHID is not ready to take over the NAHASDA program at this time.

Although the Study did not include a formal comprehensive assessment of NHA, it was revealed that there are many issues with the current administration of the NAHASDA program by NHA. NHA reports that it has worked to resolve findings. NHA participants in this study reported that NHA management meet regularly (monthly) with the Board of Commissioners to update them on what is transpiring at NHA. At the time of the study, NHA management stated the organization has been working on the following:

- reauthorization of NAHASDA;
- closing Office of Inspector General (OIG) Findings;
- working on closing SWONAP warning;
- implementation of a new database management and collection system/people data system;
- conducting a housing needs assessment;
- communication and educating the tribal committees;
- planning a housing summit; and
- developing creative ideas including a focus on a cluster-housing concept.

Although these areas were provided as those being worked on, the analysis shows that little progress has been made over the years in making a sizeable impact on the dire housing needs of the Navajo people.

The housing needs on the Navajo Nation continue to be desperate and the situation does not appear to have improved over the years since the inception of NAHASDA. While the current NHA has certainly worked hard to regain the trust and respect needed in such an organization, the support of the organization is inconsistent especially among various Sub-Recipients of NAHASDA grants and to some degree within the Navajo Nation in general. NHA is to be commended for its efforts thus far, but efforts must bring results.

With reference to determining housing needs and priorities, the current process seems rather random. Further, the selection of housing construction providers has been less than stellar. There is great frustration with the past practices and the current moratorium on funds getting into construction projects.

The NHA seems to have had some success with managing the current housing stock. It is believed that the NHA's mission could be narrowed to the housing stock function, with specific goals established for converting rentals into owned homes and other organizational structures considered for the future.

The Navajo Nation is behooved to reconsider the current arrangement, re-examine the substantial housing needs of the Navajo people, and consider alternatives to the administration of NAHASDA funds and what next steps should be.

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1996 Assessment of American Indian Housing Needs and Programs: Final Report:

EXHIBIT A

SOUTHWEST OFFICE OF NATIVE AMERICAN PROGRAM'S ACTING DIRECTOR LETTER TO THE PRESIDENT OF NAVAJO NATION, HONORABLE JOE SHIRLEY, JR. DATE APRIL 4, 2008

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SOUTHWEST OFFICE OF NATIVE AMERICAN PROGRAMS

April 4, 2008

Honorable Joe Shirley, Jr.
President
The Navajo Nation
Post Office Box 9000
Window Rock, AZ 86515

Dear President Shirley:

SUBJECT: Monitoring Review Report Issued March 4, 2005
Audit Report Number 04AZ0281 for the Year Ended September 30, 2004
Audit Report Number 06AZ0281 for the Year Ended September 30, 2006

The purpose of this letter is to provide the status of the findings contained in the subject monitoring review and audit reports. Based on an evaluation of the information received from the Nation, the Southwest Office of Native American Programs (SWONAP) has made the following determinations:

Monitoring Review Report Issued March 4, 2005

Finding Number 5: NAHASDA Oversight

As the grant beneficiary, the Nation is responsible for monitoring programmatic and compliance requirements of NAHASDA and the Nation's Indian Housing Plan (IHP), managed by the Navajo Housing Authority (NHA). In addition, the Nation should require that the NHA prepare periodic progress reports, including an annual compliance assessment, and performance and audit reports. Although the NHA submits status reports to the Nation, a comprehensive annual compliance assessment was not identified during the monitoring review. The Nation is not in compliance with the monitoring requirements of 24 CFR §1000.502(b).

To close this finding, the Nation was asked to submit a statement of confirmation from the President, director, or chairperson of the applicable Navajo Nation office or committee confirming that all of the NHA's activities are monitored by the Nation for compliance with the programmatic requirements of NAHASDA, in accordance with section 403(b) of NAHASDA. The target date for completion of the corrective actions was June 3, 2005. No additional information was provided regarding this finding. **This finding remains open.**

Finding Number 6: Drug Elimination Program Compliance Monitoring
24 CFR 761

In accordance with §761.30(a), Drug Elimination Program (DEP) grant recipients are responsible for ensuring that grant funds are administered in accordance with the requirements of 24 CFR Part 761. As previously noted in the Labor Standards section of the final monitoring report, SWONAP did not conduct an in-depth review of the sub-recipient non-profit organization, the Boys and Girls Club of Shiprock. However, the construction contract provided did not reference applicable Davis-Bacon wage rates. Therefore, there is no assurance that the contractor met the Davis-Bacon wage rate requirements as required by §761.40(a).

To close this finding, the Nation was asked to submit a statement of confirmation from the Nation's President, confirming that a compliance assessment/audit of the DEP activities, including the activities of the DEP contracting agencies, was conducted to ensure compliance with §761.30(a). SWONAP understands that the Nation's Office of Auditor General was auditing the DEP with an anticipated completion date in December 2004. Please provide SWONAP with a copy of the audit report. The target date for completion of the corrective actions was June 3, 2005. No additional information was provided regarding this finding. **This finding remains open.**

Finding Number 7: Access to DEP Sub-recipient Documentation
24 CFR 84.42

Staff in the Nation's Office of the President and Vice President receive and maintain copies of invoices and other expense and procurement documentation prepared and submitted by the Shiprock Boys and Girls Club to support funding requests. A selective sample of invoices reimbursed to the Shiprock Boys and Girls Club was generated by SWONAP staff while on-site with copies of supporting documentation to be forwarded for review to SWONAP by December 17, 2004. Regulations at §84.42(e) state that the awarding agency shall have the right of access to any pertinent books, documents, papers, or other records of grantees and subgrantees which are pertinent to the grant, in order to make audits, examinations, excerpts, and transcriptions.

To close this finding, the Nation was to submit to SWONAP for review copies of expense and procurement documents that support the invoices identified in the selective sample generated on-site. The target date for completion of the corrective action was April 4, 2005. Note that SWONAP's review of the supporting documents may result in the questioning of expenditures. No additional information was provided regarding this finding. **This finding remains open.**

2004 Audit Report Number 04AZ0281

Finding Number 3 (F04-03): Accurate Financial Information

The Nation was cited for delays in completing key financial management tasks (e.g., cash reconciliations are not completed in a timely manner) and for difficulty in generating reliable financial information for its grant activities. This lack of accurate financial information has delayed the completion of the audit and filing of the audit report.

To close this finding, the Nation shall develop procedures and assign responsibility for verifying that financial management tasks are being performed in a timely manner. The Nation shall submit these procedures with a certification that training has been provided to key staff and financial information will be maintained in a timely manner. A target date of October 31, 2007, was established for completion of the corrective actions. **This finding remains open.**

Finding Number 4 (04-04): Procurement, Suspension, and Debarment

The auditor cited the Nation for not verifying if contractors were suspended or debarred from conducting business with the federal government. All three contractors in the test sample lacked documentation that this process was being followed.

The Nation has responded that a certification will be required prior to awarding any contract in excess of $100,000. In accordance with the regulations at 24 CFR 85.35, a grantee may not award a contract to a person or firm that has been debarred or suspended, and the grantee must independently confirm the eligibility of the contractor rather than rely on a contractor's certification. This requirement applies regardless of the contract amount. The following websites may be used for this verification:

http://epls.arnet.gov/
http://www-domino4.hud.gov/ec/compliance/ldp2.nsf/active?openview7

To close this finding, the Nation must submit a certification to SWONAP that it will verify that a selected contractor has not been suspended or debarred prior to contract award. A random sampling will be selected from the procurement listing described in Finding Number 4 to evaluate compliance. A target date of November 30, 2007, was established for completion of corrective actions. **This finding remains open.**

Finding Number 4 (04-05): Procurement

The auditor noted that proper contract documentation did not exist to demonstrate compliance with adopted procurement policies in one out of ten files tested. The Nation indicated that training on procurement requirements was being provided to staff and all procurement actions would be thoroughly reviewed by the Purchasing Services Department.

To close this finding and ensure that proper procurement procedures are followed in the future, the Nation should:

1. Maintain supporting documentation for small purchase, sealed bid, competitive proposals, and noncompetitive solicitation procurements. The following documentation is typically maintained for each contract award:

    Rationale for the selected procurement method
    Requests for proposals
    Invitations for bids

Selection of contract type
Contractor/vendor selection or rejection
Basis for the contract/purchase price
Indian preference efforts
Copies of executed contracts
SWONAP approval of single bidder awards (if applicable)

2. The original correction required the Nation provide SWONAP with a list of all procurement actions that occurred during the 60-day period ending on September 30, 2007. Since the target date has lapsed and no response has been submitted by the Nation, we are revising the 60-day period ending on March 30, 2008. SWONAP will then identify a sampling of procurement actions from the list for further evaluation. All related documents and records pertaining to the sampling should be submitted to SWONAP within 30 days of the date of this letter.

3. Key tribal staff involved in the procurement process must attend procurement training and provide a certification from the vendor that the training was completed successfully.

A target date of December 31, 2007, was established for completion of the required corrective actions. **This finding remains open.**

Finding Number 6 (04-06): Reporting – Annual Performance Report (APR)

The auditor cited the Nation for not documenting that the APR was properly reviewed and approved by program management before submission. These actions should be part of the self-monitoring process that the Nation follows.

To close this finding, the Nation should develop procedures to ensure that the APR has been reviewed prior to submission to SWONAP. A copy of the procedures should be submitted to SWONAP. A target date of October 31, 2007, was established for completion of the corrective actions. **This finding remains open.**

Finding Number 8 (04-08): Davis-Bacon Act (IHBG)

The auditor noted that the Nation was not receiving or reviewing weekly Davis-Bacon certified payroll listings from contractors and subcontractors. As a result, the Nation was unable to document that contractors and subcontractors were paying prevailing wage rates to their employees. In response, the Nation stated that all of the projects reviewed were constructed under a force account method and, as force account employees, workers are paid as tribal employees.

To close this finding, the Nation must provide a spreadsheet identifying the employees, the work performed, and their employment status (i.e., force account or contract employee) for the 12-month period ended September 30, 2004. For employees identified as contract employees, the spreadsheet should identify the wages paid as compared to the applicable wage decision. If additional compensation is necessary, copies of the checks made payable to the

affected workers must be provided to SWONAP. A target date of October 31, 2007, was established for completion of the corrective actions. **This finding remains open.**

2006 Audit Report Number 06AZ0281

Finding Number 5 (06-05): Real Property Capitalization
24 CFR §85.32(d) (1) (2)

The auditor noted that the Nation had not taken a physical inventory of equipment as required by Office of Management and Budget (OMB) Circular A-110. An inventory is required to be taken at least once every two years and reconciled to the equipment records. The Nation does not maintain a comprehensive listing of equipment purchased with HUD grants. The requirement for an inventory is also found at CFR §85.32(d) (1) (2).

To close this finding, the Nation shall perform an inventory of equipment and property purchased with HUD grants. The inventory must then be reconciled to the equipment and property sub-ledger, and to the general ledger accounts. Procedures should be established to ensure that a physical inventory will be performed at least every other year. Copies of the inventory and reconciliation shall be submitted to SWONAP, along with the procedures. A target date of March 31, 2008, was established for completion of corrective actions. **This finding remains open.**

The target dates for completion of the remaining findings have expired. Overdue findings negatively impact the assessment of administrative capacity, and could result in enforcement actions; therefore, resolution of the findings should be a priority for the Nation. If you have any questions regarding this letter, please contact Don Sam, Grants Evaluation Specialist, by telephone at (602) 379-7231 or by e-mail to Carl.D.Sam@hud.gov.

Sincerely yours,

Barbara A. Gallegos
Acting Director
Grants Evaluation Division

EXHIBIT B
RESOLUTION 286-9 BY THE NAVAJO HOUSING AUTHORITY BOARD OF COMMISSIONERS DATED MARCH 6, 1997

EXHIBIT "A"

NHA Hooghan–Center of Family Growth, Strength and Beauty
NAVAJO HOUSING AUTHORITY

RESOLUTION NHA-286-97

RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE NAVAJO HOUSING AUTHORITY

Requesting the Navajo Nation to Reaffirm the Navajo Housing Authority (NHA) as the Navajo Nation's Tribally Designated Housing Entity (TDHE) Under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) and to Delegate to the NHA the Authority to Submit Housing Plans Required Under NAHASDA.

WHEREAS:

1. Pursuant to 6 N.N.C. 605 and 616(b)(3), the Board of Commissioners of the Navajo Housing Authority (NHA) is the governing body of the NHA with the authority to do all things necessary and desirable in the operation, maintenance and development of safe, decent and sanitary housing and to receive the continued financial assistance of the federal government for housing development, and

2. In accordance with NAHASDA (Pub. L. 104-330), approved October 26, 1996 and HUD Notice dated January 27, 1997, Indian Housing Authorities (IHAs) shall be the TDHEs unless an Indian tribe decides to designate itself or another entity as its TDHE, and

3. The NHA was established by the Navajo Nation Council in 1963 to provide safe, decent and sanitary housing for low income Navajo families on the Navajo Nation and the NHA's Plan of Operation is found at 6 N.N.C. 601-628, and

4. The NHA operates as a business with twenty-two (22) established policies that govern its activities, thirteen (13) established management offices throughout the Navajo Nation, and established resident organizations and resident management corporations, and

5. The NHA has successfully existed for over thirty-three (33) years with 7,000 units under management and has housing expertise in the areas of development, renovation, maintenance and management, and

6. The NHA has successfully worked on the regional and national level for continued funding for Indian housing and changes in Indian housing to allow Indian tribes the flexibility required to develop innovative housing, including mortgage financing, and

7. The NHA has developed relationships with the U.S. Department of Housing and Urban Development (HUD), the United States Congress and regional and national housing organizations, and its staff provide training at national conferences in Indian housing, and

PO Box 4980 Window Rock, Navajo Nation, Arizona 86515-4980 Phone: (602) 871-4112

8 The NHA engages in development and renovation activities, mortgage financing through the Section 184 Indian Loan Guarantee Program, and has successfully implemented a self-insurance program, a drug elimination program, youth sports programs and resident services programs to enhance the living environment of the residents of NHA projects, and

9 The NHA employs approximately 300 permanent employees and 600 other employees in its force account method of construction and renovation, and currently submits five year plans under its Comprehensive Grant Program, and

10 The NHA is experienced in submitting applications for development and renovation funding, and applications for drug elimination, youth sports and resident initiative grants and has staff to successfully administer such funding, and

11 NAHASDA encourages the development of communities by requiring housing plans, such plans to be submitted by the TDHE, and the housing plans must have the following necessary components

a Adequate insurance coverage for all its housing units.

b Established policies in rent collection, eligibility, admission, occupancy, management and maintenance.

c Plan to protect and maintain current IHA housing stock.

d Coordination efforts with tribal and state welfare agencies to ensure residents will be provided with resources necessary for self-sufficiency.

e Coordination of crime prevention activities with tribal and local law enforcement officials.

f Plan to involve resident input.

g Description of all planned housing activity on the reservation.

h Certification that local government will exempt all assisted property from all taxes, and

12 The NHA is equipped to submit a housing plan on behalf of the Navajo Nation and to certify that the above components are in place within the current NHA structure, and

13 The successful implementation of NAHASDA requires the anonimity of the TDHE separate from the government to allow for the operation of the TDHE as a business without governmental bureaucracies, and

14 On March 4, 1997 the NHA, the Division of Community Development, the Division of Economic Development, the Veterans Affairs of the Division of Human Services and the Chairperson of the Government Services Committee, met and concurred that the NHA would remain the TDHE and

15 It is in the best interests of the Navajo Nation and the Navajo people to continue the operations of the NHA with any necessary amendments to its Plan of Operation to ensure consistency with NAHASDA

NOW, THEREFORE, BE IT RESOLVED THAT:

1 The Board of Commissioners of the Navajo Housing Authority hereby requests the Navajo Nation to reaffirm Navajo Nation Council Resolution CJN-21-63 which established the NHA and to reaffirm the NHA as the Navajo Nation's Tribally Designated Housing Entity under the Native American Housing Assistance and Self-Determination Act of 1996 with the authority to submit housing plans on behalf of the Navajo Nation, such plans to be coordinated with other housing providers on the Navajo Nation

CERTIFICATION

Commissioner Carol Kirk-Perry moved that the foregoing Resolution NHA-2867-97 be adopted and this was seconded by Commissioner Betty Patterson

Same was passed by the following vote

AYES 7

NAYES 0

ABSTAINED 0

The Secretary, thereupon, declared said motion carried and said Resolution NHA-2867-97 was adopted this 6th day of March, 1997

Eugene Guerito, Chairperson
NHA BOARD OF COMMISSIONERS

ATTEST:

Sara Sandoval, Secretary/Treasurer
NHA BOARD OF COMMISSIONERS

...ION APPROVAL:
...L REVIEW:
...TIVE DIRECTOR: 3/5/97
...VE SECRETARY:

EXHIBIT C

LETTER FROM THE NAVAJO NATION PRESIDENT, MILTON BLUEHOUSE, SR. TO THE UNITED STATES DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT INFORMING THE DEPARTMENT THAT NAVAJO HOUSING AUTHORITY WOULD BE THE TDHE

[illegible]

Raphael [illegible] Director

[illegible]

[illegible] housing plans will provide funding for several critical Navajo [illegible]

[illegible] will be used to reduce our housing need [illegible]

[illegible] it is important [illegible] that while the United States must honor its trust obligations and trust responsibilities, [illegible] of Indian [illegible] to [illegible] through [illegible] and [illegible] possible privatization of the governmental housing programs currently existing on the Navajo [illegible]

The Navajo Nation will soon begin the process [illegible] designated [illegible] entity. Pursuant to NAHASDA, 25 U.S.C. Section 4103 (21)(A), the Navajo Housing Authority is the Navajo Nation's TDHE until such time that the Navajo [illegible] committees take formal action to redesignate a TDHE. Until then, [illegible] the NHA on the numerous housing initiatives soon to begin within the Navajo Nation.

If you have any questions, please call me at (520) 871-7005. Once more, thank you for your assistance.

Sincerely,

THE NAVAJO NATION

Milton Bluehouse, Sr.
President

c: Frank Chee Willeto, Vice President, The Navajo Nation
Elouise Chicharello, Acting Director, Navajo Area Bureau of Indian Affairs
Jefferson Begay, Chief of Staff, Office of the President/Vice President
John R. Hunt, Division Director, Division of Community Development
Ervin Keeswood, Chairperson, Government Services Committee
Lawrence Morgan, Chairperson, Transportation & Comm. Dev. Committee
Gerri Harrison, Legal Counsel, Office of the President/Vice President

EXHIBIT D

RESOLUTIONS FROM GOVERNMENT SERVICES COMMITTEE (OCTOBER 2003), TRANSPORTATION AND COMMUNITY DEVELOPMENT (OCTOBER 2003, AND THE NAVAJO NATION COUNCIL (DECEMBER 2003)

GSCO-94-03

RESOLUTION OF THE GOVERNMENT SERVICES COMMITTEE OF THE NAVAJO NATION COUNCIL

Approving and Recommending to the Navajo Nation Council the Designation of the Navajo Housing Authority as the Official Tribally Designated Housing Entity for the Navajo Nation

WHEREAS:

1. Pursuant to 2 N.N.C. §§ 341 and 343(B)(4), the Government Services Committee of the Navajo Nation Council is established and continued as a standing committee with the power to oversee the conduct and operations of entities of the Navajo Nation not otherwise under the oversight authority of other standing committees; and

2. The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) was enacted by Congress for the purpose of placing primary responsibility for Indian housing activities within tribes, to enhance local accountability, to reflect the local priorities of Indian communities and to reduce Federal oversight and bureaucracy; and

3. The Navajo Housing Authority (NHA) was established by the Navajo Nation Council in 1963 to provide safe, decent and sanitary housing for low-income Navajo families on the Navajo Nation and the NHA Plan of Operation is found at 6 N.N.C. § 601, et seq.; and

4. Indian nations are required by NAHASDA, 25 U.S.C. Section 4103(21), to appoint a Tribally Designated Housing Entity (TDHE) or, if it fails to appoint a TDHE, the existing Indian housing authority conducting housing activities on behalf of the tribe may be designated the TDHE by default; and

5. The TDHE is designated the lead agency for an Indian nation's NAHASDA funded activities, acts as the recipient of NAHASDA funds on behalf of an Indian nation, is responsible for preparation of the Indian Housing Plan for that Indian nation and monitors NAHASDA funded activities in coordination with the Indian nation; and

6. The Navajo Nation has not formally designated the NHA as the TDHE for the Navajo Nation, however, pursuant to 25 U.S.C. Section 4103(21), since 1997, the NHA has been acting as the TDHE for the Navajo Nation by default; and

7. The Navajo Nation through the relevant standing committees has approved all Indian Housing Plans for Fiscal Years 1998 to 2003 for the Navajo Nation and has executed a certification that the Navajo Nation (a) has had an opportunity to review the plan unless otherwise provided by a duly enacted resolution of the tribe, and (b) has authorized the TDHE to submit the housing plan on behalf of the tribe; and

8. Pursuant to 24 CFR Part 1000.232, any amendments to the Navajo Nation Housing Plan that involves new housing activities or affects the funding provided for current housing stock, requires tribal approval, unless the initial Indian Housing Plan (IHP) certification provided by an Indian tribe allowed for the submission of the IHP without further tribal certification; and

9. Pursuant to 24 CFR Part 1000.523, the TDHE or Indian nation is required to obligate NAHASDA funds within two (2) years of NAHASDA grant award; and

10. The NHA has been in operation since 1963 and has been conducting housing development activities, which has vested this tribal entity with the necessary administrative capacity, experienced personnel and internal knowledge relating to administering and monitoring the NAHASDA program on behalf of the Navajo Nation; and

11. The NHA Board of Commissioners, through Resolution NHA-2867-97 (attached and incorporated herein as Exhibit "A"), requested the Navajo Nation to reaffirm the Navajo Housing Authority as the Navajo Nation's TDHE; and

12. It is in the best interest of the Navajo Nation and the Navajo people to approve the designation of the Navajo Housing Authority as the TDHE for the Navajo Nation.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Government Services Committee of the Navajo Nation Council hereby approves and recommends to the Navajo Nation Council the designation of the Navajo Housing Authority as the Official Tribally Designated Housing Entity for the Navajo Nation in accordance with U.S.C. Section 4103 (21) with all requisite authority to conduct housing activities in accordance with applicable Navajo Nation and Federal laws and regulations.

2. The Government Services Committee of the Navajo Nation Council further hereby recommends that the Navajo Nation Council direct and authorize the Navajo Housing Authority to prepare on an annual basis in accordance with NAHASDA, the Indian Housing Plan for the Navajo Nation subject to tribal review by the Intergovernmental Relations Committee, the Government Services Committee and the Transportation and Community Development Committee of the Navajo Nation Council.

3. The Government Services Committee of the Navajo Nation Council further hereby recommends that the Navajo Nation Council direct and authorize the Navajo Housing Authority to prepare and implement any necessary amendments to the Indian Housing Plan without tribal review but subject to providing a report on any amendments within a reasonable time of implementation.

4. The Government Services Committee of the Navajo Nation Council further recommends that the Navajo Nation Council hereby direct and authorize the President of the Navajo Nation to execute any required documents including certifications necessary to carry out the purposes of this resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Government Services Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and the same was passed by a vote of 7 in favor, 0 opposed, and 0 abstained, this 20th day of October, 2003.

Ervin M. Keeswood, Sr., Chairperson
Government Services Committee

Motion: Leo R. Begay
Second: Charles S. Damon

TCDCO-109-03

RESOLUTION OF THE TRANSPORTATION AND COMMUNITY DEVELOPMENT COMMITTEE OF THE NAVAJO NATION COUNCIL

Approving and Recommending to the Navajo Nation Council to Officially Designate the Navajo Housing Authority as the Tribally Designated Housing Entity for the Navajo Nation

WHEREAS:

1. Pursuant to 2 N.N.C. §§ 420 and 423(B)(2) and (3), the Transportation and Community Development Committee of the Navajo Nation Council is established and continued as a standing committee with the power to propose policies and laws relating to housing development; and

2. The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) was enacted by Congress for the purpose of placing primary responsibility for Indian housing activities within tribes, to enhance local accountability, to reflect the local priorities of Indian communities and to reduce Federal oversight and bureaucracy; and

3. The Navajo Housing Authority (NHA) was established by the Navajo Nation Council in 1963 to provide safe, decent and sanitary housing for low-income Navajo families on the Navajo Nation and the NHA Plan of Operation is found at 6 N.N.C. § 601, et seq.; and

4. Indian nations are required by NAHASDA, 25 U.S.C. Section 4103(21), to appoint a Tribally Designated Housing Entity (TDHE) or, if it fails to appoint a TDHE, the existing Indian housing authority conducting housing activities on behalf of the tribe will be designated the TDHE by default; and

5. The TDHE is designated the lead agency for an Indian nation's NAHASDA funded activities, acts as the recipient of NAHASDA funds on behalf of an Indian nation, is responsible for preparation of the Indian Housing Plan for that Indian nation and monitors NAHASDA funded activities in coordination with the Indian nation; and

6. The Navajo Nation has not formally designated the NHA as the TDHE for the Navajo Nation, however, pursuant to 25 U.S.C. Section 4103(21), since 1997, the NHA has been acting as the TDHE for the Navajo Nation by default; and

2. The Transportation and Community Development Committee of the Navajo Nation Council further hereby recommends that the Navajo Nation Council direct and authorize the Navajo Housing Authority to prepare on an annual basis in accordance with NAHASDA, the Indian Housing Plan for the Navajo Nation subject to tribal review by the Intergovernmental Relations Committee, the Government Services Committee and the Transportation and Community Development Committee of the Navajo Nation Council.

3. The Transportation and Community Development Committee of the Navajo Nation Council further hereby recommends to the Navajo Nation Council direct and authorize the Navajo Housing Authority to prepare and implement any necessary amendments to the Indian Housing Plan without tribal review but subject to providing a report on any amendments within a reasonable time of implementation.

4. The Transportation and Community Development Committee of the Navajo Nation Council further recommends that the Navajo Nation Council hereby direct and authorize the President of the Navajo Nation to execute any required documents including certifications necessary to carry out the purposes of this resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Transportation and Community Development Committee of the Navajo Nation Council at a duly called meeting at Window Rock, Navajo Nation (Arizona), at which a quorum was present and the same was passed by a vote of 6 in favor, 0 opposed, and 0 abstained, this 14th day of October, 2003.

Mark Maryboy, Chairperson
Transportation and Community
Development Committee of the
Navajo Nation Council

Motion: Willie Tracey, Jr.
Second: Leslie Dele

7. The Navajo Nation through the relevant standing committees has approved all Indian Housing Plans for Fiscal Years 1998 to 2003 for the Navajo Nation and has executed a certification that the Navajo Nation (a) has had an opportunity to review the plan unless otherwise provided by a dully enacted resolution of the tribe, and (b) has authorized the TDHE to submit the housing plan on behalf of the tribe; and

8. Pursuant to 24 CFR Part 1000.232, any amendments to the Navajo Nation Housing Plan that involves new housing activities or affects the funding provided for current housing stock, requires tribal approval, unless the initial Indian Housing Plan (IHP) certification provided by an Indian tribe allowed for the submission of the IHP without further tribal certification; and

9. Pursuant to 24 CFR Part 1000.523, the TDHE or Indian nation is required to obligate NAHASDA funds within two (2) years of NAHASDA grant award; and

10. The NHA has been in operation since 1963 and has been conducting housing development activities, which has vested this tribal entity with the necessary administrative capacity, experienced personnel and internal knowledge relating to administering and monitoring the NAHASDA program on behalf of the Navajo Nation; and

11. The NHA Board of Commissioners, through Resolution NHA-2867-97 (attached and incorporated herein as Exhibit "A"), requested the Navajo Nation to reaffirm the Navajo Housing Authority as the Navajo Nation's TDHE and to delegate through MOA TCDC/GSC/EDC/HSC-MA-MEMO-1-97, a joint committee of the Navajo Nation Council affirmed NHA as the Nation's TDHE for year one only and the MOA TCDC/GSC/EDC/HSC-MA-MEMO-1-97 has expired; and

12. It is in the best interest of the Navajo Nation and the Navajo people to approve the designation of the Navajo Housing Authority as the TDHE for the Navajo Nation.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Transportation and Community Development Committee of the Navajo Nation Council hereby approves and recommends to the Navajo Nation Council to officially designate the Navajo Housing Authority as the Tribally Designated Housing Entity for the Navajo Nation in accordance with U.S.C. Section 4103 (21) with all requisite authority to conduct housing activities in accordance with applicable Navajo Nation and Federal laws and regulations.

CD-82-03

RESOLUTION OF THE
NAVAJO NATION COUNCIL

Approving the Designation of the Navajo Housing Authority as the Tribally Designated Entity for the Navajo Nation

WHEREAS:

1. Pursuant to 2 N.N.C. §102, the Navajo Nation Council is the governing body of the Navajo Nation; and

2. The Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) was enacted by Congress for the purpose of placing primary responsibility for Indian housing activities within tribes, to enhance local accountability, to reflect the local priorities of Indian communities and to reduce Federal oversight and bureaucracy; and

3. The Navajo Housing Authority (NHA) was established by the Navajo Housing Council in 1963 to provide safe, decent and sanitary housing for low income Navajo families on the Navajo Nation and the NHA Plan of Operation is found at 6 N.N.C. §601, et seq.; and

4. Indian Nations are required by NAHASDA, 25 U.S.C. Section 4103 (21), to appoint a Tribally Designated Housing Entity (TDHE) or, if it fails to appoint a TDHE, the existing Indian housing authority conducting housing activities on behalf of the tribe may be designated the TDHE by default; and

5. The TDHE is designated the lead agency for an Indian Nation's NAHASDA funded activities, acts as the recipient of NAHASDA funds on behalf of an Indian Nation, is responsible for preparation of the Indian housing plan for that Indian Nation and monitors NAHASDA funded activities in coordination with the Indian Nation; and

6. The Navajo Nation has not formally designated the NHA as the TDHE for the Navajo Nation, however, pursuant to 25 U.S.C. Section 4103 (21), since 1997, the NHA has been acting as the TDHE for the Navajo Nation by default; and

7. The Navajo Nation through the relevant standing committees has approved all Indian Housing Plans for Fiscal Years 1998 to 2003 for the Navajo Nation and has executed a

certification that the Navajo Nation (a) has had an opportunity to review the plan unless otherwise provided by a duly enacted resolution of the tribe and (b) has authorized the TDHE to submit the housing plan on behalf of the tribe; and

8. Pursuant to 24 CFR Part 1000.232, any amendments to the Navajo Nation Housing Plan that involves new housing activities or affects the funding provided for current housing stock, requires tribal approval, unless the initial Indian Housing Plan (IHP) certification provided by an Indian tribe allowed for the submission of the IHP without tribal certification; and

9. Pursuant to 24 CFR Part 1000.523, the TDHE or Indian Nation is required to obligate NAHASDA funds within two (2) years of NAHASDA grant award; and

10. The NHA has been in operation since 1963 and has been conducting housing development activities, which has vested this tribal entity with the necessary administrative capacity, experienced personnel and internal knowledge relating to administering and monitoring the NAHASDA program on behalf of the Navajo Nation; and

11. The NHA Board of Commissioners, through Resolution NHA-2867-97 (attached and incorporated herein as Exhibit "A"), requested the Navajo Nation to reaffirm the Navajo Housing Authority as the Navajo Nation's TDHE; and

12. The Government Services Committee, through Resolution GSCO-94-03, and the Transportation and Community Development Committee, through Resolution TCDCO-109-03, approved the Navajo Nation Council the designation of the Navajo Housing Authority Entity for the Navajo Nation; and

13. The Intergovernmental Relations Committee disapproved SAS No. 3612 on October 21, 2003, with a vote of 5 in favor, 2 opposed and 3 abstained to recommend to the Navajo Nation Council the designation of the Navajo Housing Authority as the Tribally Designated Housing Entity for the Navajo Nation; and

14. It is in the best interest of the Navajo Nation and the Navajo people to approve the designation of the Navajo Housing Authority as the TDHE for the Navajo Nation.

NOW THEREFORE BE IT RESOLVED THAT:

1. The Navajo Nation Council hereby designates the Navajo Housing Authority as the Tribally Designated Housing Entity for the Navajo Nation in accordance with 25 U.S.C. Section 4103 (21) with all requisite authority to conduct housing activities in accordance with applicable Navajo Nation and Federal laws and regulations.

2. The Navajo Nation Council further directs and authorizes the Navajo Housing Authority to prepare on an annual basis in accordance with NAHASDA, the Indian Housing Plan for the Navajo Nation subject to tribal review by the Intergovernmental Relations Committee, the Government Services Committee and the Transportation and Community Development Committee of the Navajo Nation Council.

3. The Navajo Nation Council further directs and authorizes the Navajo Housing Authority to prepare and implement any necessary amendments to the Indian Housing Plan without tribal review subject to providing a report on any amendments within a reasonable time of implementation.

4. The Navajo Nation Council further directs and authorizes the President of the Navajo Nation to execute any required documents including certifications necessary to carry out the purposes of this resolution.

CERTIFICATION

I hereby certify that the foregoing resolution was duly considered by the Navajo Nation Council at a duly called meeting in Window Rock, Navajo Nation (Arizona) at which a quorum was present and that same was passed by a vote of 57 in favor, 3 opposed and 7 abstained, this 23rd day of December 2003.

Lawrence T. Morgan, Speaker
Navajo Nation Council

30 Dec 03
Date

Motion: Edward Jim
Second: Ralph Bennett

ACTION BY THE NAVAJO NATION PRESIDENT:

1. I hereby give notice that I will not veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (C) (10), on this _____ day of JAN 0 9 2004 2004.

Joe Shirley, Jr., President
Navajo Nation

2. I hereby veto the foregoing legislation, pursuant to 2 N.N.C. §1005 (c) (10), for reason(s) expressed in the attached letter to the Speaker.

Joe Shirley, Jr., President
Navajo Nation

EXHIBIT E

SWONAP ISSUED AN AMENDED LETTER OF WARNING

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SOUTHWEST OFFICE OF NATIVE AMERICAN PROGRAMS

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

November 4, 2008

Ms. Aneva J. Yazzie
Chief Executive Officer
Navajo Housing Authority
P.O. Box 4980
Window Rock, AZ 86515

Dear Ms. Yazzie:

SUBJECT: Final Monitoring Report
Amended Letter of Warning

On July 21 - 25, 2008, staff from the Southwest Office of Native American Programs (SWONAP) visited the Navajo Housing Authority (NHA) to conduct an on-site monitoring review of NHA's HUD-funded programs. During the preliminary exit conference on July 25, 2008, SWONAP informed NHA that the issuance of the draft monitoring report would be delayed due to additional information being gathered for the response. The review could not be completed because several NHA staff was not available. Therefore, SWONAP gave NHA two weeks to submit the additional documents. On July 31, 2008, SWONAP received additional documentation from NHA for review. The review of these documents was concluded on August 8, 2008; and a final exit conference was held on August 12, 2008.

SWONAP issued a draft monitoring report on September 3, 2008, and provided NHA with a 30-day comment period. According to the postal receipt, NHA received the draft report on September 9, 2008. On October 9, 2008 in response, NHA provided response documentation regarding the four findings; based on that information one of the findings was closed. Target dates are established for the completion of the corrective actions addressing each of the remaining deficiencies. Copies of the report should be provided to each Board of Commissioner and Tribal Council member.

This letter shall also serve as a formal amended "Letter of Warning" (LOW) pursuant to 24 CFR §1000.530(a)(1) to the letter SWONAP issued on July 6, 2007 (see enclosed letter). The July 6, 2007, LOW was based on a delinquency in meeting target dates to resolve 13 monitoring findings identified in SWONAP's Final Monitoring Reports issued in 2002, 2004, and 2005. Since the July 6, 2007, LOW was issued, NHA has provided documentation to close six of those findings. There remain seven findings identified under the July 6, 2007, LOW that are significantly past the target dates for resolution.

In addition to the seven open findings discussed above, this amended LOW also encompasses the findings identified in this Final Monitoring Report, as well as the following findings that NHA is also delinquent in resolving:

Audit Findings - NHA

Audit Number	Finding Number	Finding Description	Target Date	Current Status
05AZ0125	10	Lobbying Expense	12/30/07	Open

Monitoring Findings

Monitoring Year	Finding Number	Finding Description	Target Date	Current Status
2007	1	Administrative Capacity	Until Resolved	Open
2007	4	Maintaining Affordability for Units Assisted with NAHASDA	2/16/08	Open
2007	5	Maintaining 1937 Housing Act Units	3/17/08	Open
2007	6	Calculating, Recording, and Reporting Program Income and Non-Program Income *	4/16/08	Open
2007	7	Eligibility of Costs	2/16/08	Open
2007	8	Sources of Unrestricted Funds	2/16/08	Open
2007	9	Indirect Cost Rates	2/16/08	Open
2007	10	Inadequate Environmental Review Records	3/17/08	Open
2007	11	Improper or Lack of Proper Procurement	1/17/08	Open

As a grant recipient, NHA is responsible for ensuring compliance with all NAHASDA requirements. Additionally, in accordance with §1000.530, if NHA fails to satisfactorily address the above delinquent findings and the three findings in this final monitoring review report by the established target dates (December 31, 2008), HUD may impose remedies, as prescribed in §1000.532 and/or §1000.538. Upon HUD's determination that NHA failed to comply substantially with any provision of NAHASDA, the regulations at §1000.538 and §1000.532 authorize HUD to terminate, reduce, or limit grant payments, or replace the recipient. In accordance with these regulatory provisions, NHA will be provided with an opportunity for an informal meeting; and if the issues remain unresolved, NHA will be provided with the opportunity for a hearing.

We would like to thank you and your staff for the assistance provided to the SWONAP team during the review. We look forward to working with you and providing technical assistance to correct the identified deficiencies, as necessary. If you have any questions, please contact Don Sam, Grants Evaluation Specialist, by telephone at (602) 379-7231 or by e-mail at Carl.D.Sam@hud.gov.

Sincerely yours,

Carolyn O'Neil
Administrator

Enclosures:

cc:
Honorable Joe Shirley Jr., President
Navajo Nation
Honorable Leonard Teller, Chairperson
Navajo Housing Authority Board of Commissioners
Mr. Louis Shepherd, Grants Management Division
Navajo Housing Authority

EXHIBIT F

SWONAP'S ACTING DIRECTOR LETTER TO THE MS. ANEVA J. YAZZIE, CEO, NAVAJO HOUSING AUTHORITY DATE NOVEMBER 3, 2008

FILE

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SOUTHWEST OFFICE OF NATIVE AMERICAN PROGRAMS

November 3, 2008

Ms. Aneva J. Yazzie
Chief Executive Officer
Navajo Housing Authority
P.O. Box 4980
Window Rock, AZ 86515

Dear Ms. Yazzie:

SUBJECT: OIG Audit Report Number 2007-LA-1008

The purpose of this letter is to provide the status of the findings contained in the subject Office of the Inspector General (OIG) audit report. Based on an evaluation of the information received from the Navajo Housing Authority (NHA), the Southwest Office of Native American Programs (SWONAP) has made the following determinations:

FINDING 1: The Navajo Housing Authority's Procedures for Selecting and Monitoring Subgrantees Were Not Adequate

NHA's procedures for selecting and monitoring subgrantees failed to ensure that NAHASDA funds were used in accordance with program requirements and that housing production goals were achieved. As a result, NHA failed to prevent recurring problems, including extended project delays, unnecessary project expenses, and misuse of NAHASDA grant funds by subgrantees and/or their construction contractors. These failures resulted in increased costs, inefficient housing production, and ultimately, significantly fewer housing opportunities for the intended program beneficiaries. In this regard, 14 housing projects were identified for which more than $53 million has already been allocated, yet the projects were either not started or not finished, funds were misused by the subgrantees and/or their contractors, or construction or management problems threaten the long-term viability of the housing projects. These problems were caused by NHA's failure to implement adequate controls over the process for initially selecting subgrantees to ensure that they had capacity to effectively administer the funded activities and failure to implement adequate controls to monitor subgrantee activities to ensure that the entities complied with NAHASDA requirements and completed their projects as planned.

RECOMMENDATION 1A:

Consider discontinuing the use of subgrantees for construction-related projects and establish a new strategy for more efficient and effective housing development.

Required Documentation to Complete Corrective Action:

(1) Resolution of NHA's Board of Commissioners suspending the use of subgrantees for three years beginning in fiscal year 2008. The target date for completion was December 31, 2007.

(2) Written strategy explaining how housing construction and rehabilitation activities in the 2008 IHP will be accomplished through development methods other than subgrantees. The target date for completion was March 31, 2008.

(3) Written procedures governing the use of subgrantees to ensure compliance and accountability over development activities. The target date for completion was August 2, 2008.

The NHA BOC through resolution NHA-3785-2007 approved a strategic plan suspending the use of Subrecipient grant agreements for a period of three years. On August 28, 2008 NHA signed a grant agreement for the 2008 IHP outlined activities, including the use of the NHA Construction Services Division for new housing construction and rehabilitation activities. On September 12, 2008 the NHA BOC approved procedures for use by the subgrantees to ensure compliance and accountability over activities. Based on NHA submitting a BOC adopted resolution NHA-3785-2007 approving strategic action plan including discontinuation of Subrecipient Grant Agreements (SGA) for three years this finding is **closed**, effective September 30, 2008.

RECOMMENDATION 1B:

Implement procedures to ensure that funds are used in accordance with NAHASDA requirements and in a manner that will ensure performance goals are achieved in a cost-effective manner.

Required Documentation to Complete Corrective Action:

Written procedures governing the oversight of subgrantees to ensure that funds are used in accordance with NAHASDA requirements and performance goals are achieved in a cost-effective manner. The procedures must identify corrective actions for each of the 14 projects identified in the audit report. Based on the submission of evidence of the implementation to contract project management services for the 14 identified projects, this finding is **closed** effective October 31, 2008.

RECOMMENDATION 1C:

Analyze housing conditions to better target resources to geographical areas of need. The Indian housing plan should include a description of the manner in which the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance.

Required Documentation to Complete Corrective Action:

Submit in the Statement of Needs section 2(a) of the 2008 Indian Housing Plan a summary of the analysis conducted by NHA and a full description of how the geographical distribution of assistance is consistent with the geographical needs and needs for various categories of housing assistance. The target date for completion was August 2, 2008. Based on NHA submitting an informal amendment to the 2008 IHP which outlined the criteria used to determine allocation of resources based on geographical need this finding is **closed**, effective September 30, 2008.

RECOMMENDATION 1D:

Implement a coordinated approach to managing housing provider activities, including the development of standard operating guidelines and procedures for use by NHA staff and subgrantees.

Required Documentation to Complete Corrective Action:

(1) Written guidelines and procedures for use by NHA staff and subgrantees that address the issues and concerns described on pages 9-12 of the OIG audit report. The target date for completion was August 2, 2008.

(2) A resolution of the board of commissioners confirming that the procedures have been adopted and appropriate staff has been trained in their use. The target date for completion was September 30, 2008.

NHA provided resolution number NHA-3858-2007 which adopted procedures called the NAHASDA Indian Housing Block Grant Management System Policies and Procedures and the NAHASDA Indian Housing Block Grant Subrecipient Development and Construction Policies and Procedures Manual. On Tuesday, September 30, 2008 NHA conducted training for the written guidelines and procedures for appropriate staff and provided evidence of that the training occurred. Based on the documentation received this finding is **closed**, effective September 30, 2008.

RECOMMENDATION 1E:

Provide pre-contract award oversight of subgrantee procurement procedures and consider requiring and enforcing the use of standardized fixed-price construction contracts. Require procurement be performed for construction services based upon specific plans and specifications rather than allowing consultants or general contractors to assume the entire grant amount without the controls provided by specific project requirements.

Required Documentation to Complete Corrective Action:

(1) Written procedures for NHA oversight of subgrantee procurement. The target date for completion was August 2, 2008.

(2) Procurement policy and procedures for use by subgrantees that meet the requirements of 24 CFR 85.36 and 24 CFR 1000.52, require that procurement for construction services be based upon specific plans and specifications rather than allowing consultants or general contractors to assume the entire grant amount without adequate controls, and mandate the use of standard fixed-price construction contracts unless written NHA approval is given due to extenuating circumstances. The target date for completion was August 2, 2008.

NHA provided resolution number NHA-3858-2007 which adopted procedures called the NAHASDA Indian Housing Block Grant Management System Policies and Procedures and the NAHASDA Indian Housing Block Grant Subrecipient Development and Construction Policies and Procedures Manual. Based on the documentation received this finding is **closed**, effective September 30, 2008.

RECOMMENDATION 1F:

Establish and implement procedures for analyzing proposed subgrantee planning and development costs to ensure that projects are not overfunded or underfunded. Before awarding subgrant funds, determine the appropriateness of subgrant amounts based on detailed, supportable cost estimates.

Required Documentation to Complete Corrective Action:

Procedures for analyzing proposed subgrantee planning and development costs to ensure that projects are not overfunded or underfunded. The procedures must include provisions for determining,

prior to subgrant awards, the appropriateness of subgrant amounts based on detailed, supportable cost estimates. The target date for completion was August 2, 2008. NHA provided resolution number NHA-3858-2007 which adopted procedures called the NAHASDA Indian Housing Block Grant Management System Policies and Procedures and the NAHASDA Indian Housing Block Grant Subrecipient Development and Construction Policies and Procedures Manual and CAP for Non Contracted Sub-recipient Projects. Based on the documentation received this finding is **closed**, effective October 31, 2008.

RECOMMENDATION 1G:

Require the use of certified inspectors to ensure that projects are completed in accordance with building codes and with plans and specifications.

Required Documentation to Complete Corrective Action:

Procedures for using certified inspectors to ensure that all projects are completed in accordance with adopted building codes and with plans and specifications. The target date for completion was August 2, 2008. NHA provided resolution number NHA-3858-2007 which adopted procedures called the NAHASDA Indian Housing Block Grant Management System Policies and Procedures and the NAHASDA Indian Housing Block Grant Subrecipient Development and Construction Policies and Procedures Manual. Based on the documentation received this finding is **closed**, effective September 30, 2008.

RECOMMENDATION 1H:

Require and enforce, through preconstruction verification, construction bonding or deposit and insurance requirements.

Required Documentation to Complete Corrective Action:

Procurement policy and procedures for use by subgrantees that meet the requirements of 24 CFR 85.36 and 24 CFR 1000.52, and require construction bonding or deposit and insurance during the construction period. The target date for completion was August 2, 2008.. NHA provided resolution number NHA-3858-2007 which adopted procedures called the NAHASDA Indian Housing Block Grant Management System Policies and Procedures and the NAHASDA Indian Housing Block Grant Subrecipient Development and Construction Policies and Procedures Manual. Based on the documentation received this finding is **closed**, effective September 30, 2008.

RECOMMENDATION 1I:

Perform more effective reviews of subgrantee administrative capacity, including consideration of 1) subgrantee management and staff understanding of NAHASDA requirements and the subgrantee's written policies and procedures, 2) the implementation of written policies and procedures, 3) the capacity of primary staffing involved in the administration of the construction and management of the project, 4) the subgrantee's plans for use of predetermined consultants or general contractors, 5) the verification of references for prior projects or activities, 6) the subgrantee's capacity to manage the units once completed, and 7) the subgrantee's plans for overseeing its general contractor or consultant. Provide funding only to subgrantees that have a demonstrated capacity to carry-out the planned activities effectively and in accordance with NAHASDA requirements.

Required Documentation to Complete Corrective Action:

Policy to evaluate subgrantee capacity prior to funding that includes an application rating and ranking process to evaluate subgrantee applications. The target date for completion was August 2, 2008. NHA provided resolution number NHA-3858-2007 which adopted procedures called the NAHASDA Indian Housing Block Grant Management System Policies and Procedures and the NAHASDA Indian Housing Block Grant Subrecipient Development and Construction Policies and Procedures Manual. Based on the documentation received this finding is **closed**, effective September 30, 2008.

RECOMMENDATION 1J:

Implement more effective controls over subgrantee payment requisitions such as requiring detailed schedules of values, independent inspection reports, and lien waivers.

Required Documentation to Complete Corrective Action:

Adopted procedures that establish effective controls over subgrantee payment requisitions. The target date for completion of the corrective action was August 2, 2008. NHA provided resolution number NHA-3858-2007 which adopted procedures called the NAHASDA Indian Housing Block Grant Management System Policies and Procedures and the NAHASDA Indian Housing Block Grant Subrecipient Development and Construction Policies and Procedures Manual. Based on the documentation received this finding is **closed**, effective September 30, 2008.

RECOMMENDATION 1K:

Implement procedures to ensure that monitoring review findings are consistently tracked and resolved within established timeframes.

Required Documentation to Complete Corrective Action:

Adopted procedures that effectively track and resolve monitoring review findings resulting from NHA reviews of subgrantees. The target date for completion of the corrective action was August 2, 2008. NHA provided resolution number NHA-3853-2007 which adopted the Compliance and Monitoring Policy. Based on the documentation received this finding is **closed**, effective September 30, 2008.

RECOMMENDATION 1L:

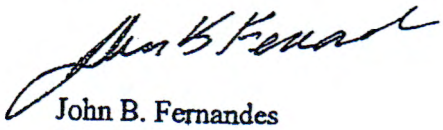
Implement consistent procedures to ensure that subgrantees properly account for and use program income and that this matter is fully addressed and resolved during the grant award process.

Required Documentation to Complete Corrective Action:

Adopted procedures that govern the tracking, accounting, and eligible use of program income among subgrantees. The target date for completion of the corrective action was August 2, 2008. NHA provided resolution number NHA-3858-2007 which adopted procedures called the NAHASDA Indian Housing Block Grant Management System Policies and Procedures and the NAHASDA Indian Housing Block Grant Subrecipient Development and Construction Policies and Procedures Manual. Based on the documentation received this finding is **closed**, effective September 30, 2008.

NHA is commended for the successful efforts to resolve all of the findings indicated on the subject audit report. If you have any questions regarding this letter, please contact Don Sam, Grants Evaluation Specialist, by telephone at (602) 379-7231 or by e-mail to Carl.D.Sam@hud.gov.

Sincerely yours,

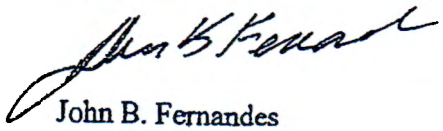


John B. Fernandes
Acting Director
Grants Evaluation Division

cc: Honorable Joe Shirley, Jr.
President, The Navajo Nation
Honorable Leonard Teller, Chairperson
Navajo Housing Authority Board of Commissioners

NHA is commended for the successful efforts to resolve all of the findings indicated on the subject audit report. If you have any questions regarding this letter, please contact Don Sam, Grants Evaluation Specialist, by telephone at (602) 379-7231 or by e-mail to Carl.D.Sam@hud.gov.

Sincerely yours,



John B. Fernandes
Acting Director
Grants Evaluation Division

cc: Honorable Joe Shirley, Jr.
President, The Navajo Nation
Honorable Leonard Teller, Chairperson
Navajo Housing Authority Board of Commissioners

bcc:

9EPI	NHA 2007 OIG Audit Report File
PN	Boyd
PNPE	Bullough
9EPI	O'Neil
9EPIE	Fernandes
9EPIE	Sam
9EPIG	Broermann/Booth/Dugas

9EPIE: Sam:cds 11-3-08 File: NHA OIG 2007 Status 11-3-08 cds.doc

Concurrence

9EPIE
Sam

Honorable Joe Shirley, Jr.
President
The Navajo Nation
Post Office Box 9000
Window Rock, AZ 86515

EXHIBIT G

LIST OF SUB-RECIPIENTS 1998-2007

Exhibit 1 Sub-Recipients 1998-2007

Sub-Recipient	1998		1999	2000	2001	2002	200
	Original Financial Report						
Alamo Navajo Sch Board, Inc.						884,000	300,000
Bee Hooghan Shelter					625,707	1,320,000	3,220,868
Chinle Nursing Home					172,453		1,493,809
Chinle Valley School			1,784	29,222	456,027	175,596	192,958
Chooshgai Community School							691,644
Crow Springs Engineering, Inc.						200,000	162,914
Crownpoint Institute of Tech	1,617,000	$ 1,599,516	4,823,061	2,533,937	133,910		
Dine Bil Ass. Disabled Citizens					75,000	1,620,780	
Dineh Cooperatives Inc.							440,000
Dineh Housing Inc.					249,919	6,377,742	4,974,524
Ft. Defiance Housing Corp.		7,084,163	10,134,270	7,225,000	17,721,425	16,654,000	10,710,748
Hoosh Dooh Di To' Dev				1,399,999		1,851,309	1,281,873
Indigenous Comm Entprse, Inc.				149,800	140,000		63,470
Kayenta Township Commission			51,000	1,875,000	2,780,605		
Kayenta Women's Shelter		1,904,030	968,785	77,797	45,669		170,405
Keyoo School, Inc.							
Leupp School, Inc.				82,202	143,808	38,714	300,000
Little Feet Child Care				34,805		771,000	187,525
Little Folks Day Care Center							
Lukachukai Veterans Org				721,000	1,064,535		
Naa Tsis' Aan Comm School				77,042		208,000	405,000
Naatannii Comm Services, Inc.							
Navajo Partnership for Housing		394,773	649,899	410,000	1,226,979	820,885	694,731
Navajo Rural Development, Inc.							
Navajo Townsite Community			1,065,037	1,150,000	75,000		500,000
NN Boys & Girls Club							
NN CDBG						1,359,286	
NN Division of Econ Dev		6,963,287					
NN Housing Services		2,227,380	2,265,019	50,120	5,594,907	1,864,658	1,300,000
NN Huerfano Ch / Design & Eng.		1,276,051					
NN Land Dept			30,000		216,955	626,000	
NN Nav Div of Public Safety						281,858	1,795,660
NN Ofc of Gvt Development			1,200,000	1,193,300	1,200,000	1,000,000	
NN Veterans Affairs		2,000,000	2,003,355	1,985	954,299	3,638,307	
Ramah Navajo Chapter			63,000	405,804	1,045,000	2,308,215	2,876,398
Ramah Navajo Sch Board, Inc.				126,886		137,400	167,980
Rough Rock Comm. School				100,000	1,623,164	1,125,000	
Rural Dev Inv & Stratgic Empwrt							
Sacred Mtn Active Sr Housing							
Shan Diin, Inc.					2,778		320,740
Shiprock Chapter						2,321	
South Shiprock Housing Inc.							5,523,809
SR Hm for Women & Children				125,000	2,499,987		750,000
SW Alliance of Navajo, Inc.						236,178	
SW Indian Foundation (SWIFF)			120,000	120,000	1,284,663	390,000	119,872
Teescnospos Utah Plan. Comm.					115,000		
Tohatchi Youth Center, Inc.				83,111			
Tolchii' Kooh School, Inc.				1,075,196	110,077	3,228,653	2,100,000
Twilight Dawn, Inc.				474,839	923,857	1,027,381	533,532
Utah Navajo Commission			1,587,680	1,749,796	805,915		36,149
Wolf Creek Community				567,999	2,536,955	198,317	
Grand Total	$ 23,449,200		$ 24,962,889	$ 21,839,846	$ 43,624,594	$ 48,345,600	$ 41,314,608

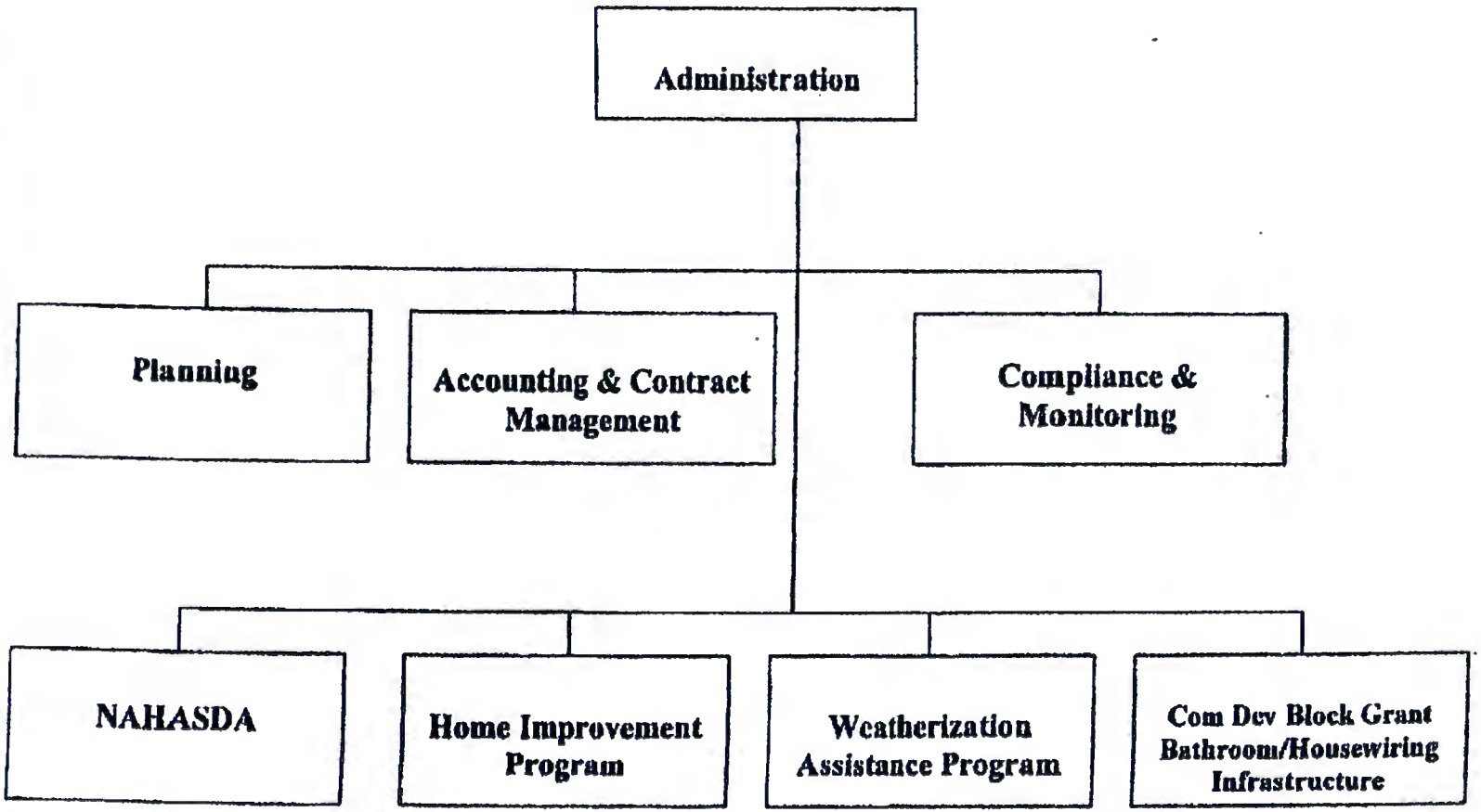
Exhibit 1 Sub-Recipients 1998-2007

Sub-Recipient	2004	2005	2006	2007	Grand Total
Alamo Navajo Sch Board, Inc.	200,000		2,200,000		$ 3,584,000
Bee Hooghan Shelter		588,040		4,200,000	$ 9,954,615
Chinle Nursing Home	1,200,000		132,000		$ 2,998,262
Chinle Valley School		31,680	1,000,000		$ 1,887,268
Chooshgai Community School	250,000				$ 941,644
Crow Springs Engineering, Inc.					$ 362,914
Crownpoint Institute of Tech					$ 9,090,424
Dine Bii Ass. Disabled Citizens	274,000	2,867,580		1,546,600	$ 6,383,960
Dineh Cooperatives Inc.					$ 440,000
Dineh Housing Inc.					$ 11,602,185
Ft. Defiance Housing Corp.	1,300,000				$ 70,829,606
Hoosh Dooh Di To' Dev					$ 4,533,181
Indigenous Comm Entprse, Inc.	788,965	126,720	1,442,745	3,003,400	$ 5,715,100
Kayenta Township Commission	3,100,000				$ 7,806,605
Kayenta Women's Shelter	52,129				$ 3,218,815
Keyoo School, Inc.			3,780,000		$ 3,780,000
Leupp School, Inc.	775,600				$ 1,340,324
Little Feet Child Care					$ 993,330
Little Folks Day Care Center	1,875,000				$ 1,875,000
Lukachukai Veterans Org					$ 1,785,535
Naa Tsis' Aan Comm School		1,820,000			$ 2,510,042
Naatannii Comm Services, Inc.	114,035				$ 114,035
Navajo Partnership for Housing	907,660	545,561	866,155	1,954,650	$ 8,471,293
Navajo Rural Development, Inc.	1,800				$ 1,800
Navajo Townsite Community		7,558,010	2,613,600	840,000	$ 13,801,647
NN Boys & Girls Club	500,000		911,995		$ 1,411,995
NN CDBG			546,581	4,203,339	$ 6,109,206
NN Division of Econ Dev					$ 6,963,287
NN Housing Services	3,550,000	718,960			$ 17,571,044
NN Huerfano Ch / Design & Eng.					$ 1,276,051
NN Land Dept	987,653				$ 1,860,608
NN Nav Div of Public Safety	1,000,000				$ 3,077,518
NN Ofc of Gvt Development					$ 4,593,300
NN Veterans Affairs	3,524,989				$ 12,122,935
Ramah Navajo Chapter	575,000	2,600,000			$ 9,873,417
Ramah Navajo Sch Board, Inc.	160,000				$ 592,266
Rough Rock Comm. School					$ 2,848,164
Rural Dev Inv & Stratgic Empwrt	31,836				$ 31,836
Sacred Mtn Active Sr Housing	2,730,000				$ 2,730,000
Shan Diin, Inc.	2,599,183			550,000	$ 3,472,701
Shiprock Chapter					$ 2,321
South Shiprock Housing Inc.	9,000,000			8,412,035	$ 22,935,844
SR Hm for Women & Children	300,000	1,499,175			$ 5,174,162
SW Alliance of Navajo, Inc.					$ 236,178
SW Indian Foundation (SWIFF)	407,400	334,868	1,109,900	1,392,300	$ 5,279,003
Teescnospos Utah Plan. Comm.					$ 115,000
Tohatchi Youth Center, Inc.					$ 83,111
Tolchii' Kooh School, Inc.	1,250,000	310,367	3,668,400		$ 11,742,694
Twilight Dawn, Inc.					$ 2,959,609
Utah Navajo Commission	4,261,880		1,502,920		$ 9,944,340
Wolf Creek Community					$ 3,303,272
Grand Total	$ 41,717,130	$ 19,000,981	$ 19,774,286	$ 26,102,324	$ 316,331,442

EXHIBIT H

COMMUNITY HOUSING AND INFRASTRUCTURE DEPARTMENT ORGANIZATIONAL CHART

COMMUNITY HOUSING & INFRASTRUCTURE DEPARTMENT
ORGANIZATIONAL CHART



THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0232-16

SPONSOR: Honorable Jonathan L. Hale

TITLE: An Action Relating to Law and Order, Resources and Development; Naa'bik'iyati' Committees and the Navajo Nation Council; Rescinding CD-82-03 and Designating Navajo Nation Division of Community Development's Community Housing and Infrastucture Department as the Navajo Nation's Tribally Designated Housing Entity.

Posted: July 19, 2016 at 5:10 pm

5 DAY Comment Period Ended: July 24, 2016

Digital Comments received:

Comments Supporting (5)	**1. Tom Horse and Ellie Horse** **2. Timothy S. Begay and Fannie Begay** **3. Harvey Lamemen and Ida Lamemen** **4. Ray Spencer and Inez Spencer** **5. Harvey Jim**
Comments Opposing	***None***
Inclusive Comments	***None***

Executive Director
Office of Legislative Services

08-4-16 @ 4:37 pm
Date/Time

SHIPROCK CHAPTER GOVERNMENT
OF THE NAVAJO NATION
Post Office Box 3810, Shiprock New Mexico 87420
Telephone: 505-368-1081 FAX: 505-368-1092
Website: www.shiprock.nndes.org Email: shiprock@navajochapters.org

Date: 08-01-16

FAX COVER SHEET

TO: Tom Platero
Attn: Alton Joe Shepherd
RDC-Chair

FROM: Tom & Ellie Horse
Timothy & Fannie Begay

PAGES: 01

FAX:

FAX: 928-871-7259

PHONE:

PHONE:

RE: Leg. No: 0232-16 (T.DHE)

☒ Urgent ☐ Please review ☐ Please comment ☐ For your records

COMMENTS:

Please take this as a request to voice our concern regarding this legislation. Please allow some time for us, for meeting on Aug. 2, 2016,

Thank you!

Tom & Ellie Horse - 505-701-1402
Ellie Horse

Timothy & Fannie Begay - 505-360-5816.

* Community member of Northern Agency,

Received
AUG 4 2016
OLS Council Delegates Office

"Home of the Braves, Proud Veterans of the Navajo Nation and the United States of America"

August 4, 2016

RECEIVED
AUG 4 2016
OFFICE OF LEGISLATIVE SERVICES

Resources and Development Committee
Navajo Nation
Window Rock, Arizona 86515

Mr. Alton Joe Shepherd, Chair
Benjamin L. Bennett, Vice Chair
Davis Filfred, Member
Walter Phelps, Member
Leonard H. Pete, Member
Jonathan Perry, member

This letter is to bring to your attention the Honorable Leaders of Navajo Nation of an on-going problematic with Navajo Housing Authority (NHA) for over the last ten (10) years.

Fiscal Year 1998 we (we, the undersigned) were selected by Shiprock Veterans Affair Office to have a home built with NAHASDA VA grant money. Since then Navajo Housing Authority used an outfit called "Forest Account" to build our VA houses with 2.0 million Block Grant PL 104-330 NAHASDA. Ever since then, we have witness poor eligibility screening and process, poor workmanship, poor communication, poor Supervision, Children at worksite, running out of materials, delay after delay in completing the house and many more to share with you. On January 22, 2002, February 11, 2002, February 25, 2002, March 11, 2002, and July 15, 2003 We came before the Human Services committee meetings and plead with them to help us with our veteran housing issue which was never a priority to discuss and addressed by the Committee, not to mention no positive feedback, so therefore, in September 2004 as our last resort we filed a complaint against NHA and On August 17, 2008 Trial Court Judge Geneieve Woody ruled in our favor and signed Order for workmanship building house damages, emotion harm and mental anguish damage and attorney's fees.

On June 28, 2006 Oral arguments were held in Shiprock Court.
On April 07, 2007, hearing on the damages took place in Shiprock Court.
On January 31, 2007 the Shiprock Court issued a Judgment Order finding for the Plaintiffs.

Navajo Housing Authority was found failure to construct five (Veterans) Plaintiffs' homes with the standard of care within industry standards as indicated in the Contract to Construct Plaintiffs' homes:

- NHA not entitled to the protections of sovereign immunity
- NHA breached the implicit warranty of good workmanship

- NHA failure to deliver quality of service and many more violations

As we age and feeling the Health issues we (Veterans and Spouses) continue to suffer stress, insomnia, high blood pressure, mood swings and other various symptoms alleged to be caused by NHA"s failure to construct homes to the standards required and the long, long wait on the next movement of the courts. As of August 4, 2016 we have not heard the status regarding SR-CV-467-04-CV Final Court Order.

As the Member of the Council Standing Committee put yourself in our place and imagine the difficulty and anxiety to finally receive a veteran home that was promise to us since 1998.

As an elected Tribal official of our great Navajo Nation Government, we plead with you to fully support and pass Legislation no:0232-16 so that the Veterans, elders, single parent, low in-come and middle class income will not endure the hardship that we all have going through for over 10 years.

We have numerous documents (hardcopy evidence) dated back 1998 to share with you for fact finding and possible investigation.

Again, we (the undersigned) are the voice for families within the Navajo Nation that can't raise the critical concern/issues regarding their homes due to being afraid of NHA.

We will not rest until we received the final resolution from the Navajo Housing Authority and from the Courts of the Navajo Nation.

Respectfully Submitted:

Tom Horse and Ellie Horse
Box 2872, Shiprock, N.M. 87420 (505)612-1768 — Shiprock Chapter
Tom Horse (505)701-1402

Timothy S. Begay and Fannie Begay
Box 3375, Shiprock, N.M. 87420 (928)656-3481 — Beclabito Chapter
for

Harvey Lamemen and Ida Lameman
Box 2510, Shiprock, N.M. 87420 (505)368-4077 — Shiprock Chapter
Harvey Lameman
Ida V. Lameman

Ray Spencer and Inez Spencer
Box 1757, Shiprock, N.M. 87420 (505)406-8061 — Cove, AZ Chapter
Ray Spencer
Inez Spencer

Harvey Jim
Box 306, Red Valley, Arizona 86544 (928)349-6578 — Red Valley, AZ Chapter
Harvey Jim

Cc: The Law Offices of David R. Jordan, P.C.
File

THE NAVAJO NATION
LEGISLATIVE BRANCH
INTERNET PUBLIC REVIEW SUMMARY

LEGISLATION NO.: 0232-16

SPONSOR: Honorable Jonathan L. Hale

TITLE: An Action Relating to Law and Order, Resources and Development; Naa'bik'iyati' Committees and the Navajo Nation Council; Rescinding CD-82-03 and Designating Navajo Nation Division of Community Development's Community Housing and Infrastucture Department as the Navajo Nation's Tribally Designated Housing Entity.

Posted: July 19, 2016 at 5:10 pm

5 DAY Comment Period Ended: July 24, 2016

Digital Comments received:

Comments Supporting (1)	**1. Coalmine Canyon Chapter Resolution no. CCC-08-0161-16**
Comments Opposing	***None***
Inclusive Comments	***None***

Executive Director
Office of Legislative Services

8/22/2016 - 11:10 Am

Date/Time

COALMINE CANYON CHAPTER

Chapter President
Phillip Zahne

Chapter Vice-President
Wayne Nez Sr.

Secretary/Treasurer
Augusta Gillwood

Vacant-Community Service Coordinator

Council Delegate
Walter Phelps

Grazing Official
Glenmore Begaye

Kristen Charley-Accounts Maintenance Specialist

WESTERN NAVAJO AGENCY – NAVAJO NATION
PO Box 742, Tuba City, AZ 86045

RESOLUTION OF THE COALMINE CANYON CHAPTER

Resolution No. CCC-08-0161-16

SUPPORTING THE MISSION AND GOALS OF THE NAVAJO HOUSING AUTHORITY AS THE DESIGNATED TDHE FOR THE NAVAJO NATION.

WHEREAS:

1. Pursuant to 2 N.N.C. and 26 N.N.C., the Coalmine Canyon Chapter is authorized and delegated with governmental authority to address all matters of local interest and concern; and,

2. The Coalmine Canyon Chapter is committed to providing and assisting with opportunities for the betterment and improvement of standard of living for its' constituents; and,

3. The Navajo Nation Council has introduced Legislation 0232-16, which proposes to remove the Navajo Housing Authority (NHA) as the Tribally Designated Housing Entity ("TDHE") and make the Community Housing and Infrastructure Department (CHID) within the Division of Community Development responsible for administering the Native American Housing Assistance and Self Determination Act (NAHASDA) program: and,

4. The Coalmine Canyon Chapter agrees and believes that the Navajo Nation does not have the administrative capacity to adequately administer $270 million of federal U.S. Housing and Urban Development as evidenced by the recapture of $12 million of NAHASDA funds by NHA from CHID because it could not obligate and expend nor comply with NAHASDA requirements; and,

5. In addition, the June 2009 JJ Clacs' NAHASDA TDHE study for the Navajo Nation concluded that the DCD's "CHID is not ready to take over the NAHASDA program at this time" (page 94); and,

6. Legislation Number 0232-16 was initiated without any input or consideration from the NHA, the public through public hearings, or even by tenants and homebuyers who occupy NHA housing units across the Navajo Nation; and,

7. The proposed legislation 0232-16, was also developed without any analysis, assessment, or impact study upon the NHA organization, the public or tenants who occupy NHA housing units; and,

8. The Navajo Nation Division of Community Development, CHID program has a very limited staff and is totally unprepared to do the job that the current 400 NHJA employees' handle; and,

9. Millions of dollars' worth of construction work currently in progress across the entire Nation would be adversely impacted immediately by the approval of legislation 232.16; and,

10. The proposed legislation 0232-16, is ill-advised, unplanned, and endangers the welfare and livelihood of over 400 Navajo Nation citizens and is therefore not in the best interest of the Navajo people.

NOW THEREFORE, BE IT RESOLVED THAT:

1. The Coalmine Canyon Chapter hereby supports the mission and goals of the Navajo Housing Authority as the TDHE for the Navajo Nation upon requesting NHA to provide planning and construction funds for the following projects as previously requested by chapter resolutions for Additional Housing Units, Assisted Living Units, Employee Housing Units, Playground, Improvement of Access Roads, and Data Center; and,

2. The Coalmine Canyon Chapter furthermore opposes Navajo Nation Council proposed legislations number 0232-16, which would remove the TDHE status from NHA and make the Navajo Nation CHID program responsible for administering the Nation's NAHASDA program; and,

CERTIFICATION

We hereby certify that the forgoing resolution was considered at a duly called meeting at Coalmine Canyon Chapter, Coalmine, Arizona, where a quorum was present and that same was passed by a vote of 20 in Favor, 0 Opposed, 5 Abstained, this 14th day of August, 2016.

Phillip Zahne, President

Wayne Nez, Vice President

Augusta Gillwood, Secretary/Treasurer

Walter Phelps, Council Delegate

Received
AUG 16 2016
Council Delegates

CCC-08-0161-16

LAW AND ORDER COMMITTEE
23RD NAVAJO NATION COUNCIL

SECOND YEAR 2016

COMMITTEE REPORT

Mr. Speaker,

The **LAW AND ORDER COMMITTEE** to whom has been assigned:

Legislation No. 0232-16: Relating to Law and Order, Resources and Development, Naabik'iyati' Committees and Navajo Nation Council; Rescinding CD-82-03 and Designating Navajo Nation Division of Community Development's Community Housing and Infrastructure Department as the Navajo Nation's Tribally Designated Housing Entity – Sponsor: Hon. Jonathan L. Hale

Has had it under consideration and reports the same with the recommendation that it **DO PASS** with no amendments

And thereafter referred to Resources and Development Committee

Respectfully submitted,

Edmund Yazzie, Chairperson
Law and Order Committee
23rd Navajo Nation Council

Date: July 28, 2016

Main Motion: Honorable Otto Tso
Second : Honorable Raymond Smith, Jr.
Vote : 4-0 (Chairperson not voting)

RESOURCES AND DEVELOPMENT COMMITTEE
23rd NAVAJO NATION COUNCIL

SECOND YEAR 2016

COMMITTEE REPORT

Mr. Speaker,

The **RESOURCES AND DEVELOPMENT COMMITTEE** to whom has been assigned:

Legislation # 0232-16: An Act Relating to Law and Order, Resources and Development, Naabik'Iyati Committees and Navajo Nation Council; Rescinding CD-82-03 and Designating Navajo Nation Division Community Development's Community Housing and Infrastructure Department as the Navajo Nation's Tribally Designated Housing Entity *Sponsor: Honorable Jonathan Hale*

Has had it under consideration and report the same with a recommendation of a DO PASS with no amendments

And thereafter referred to Naabi'Iyati Committee.

Respectfully submitted,

Benjamin Bennett, Vice-Chairperson
Resources and Development Committee
of the 23rd Navajo Nation Council

Date: August 5, 2016

Motion: Honorable Leonard Pete
Second: Honorable Jonathan Perry
Vote: 3-2-0 (Presiding Chairman voted in favor to break tie vote)

23rd NAVAJO NATION COUNCIL
Naabik'íyáti Committee Report
Second Year 2016

The **NAABIK'ÍYÁTI' COMMITTEE** to whom has been assigned:

NAVAJO LEGISLATIVE BILL #0232-16

An Act Relating to Law and Order, Resources and Development, Naabik'íyáti' Committees, and Navajo Nation Council; Rescinding CD-82-03 and Designating Navajo Division of Community Development's Community Housing and Infrastructure Department as the Navajo Nation's Tribally Designated Housing Entity

Sponsored by: Honorable Jonathan L. Hale

Has had it under consideration and reports the same with the recommendation that it **WAS TABLED NO LONGER THAN 45 DAYS**

And therefore, referred to the **NAVAJO NATION COUNCIL**

Respectfully Submitted,

Honorable LoRenzo C. Bates, Chairman
NAABIK'ÍYÁTI' COMMITTEE

17 NOVEMBER 2016

TABLING MOTION:

Table no longer than 45 days to hear from the People; Navajo Nation Council to sponsor a public hearing on housing concerns

Motioned by: Honorable Edmund Yazzie
Seconded by: Honorable Seth Damon

Vote: 14 in Favor and 03 Opposed (Chairman Bates not voting)

MAIN MOTION:

Motioned: *Honorable Jonathan Perry*
Seconded: *Honorable Norman M. Begay*

VOTE:

NAVAJO NATION

RCS# 608

11/17/2016
01:31:08 PM

Naa'bik'iyati Committee

Amd# to Amd# Table to get public involvement PASSED

MOT Yazzie
SEC Damon

Yea : 14 **Nay : 3** **Not Voting : 7**

Yea : 14

Begay, K	Hale	Phelps	Witherspoon
Chee	Jack	Slim	Yazzie
Damon	Perry	Smith	Yazzie, P
Filfred	Pete		

Nay : 3

Tsosie	Daniels	BeGaye, N

Not Voting : 7

Bates	Bennett	Crotty	Tso
Begay, NM	Brown	Shepherd	