

**UNITED STATES HOUSE OF REPRESENTATIVES
COMMITTEE ON APPROPRIATIONS SUBCOMMITTEE ON
TRANSPORTATION, HOUSING AND URBAN DEVELOPMENT, AND
RELATED AGENCIES**

OVERSIGHT HEARING on

**Housing & Transportation Challenges within Native American Communities and
the FY 2011 Budget Request**

Wednesday, March 24, 2010

2:00 PM

2358A-Rayburn House Office Building

Written testimony of the

**NATIONAL CONGRESS OF AMERICAN INDIANS
Embassy of Tribal Nations
1516 P Street, NW
Washington, DC 20005
202-466-7767**



NATIONAL CONGRESS OF AMERICAN INDIANS

March 24, 2010

On behalf of the National Congress of American Indians (NCAI), thank you for the opportunity to testify about our views on proposed funding for tribal housing and transportation programs in the President's FY 2011 budget request. NCAI is the oldest and largest national organization in the United States and is steadfastly dedicated to protecting the rights of tribal governments and advancing the welfare of Indian people.. This includes our support for much needed infrastructure development in tribal communities. NCAI applauds the Administration's many proposals for FY 2011 to continue to make investments in Indian Country. NCAI looks forward to working with members of this Appropriations Subcommittee to enhance investments in infrastructure development such as housing and transportation.

Infrastructure development is critical to economic development, recovery, creating jobs, and improving living conditions for individuals and families in Indian Country. Housing is a necessary link to provide stability for and safety to tribal families. Tribes have increased capacity to address the disturbing housing and infrastructure conditions in Indian Country through developing and managing their own programs and in many cases leveraging Department of Housing and Urban Development funding. In addition, building a transportation system that allows for safe travel and promotes economic expansion will help us strengthen our tribal communities, while at the same time making valuable contributions to much of rural America. Surface transportation in Indian Country involves thousands of miles of roads, bridges, and highways. It connects and serves both tribal and non-tribal communities.

Housing

The United States recently faced one of the most significant housing crises in the nation's history. However, many forget that Indian housing has been in crisis for generations. Forty percent of on-reservation housing is considered substandard (compared to six percent outside of Indian Country), and nearly one-third of homes on reservations are overcrowded. In order to meet current housing demand in reservation communities, 200,000 housing units are needed immediately, requiring a federal investment of some \$1 billion. Eleven percent of Native households lacks kitchen facilities, 17 percent lacks telephone service, and 12 percent lacks complete plumbing, while less than 1 percent of the U.S. general population lacks any of these facilities. Finally, of the 60,000 homes being maintained by federal housing assistance programs serving Native Americans, it is estimated that 70 percent, or 42,000 homes, are in need of retrofitting (windows, insulation, efficient furnaces/air, elder/handicap conversion, etc.).

Indian communities also face barriers to housing development, such as the lack of significant private investment opportunities, low functioning housing markets, and poverty. Accesses to mortgage financing opportunities are particularly scarce. Sixty-five percent of tribal respondents to the Native American Lending Study rated mortgages as difficult or very difficult to attain. The same study noted that less than 2 percent of Native households earning sufficient income to qualify for mortgages were actually homeowners.

EXECUTIVE COMMITTEE

PRESIDENT
Jefferson Keel
Chickasaw Nation

FIRST VICE-PRESIDENT
Juana Majel Dixon
Pauma Band – Mission Indians

RECORDING SECRETARY
Theresa Two Bulls
Oglala Sioux Tribe

TREASURER
W. Ron Allen
Jamestown S'Klallam Tribe

REGIONAL VICE-PRESIDENTS

ALASKA
William Martin
Central Council Tlingit & Haida

EASTERN OKLAHOMA
Cara Cowan Watts
Cherokee Nation

GREAT PLAINS
Marcus D. Levings
Mandan, Arikara and Hidatsa Nation

MIDWEST
Matthew Wesaw
Pokagon Band of Potawatomie

NORTHEAST
Lance Gumbs
Shinnecock Indian Nation

NORTHWEST
Brian Cladoosby
Swinomish Tribal Community

PACIFIC
Don Arnold
Scotts Valley Band of Pomo Indians

ROCKY MOUNTAIN
Scott Russell
Crow Tribe

SOUTHEAST
Archie Lynch
Haliwa-Saponi Indian Tribe

SOUTHERN PLAINS
Darrell Flyingman
Cheyenne & Arapaho Tribes

SOUTHWEST
Joe Garcia
Ohkay Owingeh

WESTERN
Irene Cuch
Ute Indian Tribe

EXECUTIVE DIRECTOR
Jacqueline Johnson Pata
Tlingit

NCAI HEADQUARTERS

1516 P Street, N.W.
Washington, DC 20005
202.466.7767
202.466.7797 fax
www.ncai.org

Building on the strong foundations of Indian self-determination, in 1996, Congress passed the Native American Housing Assistance and Self-Determination Act (NAHASDA), which revolutionized how federal housing assistance is made available to Native American communities. NAHASDA consolidated a number of existing housing funds into a single block grant — the Native American Housing Block Grant Program (NAHBG) — and increased the role of Indian tribes in the design and implementation of tribal housing and related infrastructure programs. The Native American Housing Block Grant Program is the single largest source of capital for Indian Country housing development, housing-related infrastructure, and home repair and maintenance. The program assists tribes in developing, operating, maintaining, and supporting affordable housing for rental or homeownership. Funds may be used for acquisition, new construction, rehabilitation of affordable housing, site improvement, development and rehabilitation of utilities and infrastructure, utility services, conversion, demolition, financing, administration and planning, improvement to achieve greater energy efficiency, mold remediation, investments that leverage private sector funding or financing for renovations, and energy conservation retrofit investments. Now, 13 years after enactment, NAHASDA has resulted in the construction of tens of thousands more housing units, as well as increased tribal capacity to address related infrastructure and economic development challenges faced by tribal members.

Department of Housing and Urban Development

NCAI and tribal leaders are very alarmed at the proposed decrease to the Native American Housing Block Grant program, which constitutes one of the largest percent decreases proposed for any area of the President's FY 2011 federal budget that benefits Indian Country. The proposed level would cut the NAHBG program by 17 percent from the FY 2010 enacted level and 11 percent from the FY 2009 level.

The Administration's justification for not requesting the standard formula amount is that the program is operating at a high volume due to American Recovery and Reinvestment Act (ARRA) funding provided in FY 2009. However, the ARRA funding was intended to be over and above regular appropriations. The proposed reduction to the formula level comes at the same time that the President has requested a three-year freeze in domestic spending. One positive aspect of the ARRA NAHBG funding was that 50 percent was distributed by a grant process that allowed smaller tribes to be awarded sufficient funding to complete projects. (Several examples of grants to tribes made with ARRA funding are provided below.) The proposed reduction would impact smaller and poorer tribes in FY 2011. As Indian Country works towards putting our citizens back to work, the proposed FY 2011 cut would also adversely affect the construction industry, which is one of the more stable industries with substantial employment in Indian Country.

NCAI would like to point out the inconsistency of the justification to cut the NAHBG formula funding in FY 2011 with the intention of ARRA. The Administration and Congress provided tremendous support to tribal programs through the Recovery Act to Native American housing, detention facilities, clean water and waste water systems, and programs of the Indian Health Service, but only dropped support for housing in the FY 2011 budget request. **NCAI urges this Subcommittee to work toward restoring the cut proposed for the NAHBG funding for FY 2011.**

The NCAI FY 2011 Indian Country Budget Request for Indian housing includes the following recommendations:

- **Fund the Indian Housing Block Grant (IHBG) at \$875 million.**

- **Fund the Indian Community Development Block Grant at \$100 million.**
- **Fund Title VI of the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA) at \$2 million.**
- **Fund the Section 184 Program at \$9 million.**
- **Fund NAHASDA's Training and Technical Assistance at \$4.8 million.**
- **Fund Title VIII's Native Hawaiian Housing Block Grant at \$20 million.**

Recovery Act Successes

The American Recovery and Reinvestment Act (ARRA) appropriated \$497.3 million for Indian tribes and tribally designated housing entities under the Native American Housing Block Grant Program. Of this nearly \$500 million appropriated under the Recovery Act, some \$255 million was distributed according to the funding formula used in FY 2008 to nearly 600 tribes and tribal housing entities. The remaining \$242.3 million is being awarded under a competitive application process on a rolling basis. Tribes have been able to put Recovery Act money into shovel ready housing projects that are making differences in Indian Country.

Examples of ARRA NAHBG competitive program awards:

- New housing construction for the Leech Lake Housing Authority and the Little River Band of Ottawa Indians, MI (\$3 million)
- Infrastructure for 50 new homes for the Mashpee Wampanoag Tribe, MA (\$2 million)
- Housing Rehabilitation for Lumbee Tribe of NC (\$4 million)
- Acquisition of 3 rental housing units for the Chico Rancheria Housing Corporation, CA (\$1.8 million)
- Infrastructure (streets, curbs and gutters) for a subdivision at Nambe Pueblo, NM (\$2 million)

Although the ARRA funding has provided many successes in Indian Country, tribes still have tremendous need to address and provide safe and decent housing for their citizens

Transportation

The Indian Reservation Roads (IRR) system comprises over 104,000 miles of public roads with multiple owners, including the Bureau of Indian Affairs, Indian tribes, states and counties. Indian Reservation Roads are the most underdeveloped road network in the nation¹—yet this is the primary transportation system for all residents of and visitors to American Indian and Alaska Native communities. Over 66 percent of the system is unimproved earth and gravel. Approximately 24 percent of IRR bridges are classified as deficient. These conditions make it very difficult for residents of tribal communities to travel to hospitals, stores, schools, and employment centers.²

The Bureau of Indian Affairs Road Maintenance Program is responsible for 27,034 miles of BIA-owned roads and 926 bridges. In 2003, the BIA acknowledged that at least \$120 million per year was needed to maintain BIA-owned roads and bridges to an adequate standard, and that \$50 million per

¹ Bureau of Indian Affairs, *Transportation Serving Native American Lands: TEA-21 Reauthorization Resource Paper* (2003).

² Statement of John Baxtor, Administrator of Federal Lands, FHWA, U.S. DOT, Hearing on *Transportation Issues in Indian Country Before Senate Comm. on Indian Affairs*, 110th Cong. 1st session (2007).

year was needed for bridge rehabilitation and replacement. Costs to maintain these roads have risen sharply in the past five years, due to high inflation costs for construction.

State governments spend between \$4,000 and \$5,000 per road mile on maintaining state roads and highways. In Indian Country, by contrast, road maintenance funding is less than \$500 spent per road mile. Indian Country has an unmet immediate need of well over \$258 million in maintenance funding for roads and bridges, and \$310 million in unmet new roads and bridges projects.

Transportation infrastructure is vital to tribal economies, education systems, and healthcare and social service programs. Tribal communities are threatened by unsafe and often inaccessible roads, bridges and ferries. Indian tribes suffer injury and death by driving and walking along reservation roadways at rates far above the national average. Data shows 5,962 fatal motor vehicle crashes were reported on Indian reservation roads between 1975 and 2002 with 7,093 lives lost. The trend is on the increase, up nearly 25% to over 284 lives lost per year in the last five years of study. While the number of fatal crashes in the nation during the study period declined 2.2 percent, the number of fatal motor vehicle crashes per year on Indian reservations increased 52.5 percent. American Indians also have the highest rates of pedestrian injury and death per capita of any racial or ethnic group in the United States.

Tribal communities share many of the same obstacles as other rural communities in addressing how to improve transportation needs. NCAI has diligently worked with tribal governments to find solutions for improving the infrastructure of Indian Country, including transportation. Tribes are now pro-active in this effort through the legislative process, by building partnerships with other entities, and by generating revenue to assist in financing their transportation projects.

Department of Transportation (DOT)

The Department of Transportation has requested a total of \$450 million for the Indian Reservation Roads Program (IRR), \$14 million for IRR Bridge Program, and \$15 million for Public Transportation on Indian Reservations Section 5311(c). These amounts are level with the enacted FY 2010 funding for tribal transportation programs through DOT.

For FY 2011, the Department has included a new \$200 million program in the Federal-aid Highway Program within Federal Highway Administration, a competitive grant titled, *Livable Communities Grant Program*, which is designed to assist state, local, and tribal governments in developing and coordinating smarter communities with transportation, housing and commercial developments. This new program would be beneficial to tribes by effectively enhancing their economic development opportunities.

The authorization of Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), ended on September 30, 2009. In the extension of SAFETEA-LU, Indian Country transportation programs funding has remained steady at FY 2009 funding levels. Funding for the IRR program and other tribal transportation programs is authorized every five to six years through federal highway reauthorization legislation and has been severely underfunded. NCAI will be working with Congress on the next SAFETEA-LU reauthorization in the coming months to increase the funding for IRR to \$800 million in the outyears.

The Highway Trust Fund, which primarily funds transportation programs, and has been experiencing depleted funding amounts due to low federal gas tax receipts. Congress just recently, in

the *Hiring Incentives to Restore Employment Act (HIRE)*, deposited \$19.5 billion into the Highway Trust Fund to fund highway projects through the year. Estimates on the Highway Trust Fund's FY 2010 shortfall run from \$8 to \$10 billion. Without an immediate and substantial increase in Highway Trust Fund revenues, the American Road & Transportation Builders Association estimates that the federal transportation investment could be cut by 40 percent in FY 2009 alone. If left uncorrected, this will mean a disastrous cut in tribal transportation funding as well.

Like states, Indian tribes receive some funding for road construction from the federal Highway Trust Fund, but the amount given to tribes is much less than what states receive. Currently, Indian Reservation Roads make up nearly 3 percent of federal roadways, but they receive less than 0.5 percent of total federal highway funding. At the current funding levels, the IRR program receives only about half the amount per road mile that states receive.

The federal government also makes some funds available to tribes for IRR maintenance under the BIA Maintenance Program. This program is also woefully inadequate. The BIA spends less than \$1,000 per mile for road maintenance, compared to estimates of \$4,000-\$5,000 per mile used by states to fund non-IRR maintenance. Moreover, the states, which receive federal funding for their own roads that fall within reservations, frequently shirk their obligation to improve or maintain these roads and instead siphon off the funds for use elsewhere.

Faced with a severe inadequacy of funding from federal and state sources, tribal governments have looked for other sources of revenue, including levying their own motor fuel taxes. While tribes have the same authority as other governments to collect taxes, the ability of tribes to tax fuel on tribal lands has been severely diminished by the Supreme Court. The Court has upheld the authority of the states to reach onto tribal land to collect a state motor fuel tax. The dual taxation that would result if both states and tribes impose a motor fuel tax makes it impractical for tribes to generate revenue through motor fuel taxes. Although some tribes and states have been able to negotiate motor fuel tax revenue-sharing agreements, these cases are the exception rather than the rule. In most areas, the state governments' collection of motor fuel taxes in Indian Country displaces the ability of tribal governments to collect motor fuel taxes.

NCAI requests that the Subcommittee consider the following FY 2011 funding recommendations:

- **\$800 million for the Indian Reservation Roads Programs.**
- **\$75 million for the Indian Reservations Roads Bridge Program.**
- **\$4.2 million for Tribal Technical Assistance Programs (TTAPs).**
- **\$35 million for the Tribal Transit Program.**
- **\$200 million program for the Liveable Communities Grant Program.**