



Housing Counseling Tribal Consultation Written Feedback

Comments Received January 26 – March 19, 2021

Tribal Entity and/or Organization	Feedback Submitted
<p>Ho-Chunk Nation (TDHE: Ho-Chunk Housing and Community Development Agency)</p> <p><i>Date received: January 26, 2021</i></p>	<p>Historically, funds allocated towards Indian Housing programs has not risen in many, many, many years to meet our needs.</p> <p>I agree that this housing counseling is needed in Indian Country.</p> <p>Are you going to seek or advocate, better yet obtain additional funding to create and establish capacity so that this requirement can be successful?</p> <p>Issues: geographically our villages are spread out through 7 counties in Wisconsin; this takes away from regular work load, purchase of materials, broadband costs to conduct to remote locations costs, additional staff, transportation, mileage costs.</p> <p>In the Coronavirus Relief Fund (CRF) \$150 billion, I was looking at the “View CRF allocations” (search by state, county, and/or city/metro) and for Wisconsin state that our TDHE non-profit resides in are: Dane County, Milwaukee county, Milwaukee city, for a total allocation payment \$1,997,294,785.80.</p> <p>The Federal Register tribal governments as an eligible recipient, can you share more information on where and when was notification given to tribes to apply for this funding?</p> <p>Can you please explain more on how our TDHE non-profit can apply for CRF funding to assist with the required housing counseling certification?</p> <p>I am trying to understand all the funding sources and how we can access them.</p>
<p>Citizen Potawatomi Nation (CPN)</p> <p><i>Date received: February 2, 2021</i></p>	<p>[See 3-page letter from CPN for reference]</p>
<p>Consultant to NAIHC</p> <p><i>Date received: February 2, 2021</i></p>	<p>Can you please send me the names and emails of those on the panel (it would be nice to have the participants so we can reach out to each other) Include name and Tribal affiliation. Thank you, Cielo Gibson, NAIHC Consultant.</p> <p>By the way, the session was excellent, but I do think you should have several listening sessions where tribes/TDHEs can make 10 minute presentations about their housing counseling efforts, obstacles, proposed, solutions, success stories, etc. I also think you should review the Pathways Participant and Instructors’ Workbooks and Building Native Communities to see what we teach.</p>
<p>Ho-Chunk Nation (TDHE: Ho-Chunk Housing and Community Development Agency)</p> <p><i>Date received: February 4, 2021</i></p>	<p>We are a TDHE and a nonprofit. Once we become a housing counseling certification agency, we have the right to find “Pathways” as a housing counseling certification program correct? Pathways, the Native homeownership training. If we put this in our work plan that we are utilizing a housing counseling certification training that is culturally significant. Is this acceptable?</p>

Tribal Entity and/or Organization	Feedback Submitted
Native Community Capital <i>Date received: February 4, 2021</i>	[See 3-page letter from Native Community Capital for reference]
Native Community Capital <i>Date received: February 4, 2021</i>	Once the new rule is implemented and if an IHBG or ICDBG funded tribal homeownership housing is put in operation and the tribe / TDHE is not compliant with this rule, what is the effect on that TDHE?
Choctaw Nation of Oklahoma <i>Date received: February 4, 2021</i>	[See 2-page letter from Choctaw Nation of Oklahoma for reference]
Choctaw Nation of Oklahoma <i>Date received: February 4, 2021</i>	[See 4-page letter from Choctaw Nation of Oklahoma for reference]
Association of Alaska Housing Authorities <i>Date received: February 24, 2021</i>	[See 4-page letter from Association of Alaska Housing Authorities for reference]
Montana Native Growth Fund <i>Date received: February 26, 2021</i>	[See 3-page letter from Montana Native Growth Fund for reference]
United Native American Housing Association <i>Date received: March 4, 2021</i>	[See 2-page letter from United Native American Housing Association for reference]
Cherokee Nation <i>Date received: March 12, 2021</i>	[See 4-page letter from Cherokee Nation for reference]
Salish Kootenai Housing Authority of the Flathead Reservation <i>Date received: March 17, 2021</i>	[See 2-page letter from Salish Kootenai Housing Authority of the Flathead Reservation for reference]
South Dakota Native Homeownership Coalition <i>Date received: March 19, 2021</i>	[See 5-page letter from South Dakota Native Homeownership Coalition for reference]
Sicangu Wicoti Awayankapi (SWA) <i>Date received: March 19, 2021</i>	[See 2-page letter from Sicangu Wicoti Awayankapi for reference]
Cheyenne River Housing Authority <i>Date received: March 19, 2021</i>	[See 2-page letter from Cheyenne River Housing Authority for reference]

Tribal Entity and/or Organization	Feedback Submitted
National American Indian Housing Council (NAIHC) <i>Date received: March 19, 2021</i>	[See 4-page letter from National American Indian Housing Council for reference]
Northern Ponca Housing Authority <i>Date received: March 19, 2021</i>	[See 2-page letter from Northern Ponca Housing Authority for reference]
Oweesta Corporation <i>Date received: March 19, 2021</i>	[See 2-page letter from Oweesta Corporation for reference]

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CITIZEN POTAWATOMI NATION

02/01/2021

David L. Berenbaum
Deputy Assistant Secretary
Office of Housing Counseling

RE: Tribal Consultation for Housing Counselor Certification Requirements

Dear Sir,

This letter is in response to the December 18, 2020 Dear Tribal Leader Letter regarding Section 106 of the Housing and Urban Development Act of 1968 as amended by the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. The Citizen Potawatomi Nation (CPN, Tribe or Nation) offers the following information and input for consideration.

Background

The Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 required that any homeownership counseling or rental housing counseling required under, or provided in connection with, any HUD program must be provided only by organizations or counselors certified by the U.S. Department of Housing and Urban Development (HUD) as competent to provide such counseling. On December 14, 2016, HUD published a final rule in the Federal Register entitled "Housing Counseling: New Certification Requirements". The original compliance date for counselor certification was August 1, 2020. However, last July HUD published an interim final rule on its website to announce a new compliance date of August 1, 2021. It is troubling to the CPN that while the final rule for the housing counseling certification requirements was published over four years ago, HUD is just now undergoing tribal consultation. CPN asks that in the future, HUD provides robust tribal outreach so that tribal-specific consultation take place as the negotiated rule making process occurs and well before a final rule is published.

Consultation Recommendations

First, during the webinar on January 26th, it was mentioned that the majority of Native American Housing Programs have trained staff to address Homeownership and Rental Counseling, many having attended Native American Indian Housing Council's (NAIHC) Pathways Home Training. Receiving quarterly reports from HUD's Office of Native American Programs Native American during the foreclosure crisis, homeowners using the Section 184 Home Loan

Guarantee were not significant contributors to the foreclosure crisis that partially led to this reform. CPN believes this is largely in part to the Pathways Home training. This signifies that we, the 574 Native American tribe's housing efforts and counselling capabilities were not recognized or considered. Having reviewed portions the Dodd Frank Act, it's not hard to miss the numerous reforms and attempts to abolish the Act altogether. It is obvious that tribes need to insist on congressional reform or exemption from this counseling requirement. Until that can be accomplished, we have attempted to address the five points of consultation in the following way.

1. Are the housing counseling certification requirements included in the final rule would be practical and effective in your community?

The CPN is a large tribe serving Native Americans in central Oklahoma. The certification requirements are impractical based on the feedback we have received due to the limited number of HUD certified counseling agencies in the state of Oklahoma and the distance required for attendance by the Homebuyer/Renter. With respect to rental counseling, CPN has initiated numerous payback agreements inhouse and after hours. This certification requirement would exacerbate the hardship on the rental tenant if they had to take off work and travel to one of these agencies. Tribes should be recognized for counseling efforts and training and should be grandfathered in as "certified".

2. What impact the housing counseling certification requirements would have on providing culturally relevant housing counseling and other programming in Indian Country and your community?

The impact is an erosion of our tribal sovereignty. The Native American Housing and Self-Determination Act of 1996 (NAHASDA) allows us to create housing programs specific to our tribal needs and a report or interaction with yet another government agency to accomplish what is already performed on a daily basis would impact daily efforts to provide housing services. If this is a reporting requirement for a service already provided, the number of counseling sessions performed on the Annual Performance Report and in turn, the ONAP can provide your agency the information. The potential homebuyer would also be impacted by seeking counseling from an agency who may not be aware of the cultural differences and tribally individualized homeownership programs. The Tribe serves 50 to 100 potential homebuyers annually with its down payment and closing cost program to tribal members across the United States. This requirement would severely impact this achievement.

3. What changes to the housing counseling certification requirements included in 24 C.F.R. part 214 would you recommend to ensure that these certification requirements (a) are not administratively burdensome, (b) enable appropriate access to housing counseling services in your community – particularly in very remote areas – and (c) help tribal members address their housing issues?

(a) The Nation suggests removing the 501 (c) 3 requirement and/or grandfather the tribal programs into your counseling agency, accepting the criteria of the Pathways Home training and filling in any shortfalls with your certification training.

(b) Because CPN is centrally located and largely serves the tribal members within our designated jurisdiction, we already provide easy access to our tribal community.

(c) CPN's services are already known to the tribal members in our community and the Nation understands their housing and supporting needs. Having professional relationships with the tenants, the Nation is aware of their housing issues and assist them often with solving these issues. Requiring tenants to take off work, juggle or find transportation for a 72-mile roundtrip to the nearest counseling agency places an undue burden on our already low-income population. Finally, some tenants may have cellular plans but because their data usage is oftentimes very limited, tele-counseling sessions are not a reliable alternative.

4. Any other ideas on how HUD can ensure that the counselor certification requirements applicable to HUD's Native American programs are effective in Indian Country?

As mentioned previously, this requirement should grandfather existing tribal programs; otherwise, tribes should be exempt, since tribes already have their own counseling programs. If CPN is to comply tribes must also be exempt from the 501(c)3 requirement or close the tax loophole mentioned during the webinar. Finally, the counseling quota requirement should be changed to a percentage of tribal members served per year.

5. Do you anticipate challenges if the qualification process that HUD currently uses for approving units of State or local government included in 24 C.F.R. part 214 were applied to tribes or Tribally Designated Housing Entities (TDHEs)?

Challenges that 24CFR Part 214.103 presents are as follows:

- The non-profit status is the first challenge, as some tribes, such as CPN, operate their programs as housing department within the tribe; we are tax exempt as a federally recognized tribe but not a 501(c)3. This requirement would therefore need to be revised.
- Experience. Although tribes have trained counseling staff, they would not be recognized as an "intermediary"; therefore, tribes would not meet the second requirement.

Thank you for your consideration of our recommendations. However, it is unfortunate that time after time a law is enacted and tribal nations are an afterthought. It is common that our recommendations through tribal consultation are provided as a footnote and we are then compelled to comply with the law or regulation as written when it does not respect tribal sovereignty. CPN asks that you heavily weigh and reflect the comments of the Native American Nations from which you are seeking input. If you have any questions about our comments, please contact Mr. M. Scott George, CPN Housing Department Director, by email at sgeorge@potawatomi.org or my phone at 405-273-2833.

Sincerely,



Linda Capps
Vice Chairman



February 4, 2021

David L. Berenbaum
Deputy Assistant Secretary
Office of Housing Counseling

Delivered via Email to: tribalconsult@hudexchange.info

RE: Tribal Consultation for Housing Counselor Certification Requirements

Dear Mr. Berenbaum,

Native Community Capital is a Native CDFI located on and serving the Pueblo of Laguna (POL). Our work is to make home loans to enrolled members of the Pueblo of Laguna and other tribal communities across the Southwest. Since 2015, NCC has managed the POL Home Loan Program (POLHLP).

We have funded construction of 19 new homes in 5 villages and manage a portfolio of over \$2.5MM and in our history as a CDFI we have deployed over \$18MM total for tribal housing, community facilities as well as for small business and debt consolidation loans.

NCC has been providing financial literacy and homebuyer education as have the tribes who we partner with on housing development and financing initiatives. The services provided are culturally relevant and typically specific to the local tribal government and traditional practices of a specific Pueblo community – not all tribes are the same and they must not be treated as such this the Biden-Harris administration's emphasis on recognizing the requirements of the RESPECT Act including requiring substantive engagement with tribes. To that point, I urge your consideration of the following responses to questions posed relative to the Housing Counselor Certification Requirements:

1. Whether the housing counseling certification requirements included in the final rule would be practical and effective in your community;

Like so much public policy that affects tribes, this policy and the requirements were developed with non-Indian populations in mind. Therefore, I do not believe the requirements would be practical or effective in our local community or the other tribal communities we serve. Each of the following issues would make achieving certification extremely difficult and/or put existing certification at risk – and as such a major disincentive for tribes even to attempt certification:

- a) Turnover: Homeownership as an option for most tribal members residing on tribal lands is still extremely limited. As a result, a certified counselor or agency may only use their designation rarely if at all before certified staff leave or the agency loses its certification.

b) Limited Dealflow: Serving 30 clients in a 12-month period may only be achievable for 10 of 573 tribes. Even the ten largest tribes may find difficulty depending on access to land, limited or untested local ordinances, as well as distressed credit / income profiles of the population served.

c) Limited Infrastructure: Housing counseling facilities would need to be purpose built. More than likely, given the limited client base, existing facilities would need to be re-purposed in violation of the requirements and as such this is impractical.

2. What impact the housing counseling certification requirements would have on providing culturally relevant housing counseling and other programming in Indian Country and your community;

The requirements could result in a demand for more information that is important but may be irrelevant such as the requirement to disclose fair housing laws which are unenforceable on tribal land. Also, it may likely undermine or undervalue the issues relevant in tribal communities such as Good Standing requirements imposed by local village officials relative to securing a land assignment. Similarly, the process, often untested, of having a tribe exercise its right of first refusal begs questions that may not have a convenient answer. For these reasons, ONAP, as the HUD in-house subject matter expert, should oversee certification approval to advance and protect culturally relevant housing counseling programming. Moreover, housing counseling standards already approved and in use by NAIHC should be allowable for meeting the requirement.

3. What changes to the housing counseling certification requirements included in 24 C.F.R. part 214 would you recommend to ensure that these certification requirements (a) are not administratively burdensome, (b) enable appropriate access to housing counseling services in your community – particularly in very remote areas – and (c) help tribal members address their housing issues;

Allow for an intermediary agency to contract with and utilize tribal para-professional (uncertified) counselors. Much like rural tribal dental clinics or rural wastewater plant operators – the doctor or licensed water operator provide services on a “circuit-rider” basis. This does not mean that all services stop when they are not available. It simply means that a licensed individual provides consultation, quality control, and in-person oversight on a limited but practical basis to ensure the safety and soundness of operations.



4. Any other ideas on how HUD can ensure that the counselor certification requirements applicable to HUD's Native American programs are effective in Indian Country;

Just as the new Indian Country Economic Enhancement Act of 2020 provides funding for the establishment of Native American Small Business Incubators, so too should new funding be made available to establish regional intermediary organizations to provide housing counseling services to tribes across a certain region to establish and improve the regular and consistent availability of financial literacy and homebuyer education and counseling services via a "circuit-rider" type approach.

5. Do you anticipate challenges if the qualification process that HUD currently uses for approving units of State or local government included in 24 C.F.R. part 214 were applied to tribes or Tribally Designated Housing Entities (TDHEs)?

Yes, challenges will likely be made particularly if and when IHBG or ICDBG program requiring homebuyer counseling under the new requirements are found deficient and create a grants management or grants evaluation finding for the TDHE. Ultimately, HUD should view working with tribes or TDHEs as working directly with state governments – not working with units of state governments.

Thank you for the opportunity to comment and if I can be of any further assistance please feel free to call on me at any time at 855.628.2272.

Sincerely,

A handwritten signature in black ink, appearing to read "Dave Castillo", with a stylized flourish at the end.

Dave Castillo , CEO





Choctaw Nation of Oklahoma

Housing Authority

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Gary Batton
Chief

Jack Austin, Jr.
Assistant Chief

February 4, 2021
Office of Housing Counseling
Tribal Consultation

I am writing you concerning the HUD's Final rule for Housing Counseling Certification. I have added statements from HUD and added my questions in bold lettering.

NAHASDA: This act was designed specifically to assist in the development of housing, housing services, housing management services, and crime prevention and safety activities in Indian communities. These actions are meant to align with the objectives of assisting and promoting affordable housing on tribal land, offering tribal members better access to private mortgage markets, matching development to surrounding areas, and promoting private capital markets Indian Country.

The act recognized that the policies HUD applied to providing public housing in poor urban neighborhoods might not be effective on rural Native American reservations

Shouldn't tribal specific program counseling align with this statement and provide our Tribal Members with the resources, tools and program requirement's that our Tribe has to offer? I feel that the certification could be more tailored for tribal programs.

HUD'S FINAL RULE FOR HOUSING COUNSELING CERTIFICATION

Updated as of August 12, 2020 Key Definitions:

Housing Counseling is independent, expert advice customized to the need of the consumer to address the consumer's housing barriers and to help achieve their housing goals and must include the following processes: intake; financial and housing affordability analysis; an action plan, except for reverse mortgage counseling; and a reasonable effort to have follow-up communication with the client when possible.

*Services that provide housing information, or placement or referral services, (for example, mobility-related services for the Housing Choice Voucher (HCV) program), **do not constitute housing counseling** and would not necessitate an individual providing these services to become a HUD-certified housing counselor working for an agency approved to participate in HUD's Housing Counseling program under this rule. Routine administrative activities (e.g., program eligibility determinations, intake, case management, property management, and the collection of rent or loans) are also **not housing counseling**. Holistic case management for persons with special needs, for persons undergoing relocation in the course of a HUD program (including relocation and other advisory services provided pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 and other Federal laws), or for social services programs that also provide housing services as incidental to a larger case management program are **not housing counseling**. Additionally, fair housing advice and advocacy offered in isolation from housing counseling (i.e. without providing for an intake; financial and housing affordability analysis; an action plan to address other housing needs or goals; and follow up) **does not constitute housing counseling**.*

Choctaw Nation Housing Authority has several departments working under one umbrella, we have a Rental/Lease Property manager that has a Choctaw Elder, who may be paying late payments for several months and now behind. Because they receive their SSI payment once a month and has never been able to get caught up due to a one-time emergency that they had not planned on. The Property manager reaches out to the counselors that are located in that rural community requesting that a counselor to help with budgeting along with referring other tribal programs to assist with their hardship to allow them to become current and pay their rent on time. Is this considered counseling? If we do not become certified, would a local certified counselor in rural Oklahoma be equipped or knowledgeable to counsel on the 520 lease participants and the requirements that this program requires for each tribal household?

Updated as of August 12, 2020

Applicable Programs:

The following list of programs provide housing counseling as described in the four categories in § 5.111.

Therefore, after August 1, 2021, housing counseling provided in connection with any program identified below must be provided by HUD-certified housing counselors that work for an agency approved to participate in HUD's Housing Counseling program: This list includes the ICDBG.

Please note that application of the Housing Counseling Certification Rule requirements to the Native American housing programs will undergo tribal consultation before applying.

The Federal Register dated May 31, 2017 Section II. Tribes as HUD noted in the final rule, application of the Section 106 certification examination requirements will only apply to Indian tribes and tribal entities after HUD undergoes tribal consultation and addresses the participation of tribes in HUD's Housing Counseling Program in future rulemaking or guidance, as appropriate. ***Does this mean, Tribes are going to be allowed an additional 4 years to be compliant due to the consultation just taking place on February 4, 2021?***

Yakoke (Thank You),

Carrie Blackmon

Director/Service Coordination

Choctaw Nation Housing Authority

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Choctaw Nation of Oklahoma

Housing Authority

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Gary Batton
Chief

Jack Austin, Jr.
Assistant Chief

Date: 2/4/2021

Halito, I am Tracy Toyebo with the Choctaw Nation Housing Authority of Oklahoma. Thank you for allowing me this time to express the concerns of the current requirements of passing the HUD exam and how this will affect our Tribal Members and Counseling agency.

Prior to enactment of the Native American Housing Assistance and Self-Determination Act of 1996, Tribal housing programs were administered by Indian housing authorities (IHA) under the 1937 Housing Act. While Tribal communities benefitted from the existing Federal and Tribal housing programs in existence at that time, there were many mandates and requirements that created barriers for IHAs who operated in a very different environment than the public housing. With the adoption of NAHASDA, Tribes and Tribally Designated Housing Entities (TDHEs) were finally able to exercise some form of self-determination with respect to their housing programs and utilized this to develop programs and services that were tailored directly to meet the needs of their respective communities. Through experience, Tribal housing professionals had learned that while they may be beneficial to mainstream America, many existing homeownership techniques did not work effectively in Indian Country. These techniques would include not only lending products or financial resources but also training and counseling curriculums. Achieving homeownership in Indian Country was not an easy task and the environment contained many barriers and obstacles along the way which caused many individual Tribal members to become discouraged and even discontinue their own pursuit of home ownership. The Tribes and TDHEs were able to lessen some of these issues and obstacles by developing a more customized approach to home ownership for Tribal members. Pathways Homes and the continuing development of the HUD Section 184 loan program are two prime examples of how Tribes and TDHEs have been able to assist their customers in navigating their way through the barriers that had made home ownership an impossible dream for many Native American families in the past. The mandate that HUD Counseling Certification requirements should become accepted to Tribes and TDHEs in carrying out their affordable housing activities under NAHASDA is simply a throwback to the days of the old 1937 Housing Act when IHAs were forced to operate a program that was designed for others and did not meet the unique needs of their specific communities.

We are currently a HUD approved counseling agency. We started providing counseling services in June of 1996 which is 24 years and 7 months ago. We joined HUD in April of 2004 which is 16 years and 10 months ago. Counseling has changed in many ways over the last 24 years within the Choctaw Nation. We have always taken it serious on tailoring our counseling to the needs of our Tribal members.

When we submitted our 9902 report to HUD for the Fiscal year 2020, we had served 612 Tribal Members through counseling. 95% of our counseling clients are Tribal Members that are currently living in one of our housing units. As an example, our LEAP Program is a new homeownership program opportunity for Choctaw Tribal members who meet the program income guidelines. The goal of this program is to assist families with credit issues to become mortgage ready and lender qualified over time with credit counseling services. The LEAP program has 520 LEAP homes and looking to build 420 more over the next three years on our reservation. The Tribal members will sign a 15-year lease with intent to obtain mortgage during the 16th year for the remaining balance of the home. During the 15 years the Tribal Member will meet with our counselors to obtain Education and homebuyer counseling services throughout the duration of the lease. If they are not meeting the counseling requirements the eviction process will begin with the Tribal Member.

We currently have six counselors that serve our Tribal Members on the Reservation area. The reservation area covers 10 ½ counties. Our reservation is located on almost 7 million acres. To travel from the North side of the reservation to the South side will take you around three to four hours one way.

Our Counselors receive a variety of referrals from the various departments in Housing and within the Tribe concerning budget and credit concerns. Back to our example with the LEAP : When our counselors meet with our Tribal Members they are completing a monthly budget looking at their current expenses and looking at options of where they can cut back on expenses and to put money aside for when that hot water tank goes out , creating a workplan with the client to set short term and long term attainable goals, going over the clients credit report teaching them what a credit report means and the importance. Our counselors are building relationships with the Tribal Member and preparing them to hopefully one day be a homeowner within the 15 years.

Our counselors are not only reviewing budgets and credit reports, but they are continually looking for resources that are available for our Tribal Members we offer a wraparound service. The Choctaw Nation offers over 150 services through the health care, education, housing, cultural services, and our member services. We feel like it's very important that our

counselors are knowledgeable and have a working relationship with all the other departments to connect them to other resources available.

I feel in order to be a good counselor it takes more than passing an exam. Not everyone can be a good test taker and pass the exam. In order to be a good counselor, you must also have attributes such as:

- Communication Skills-, Counselors need to have a natural ability to listen and be able to clearly explain their ideas and thoughts to others.
- Acceptance- Counselors need the ability to relate to clients with an open, nonjudgmental attitude – accepting the Tribal Member for who they are and where they are in the budgeting or homebuying process.
- Empathy and Compassion- Counselors help people through some of the most difficult and stressful times of their lives. Compassion and empathy help our Tribal Members feel understood and heard.
- Problem-Solving Skills- It's not up to our counselor to solve their problems. Counselors must have excellent problem-solving skills to be able to help their clients identify negative spending habits and help guide to making positive changes.
- Dedication-Counselor needs to be dedicated to the Tribal Member welfare and devoted to developing a meaningful relationship as their top priorities. We had a Tribal Member that it took us over two years to complete a budget sheet with our counselor. This took true dedication on the counselor part.
- The most important Building Relationships with our Tribal Members. We must build that trust. We are asking to see a lot of personal information pertaining to their spending habits. With our department being associated with the Choctaw Nation that gives a head start on building a relationship with our Tribal Members.

We currently have six counselors and we have utilized Pathways and Neighborworks for our training. Each of these training organizations offer the specific trainings that are tailored to the specific areas of our counseling. After each training the counselors are required to take an exam. I am concerned with the HUD exam if less than half of our staff can't pass the HUD exam what are we to do? At that point if we only have one that can pass it do, we just fire our current 5 counselors because maybe they don't understand reverse mortgages? This will cause our department to have a high turnover rate and who is to say that the new counselors that are hired can even pass the exam. Can we go back to the drawing board and let's look at tailoring the exam to the area we are counseling. It seems that we are taking steps backwards into the cookie cutter approach.

The current curriculum of the HUD certification contains much information that is not relevant to Tribal and TDHE staff in working with our Tribal Members. In addition, the proposed

changes would introduce an additional impediment and place more of a burden on the Native American families who are trying to pursue their dream of obtaining homeownership. One thing that Tribes and TDHEs have learned through the years is NAHASDA has greatly assisted them in overcoming the issue that one size does not fit all in Indian Country.

In closing I want to share the mission statement that our Tribe takes seriously: **Mission Statement:** To the Choctaw proud, ours is the sovereign Nation offering opportunities for growth and prosperity

Yakoke

(Thank You)

Tracy Toyebo





ASSOCIATION OF ALASKA HOUSING AUTHORITIES

Building communities, empowering Alaskans.

HUD Tribal Consultation for Housing Counselor Certification Requirements

Written Comments submitted via electronic delivery to: tribalcounsel@hudexchange.info

The Association of Alaska Housing Authorities (AAHA) is a 501(c)(3) non-profit corporation whose membership consists of 14 Alaska Native regional housing authorities (RHAs) created pursuant to Alaska State statute passed in 1971, plus the Alaska Housing Finance Corporation (AHFC), the only public housing entity in Alaska. AAHA acts as a statewide voice to advocate our collective affordable housing interests at the state and national level. Although RHAs are primarily state chartered entities, they are commonly known both in-state and nationally as “Indian housing authorities” and our core funding and programs are federal. This federal connection is based on our status as recipients of funding under the Native American Housing Assistance and Self-Determination Act (NAHASDA) that was passed in 1996, and consolidated all 1937 Housing Act programs under a single “umbrella” program. These funds are administered through HUD’s Office of Native American Programs (ONAP). RHAs are defined as, and operate under NAHASDA as “Tribally Designated Housing Entities,” or “TDHE’s.” Of the 237 tribal NAHASDA recipients, AAHA members represent 196. There are an additional 41 individual tribal NAHASDA recipients in Alaska.

We appreciate the opportunity to provide comments to the Office of Housing Counseling (OHC) regarding the implementation of HUD’s Housing Counseling Program (HCP) - 24CFR §214 into the Office of Native American Programs (ONAP). We understand that this is just the beginning of Tribal Consultation and we look forward to engaging in continued conversations to ensure regulations fit within our communities and program services.

First and foremost, the Housing Counselor Certification Requirements is not compatible with the Native American Housing and Self Determination Act (NAHASDA). NAHASDA codifies the Tribe’s right of self-determination to implement culturally relevant services tailored to the needs of their communities. Implementing the Housing Counseling Regulations will have the unintended consequence of minimizing Tribal self-determination. The regulations are too expansive and will practically prohibit any conversations with homebuyers or renters. Functions of an Occupancy Specialists (for example), such as addressing rental arrears would be qualified as “housing Counseling”. If these activities are required to be provided by an ‘approved’ HUD housing counselor/counseling agency, this would be a massive barrier. To our knowledge, there are only two HUD approved Housing Counseling Agencies in Alaska and neither have an ample presence in Alaska’s rural communities, in which there are over 200.

The Office of Housing Counseling (OHC) should explicitly address what “Housing Counseling” entails. It should not include financial management programs that are already implemented and working in Tribal Communities. It’s important to note that Tribes have homebuyer and financial programs in some communities in which staff have participated in numerous trainings to obtain certifications and provide services. AAHA (and our national counterpart, NAIHC) provides Technical Assistance (TA) and Training for HUD’s Office of Native American Programs (ONAP). We deliver approved financial management and homebuyer education train-the-trainer courses so Tribes can



deploy culturally appropriate program services for their families. How are these formal trainings/certifications recognized by OHC?

The Housing Counseling regulations are out of touch with affordable housing and housing issues in American Indian and Alaska Native (AI/AN) communities. As NAHASDA intended, Tribes have programs designed and delivered specifically to each community and implementing these regulations would dismantle programs that have been effective in Tribal communities for decades.

To answer the specific questions that HUD posed to Tribes:

1. Whether the housing counseling certification requirements included in the final rule would be practical and effective in your community;

The housing certification requirements would not be practical or effective in Tribal communities. Below are a few reasons that the regulations will not work in Alaska.

§214.103 Approval Criteria

(a) Non Profit and tax-exempt status:

- Not all Tribes and TDHEs in Alaska have nonprofit status subject to §214.103(a). For example, TDHE's were created by State Statute in 1971 and function as instrumentalities of the state. Although they do not conduct business to make a profit, most do not have formal IRS nonprofit status, which will immediately disqualify them from applying to become a Housing Counseling Agency.

(b) Experience:

- Tribes and TDHEs cannot meet the experience requirement that an agency must have successfully administered a Housing Counseling program for at least one year prior to applying to be a Housing Counseling Agency. Although they engage in normal client services such as financial management and self-sufficiency discussions, these activities should not be included under the Housing Counseling umbrella.

(f) Client Management System:

- Not all Tribes have an electronic client management system for their housing programs. To acquire one would be administratively burdensome. Additionally, if Tribes do have an electronic system in place, those systems should be sufficient to meet the requirements of the Housing Counseling programs.

(g) Housing counseling resources:

- This requires that Tribes will need to utilize their limited resources to fund a Housing Counseling program for a 12-month period, prior to being eligible to apply to be a Housing Counseling Agency. Tribes/TDHEs do not have the funding available to start and implement a program for an entire year without additional funding to do so. Some Tribes do not have enough funding to hire a housing person, let alone additional staff or a contractor to implement a housing counseling program that will not be utilized year-round.

§214.303(b) Performance criteria

- Tribes/TDHEs do not have the volume of homebuyers or renters to meet the requirement of providing Housing Counseling to 30 clients during a 12-month period. How does HUD foresee



this to be attainable in a small community? It would be a stretch for even larger Tribes/TDHEs to have 30 homes available to purchase or 30 clients/renters that will want/need financial education.

2. *What impact the housing counseling certification requirements would have on providing culturally relevant housing counseling and other programming in Indian Country and your community;*

§214.103 (n) Certification of housing counselors:

- (1) ... all individuals who provide counseling, including homeownership and rental housing counseling, must be HUD certified...
 - All staff certifications require 6 months of experience. Tribes and TDHEs experience a high staff turnover rate, contributed to numerous factors. Additionally, there may only be one person working in a housing department and the experience needed for an equivalent of 6 months of experience prior to applying for certification is unreasonable.
- (2) Standardized written tests in: financial management, property management, responsibilities of homeownership and tenancy, fair housing laws and requirements, housing affordability, and avoidance of, and response to, rental or mortgage delinquency and avoidance of eviction or mortgage default.
 - Fair housing laws and requirements are not part of NAHASDA.
- (3) HUD will verify an individual housing counselor who has met the requirements of (n)(1) of this section upon verification that the individual works for a participating agency.
 - We only have 2 housing counseling agencies in Alaska, it's almost impossible to hire individuals who have worked for one year for a Housing Counseling Agency. It would take 54 years to staff housing counselors at every housing program across Alaska. It is unreasonable to have Housing Counselors in each of our Tribes/TDHEs; logistically, culturally and fiscally. Those living in rural communities know the people and services available and are the experts. Additionally, the mistrust of 'outsiders' coming into a native community to teach a westernized concept is untenable.

3. *What changes to the housing counseling certification requirements included in 24 C.F.R. part 214 would you recommend to ensure that these certification requirements (a) are not administratively burdensome, (b) enable appropriate access to housing counseling services in your community – particularly in very remote areas – and (c) help tribal members address their housing issues;*

- The regulations cannot be changed enough to make this program NOT be administratively burdensome or enable appropriate access to housing counseling to help Tribal Members address their housing issues.
- All of the requirements in 24 CFR §214 violate Tribal self-determination. Tribes know that is best for their families. NAHASDA was created for Tribes to develop and deliver programs that fit the needs of their communities. This was Congress's intent by passing the law in 1996. These regulations put in place a program that will cause many barriers for Tribes, TDHEs and the Tribal members they serve.



4. *Any other ideas on how HUD can ensure that the counselor certification requirements applicable to HUD's Native American programs are effective in Indian Country; and*

- Have an understanding on how Tribes/TDHEs function under NAHASDA prior to implementing rules that infringes on Tribally self-determined programs.

As the implications of broadening 24CFR §214 to Tribal programs become more clear, we look forward to continued conversations with OHC. Please let us know if you have any questions or would like to have a discussion with individual AAHA members or our organization as a whole. You can contact Colleen Dushkin, AAHA's Executive Director at 907-330-8398 or via email at cdushkin@aahaak.org.



February 26, 2021

U.S. Department of Housing and Urban Development
Attn: Mr. David Berenbaum, Deputy Assistant Secretary
Office of Housing Counseling
451 7th Street SW
Washington, D.C. 20410
Delivered via Electronic Mail: tribalconsult@hudexchange.info

RE: Tribal Consultation Regarding HUD Housing Counseling Certification Requirements

Dear DAS Berenbaum:

I am writing on behalf of Montana Native Growth Fund (“MNGF”) and am grateful for the opportunity to comment on the housing counseling certification requirements, as set forth in the amendments of the Dodd-Frank Act to Section 106 of the Housing and Urban Development Act of 1968, and its application to the Indian Housing Block (“IHBG”) program and the Indian Community Development Block Grant (“ICDBG”) program. MNGF is a Native Community Development Financial Institution (“CDFI”) based on the Fort Belknap Indian Reservation in North Central Montana. The HUD housing counseling program and certification requirements are particularly relevant to my organization because the Bureau of Indian Affairs (“BIA”) recently approved of the Fort Belknap Indian Community Council’s new tribal residential leasing act under applicable law and BIA leasing regulations. In specific, the tribal act was adopted to initiate homesite leases on the Reservation for long overdue housing development and to help facilitate a secondary mortgage market on tribal lands.

Our tribal community’s vision and work to provide services to tribal members on trust lands under the Fort Belknap Residential Leasing Act and to partner with the Fort Belknap Tribal Housing Authority (Tribally Designated Housing Authority – “TDHE”) to provide culturally relevant housing counseling, gives us a distinct and relevant perspective to provide comments on the application of the housing counselor certification requirements to IHBG and ICDBG programs available to the community on the Reservation. Our ongoing efforts to create strong, sustainable indigenous communities and improve the lives of the people we serve through affordable housing and access to homeownership align with HUD’s mission. From this like-minded perspective and mission, please accept the following written responses to the questions posed in the recent Tribal Consultation for Housing Counseling Certification Requirements.

1. Whether the housing counseling certification requirements included in the final rule would be practical and effective in your community

No. The housing counseling certification requirements, included in the final rule, do not appear to be practical or effective for our community. Moreover, the requirements set forth in the final rule appear to tie the hands of entities (like TDHEs) serving tribal communities, do not take into account the substantial unmet and unique Indian housing needs, and do not include or expressly incorporate the thorough and effective programs offered by Native CDFIs, with whom tribes and TDHEs are increasingly partnering with and relying upon for housing counseling and access to much needed capital. Because tribal programs, TDHEs and/or nearby Native CDFIs have not been Housing Counseling Agencies (HCAs) or have been unable to meet the burdensome HUD requirements, outside or non-Indian entities often receive the only available HUD resources to deliver misguided and inapplicable housing counseling education to eligible and interested tribal members from tribal communities that operate under completely different housing situations, circumstances, and land systems.





In the initial Tribal Consultation session, a representative from the Office of Housing Counseling suggested partnering with the closest HUD certified HCA. For reasons beyond those provided, this is not a good use of minimal federal resources for tribes working to make the most of their HUD IHBG or ICDBG block grants. We are a remote tribal community that must ensure compliance with its minimal but essential grant monies and we are trying to alleviate a severe housing crisis – suffice it to say that every dollar and every interaction matters. With more than 300 people waiting and requesting a home and no new homes having been offered for 25 years, our experience in the community is that non-native HUD approved agencies from neighboring communities have not effectively served our population. Therefore, it is time to provide an opportunity for other emerging tribal actors in each step of the home ownership chain – from funding, construction, rehabilitation to counseling, education, credit, and follow-up services.

Housing counseling must be relevant and help clients have faith in the housing counseling guidance. It must help families obtain, sustain, and retain their homes on tribal lands. For example, the terms real estate, title insurance, property taxes and fair housing are pillars of more general housing counseling around America but mean something different when applied to Indian housing in tribal communities. Unfortunately, in the past, housing counseling from a HUD certified agency and counselor offers no education or knowledge regarding trust lands, BIA homesite lease and leasehold mortgage approval, recordation with Land Title and Records Office in the BIA regional office 200 miles away, and the certified title status report (“TSR”) process with the limited products offered in tribal communities on trust lands. In short, existing HUD housing counseling is inadequate and potential Native homeowners do not walk away from certified HUD housing counseling programs fully prepared. Instead, potential Native homeowners (after HUD certified counseling) must begin their own navigation and education with a local Native CDFI (if they exist on or near their Reservation), tribal land and environmental departments, tribal council land committee advocacy, and then visit the local and regional BIA offices to combine the review and approval process together to even have a chance of possible homeownership on the Reservation.

2. What impact the housing counseling certification requirements would have on providing culturally relevant housing counseling and other programming in Indian Country and your community

Today, 25 years after NAHASDA was passed by Congress and 53 years after the Housing Counseling Program was created by HUD, increasing affordable home ownership under IHBG and ICDBG programs within the Reservation has been a challenge. The utilization of a generalized housing counseling program by HUD was the only available certified method before tribal communities and tribal entities increased their own capacities to offer similar services and provide more options to Native homebuyers for education, counseling and guidance for an important lifetime purchase. Where and when available to incorporate tribal culture, HUD should utilize Native CDFIs and other relevant tribal entities for its housing counseling and certification requirements that were created by statute and implemented by HUD regulations over the last 10 years.

3. What changes to the housing counseling certification requirements included in 24 C.F.R. part 214 would you recommend to ensure that these certification requirements (a) are not administratively burdensome, (b) enable appropriate access to housing counseling services in your community – particularly in very remote areas – and (c) help tribal members address their housing issues

While the general framework and intent of the existing housing counseling certification requirements to ensure accountability and quality delivery is good, the regulation details set forth within the existing framework fail to acknowledge the barriers that are created for tribes and tribal communities. A distinct subset of the framework built specifically for Indian housing and homeownership is necessary. Because of the longstanding and unique federal-tribal trust relationship, a Native specific certification under HUD housing requirements could facilitate a



path toward fulfilling the unique housing needs of tribal communities. More dialogue would be essential and necessary to craft a unique and relevant framework for Indian country with more communication with the National American Indian Housing Council, United Native American Housing Association, and the Native CDFI Network as the primary intertribal entities with important policy and practical experience in filling the gaps in service delivery when existing methods fall short.

Native CDFIs continue to grow, in part, to meet the unique educational and financial needs of Indian housing programs that have not been satisfactorily resolved by federal, state and local programs, even when available and HUD certified. Effective communication, especially through education and counseling, is critical to the success of available federal and state housing programs in Indian country. The most effective messengers would be native entities that understand and can provide relevant and clear guidance to populations in remote tribal communities.

4. Any other ideas on how HUD can ensure that the counselor certification requirements applicable to HUD's Native American programs are effective in Indian Country

We recommend the creation of a unique counselor and agency certification requirement for those serving Indian country because of the lack of culturally relevant housing counseling and programming in the Office of Housing Counseling and local HUD certified organizations. Review and compliance can be transferred from the Office of Housing Counseling to a newly created Office of Indian Housing Counseling (with regional single-purpose intermediaries) under the HUD Office of Native American Programs. As a practical matter, the new Office of Indian Housing Counseling (and regional intermediaries) can initiate consultation with Indian country, including the National American Indian Housing Council, United Native American Housing Association, and the Native CDFI Network, to develop a unique framework of suitable, culturally relevant curriculum and methods to deliver culturally empowered housing counseling to tribal communities. This suggested approach allows for a crucial extension of resources from like-minded entities serving Indian country, thereby increasing the likelihood of success and complying with the recent amendments and implementing regulations.

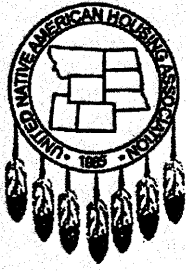
5. Do you anticipate challenges if the qualification process that HUD currently uses for approving units of State or local government included in 24 C.F.R. part 214 were applied to tribes or Tribally Designated Housing Entities (TDHEs)?

Yes. Substantial differences exist between entities of state and local government and tribes and TDHEs and the current qualification and certification process does not account for these differences. Tribes and TDHEs work in what we know as the world of Indian Housing including: deficiencies in quality of housing stock; challenges in creating and funding new housing stock; lack of opportunities for Native homeownership due to limited financing options; inadequate NAHASDA funding allocations to meet the demand; and lengthy and burdensome BIA trust land processes. The majority of tribal communities do not have mature housing markets. Conversely, state and local governments work in mature, vibrant and cyclical open housing markets with a multitude of financing options and open access to clear chain of title and title exchange without the added layers of review and decisions through a federal agency (with limited resources). The existing qualification and certification processes do not take into account features unique to tribes and TDHEs and, in practice, hinder the delivery of effective and culturally relevant housing counseling.

Sincerely,

Tonya Plummer

Tonya Plummer
Executive Director, MNGF



United Native American Housing Association

Sharon Vogel, Chairwoman
63316 US Hwy 93 Ste.800
Ronan, MT 59864
406-676-8449

"Tribes Helping Tribes"

March 4, 2021

David L. Berenbaum, Deputy Assistant Secretary
Office of Housing Counseling
U.S. Department of Housing and Urban Development
Washington, DC 20410-5000

Re: Tribal Consultation for Housing Counselor Certification Requirements

Dear Mr. Berenbaum:

In response to your Dear Tribal Leader letter dated December 21, 2020, The UNITED NATIVE AMERICAN HOUSING ASSOCIATION (UNAHA) wishes to offer the following comments:
Tribal Consultation

1. Whether the housing counseling certification requirements included in the final rule would be practical and effective in your community:

UNAHA represents 33 tribal housing programs in eight states. Very few of them operate a conventional program and current required certification courses focus on common HUD programs. Tribes operate under a block grant to each tribe which allows custom programs. We do not believe the certification requirements as outlined would be practical or effective. Under NAHASDA, each participating tribe may create specific housing programs that follow needs of each tribal community including cultural considerations, financial feasibility, and available leverage.

2. What impact the housing counseling certification requirements would have on providing relevant housing counseling and other programming in Indian Country and your community:

The tribes served by UNAHA are underfunded and generally have a tough time generating rental income and receive inadequate federal funding. The added cost burden to conform to Title 24, Subtitle B, Chapter II, Subchapter B, Part 214 would be nearly impossible to apply to each of the 33 Indian Housing Plans submitted by our members. Many of the tribes are currently working with NeighborWorks, RCAC, South Dakota Native Homeownership Coalition, Native CDFIs and other intermediaries to develop training and home ownership opportunities in line with current offered programs. Many of them include counseling as a condition of program participation. We would recommend that a waiver for all tribes under the Native American Housing Assistance and Self Determination Act be considered. It is not that we do not see the need for counseling. In fact, we encourage our membership to offer counseling prior to participation in each program that they offer.

3. What changes to the housing counseling certification requirements included in 24 C.F.R. part 214 would you recommend ensuring that these certification requirements (a) are not administratively burdensome, (b) enable appropriate access to housing counseling services to your community – particularly in very remote areas – and (c) help tribal members address their housing issues.

All the counseling services listed at 214.300 require some type of HUD review not considered nor included in NAHASDA. As stated earlier, UNAHA is not opposed to counseling for their programs, and in fact, recognize the need to provide counseling and education for participants in many of our programs. A good example of some of the Counseling Services are covered in a program developed by tribes for tribes titled PATHWAYS HOME, A GUIDE TO TRIBAL HOMEOWNERSHIP. The current requirements for HUD Certification include many provisions that do not apply in Indian Country. More importantly, for Indian housing professionals to become certified and meet the intent of the Regulation, the current requirements would need to include, tribal law, tribal courts, how to deal with the Bureau of Indian Affairs and other impediments unique to Indian Country. We estimate over one half of current certification requirements would not apply to Indian housing.

4. Any other ideas on how HUD can ensure that the counselor certification requirements applicable to HUD's Native American Programs are effective in Indian Country.

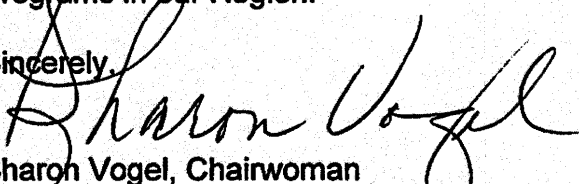
We believe that the Secretary should waive this specific requirement for tribes and consider the requirement that tribes participating in NAHASDA or related HUD sponsored programs assure compliance with the intent of the HOUSING COUNSELING PROGRAM by Certifying that they have assured program participants will receive appropriate counseling consistent with the self-governing aspects of NAHASDA and other programs.

5. Do you anticipate challenges if the qualification process that HUD currently uses for approving units of State or local government included in 24 C.F.R. part 214 were applied to tribes or Tribally Designated Housing Entities (TDHEs)?

Yes, we expect UNAHA and other National Indian Organizations will rightfully argue that any regulations developed for Indian housing, through HUD is subject to negotiated rulemaking, which may be a compromise.

Thank you very much for the opportunity to comment. We would be happy to discuss our position on this issue further if you would like. As the Regulation is written, it would cripple Indian Housing Programs in our Region.

Sincerely,



Sharon Vogel, Chairwoman
The United Native American Housing Association
svogel@lakotanetwork.com



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Office of the Chief

Chuck Hoskin Jr.
Principal Chief

Bryan Warner
Deputy Principal Chief

March 3, 2021

David L. Berenbaum
Deputy Assistant Secretary, Office of Housing Counseling
U.S. Department of Housing and Urban Development
451 7th St., SW, Room 9224
Washington, D.C. 20410

RE: Tribal Consultation for Housing Certification Requirements

Dear Deputy Assistant Secretary Berenbaum:

The Cherokee Nation writes to submit comments regarding the recent consultations surrounding the possible certification requirements for housing counselors in tribal communities.

While we firmly believe in providing quality services to our citizens and want our staff to be well equipped to meet the needs of families with housing counseling, there is a need to swiftly address the ability for tribal governments to become certified housing agencies. There are only three U.S. Department of Housing and Urban Development Certified Housing Agency within the Cherokee Nation reservation.

Cherokee Nation is the largest federally recognized tribe in the United States with more than 385,000 citizens and a reservation spanning 7,000 square miles throughout 14 counties of northeast Oklahoma.

The Cherokee Nation, like other tribal nations, interact with their citizens regularly and have the ability to direct citizens in need to other vital tribal services to help in a given situation. Tribes take a holistic approach in providing services. For this one-on-one counseling to take place outside of the tribal government would be a disservice to tribal communities and a hindrance to getting our citizens back on their feet. The United States has a trust responsibility through a government-to-government relationship to allow tribal nations to administer programs to their citizens throughout the reservation.

Cherokee Nation requests HUD provide guidance for tribes to apply and become Certified Housing Counseling Agencies. We've been informed that tribes are not eligible to apply for this certification. Cherokee Nation requests government-to-government consultation on this matter.

Once tribal nations become a Certified Housing Counseling Agency, they shouldn't be required or expected to provide services to non-Indians/Alaskan Natives unless federal funding is available to tribes for providing such services.

Beyond this fundamental flaw and concern, we provide the following input based on the inquiries posed in the Dear Tribal Leader Letter and the consultation on the requirement of those providing counseling to be certified through HUD.

Are the housing counseling certification requirements included in the final rule practical and effective in your community?

The certification isn't practical. It takes an enormous amount of time for staff to prepare for the exam, which is too burdensome. There is no seemingly good justification to require at least 6 months of experience. There are existing and proven certification programs, like NeighborWorks, available for agencies to ensure staff are trained and well equipped to provide complete housing counseling services that include more practical application of the day-to-day nuances of a housing counselor encounter.

It is also not practical to expect small agencies or tribes with limited staff in rural areas to stop providing housing counseling services if/when a certified counselor leaves the agency or tribe. Additionally, the fact that an agency will be unable to provide counseling services without a certified counselor on staff, or at least half the counseling staff having at least 6 months of experience, will leave some rural areas without the ability to provide housing counseling services to the very people who need it most.

Homeownership and tenancy are segregated within our organizations. It would be more practical for our organization, and other tribal organizations in fee simple areas, if certification could be acquired in specific focuses and with affordability.

What impact does the housing counseling certification requirements have on providing culturally relevant housing counseling and other programming in Indian Country and your community?

The certification training and testing does not consider culturally appropriate delivery methods. This not only makes it difficult to deliver counseling in a culturally appropriate manner, but it also makes it difficult for employees to successfully pass the test. The difficulty and breadth of the test will make it extremely hard for frontline employees to pass the test. The test has proven challenging even for the most seasoned housing counselors.

It is not practical for Cherokee Nation, or other tribal nations, to utilize a network of Certified Counselors because the very rural nature of their communities and the inability of those counselors to provide in-person services.

We consider in-person counseling most effective when compared to counseling over the phone or virtually. It also makes it difficult for a third party to provide services to an individual on tribal lands because they aren't familiar with that tribal citizen's cultural, history or communities.

What changes to the housing counseling certification requirements included in 24 C.F.R. part 214 would you recommend to ensure that these certification requirements (a) are not administratively burdensome, (b) enable appropriate access to housing counseling services in your community – particularly in very remote areas – and (c) help tribal members address their housing issues?

- A. The following changes should be considered if implemented at the tribal level:
- As indicated earlier, tribal governments should be specified as eligible housing counseling agencies and should be allowed to specifically serve tribal citizens.
 - Counseling software/database may be an additional financial and administrative burden on insufficient housing resources.
 - Competency testing/certification should be segregated for specialized employees.
 - Ability for new employees to be trained and work with tribal citizens prior to receiving certification, perhaps with training and oversight from a certified counselor.
- B. Tribal governments must be able to provide culturally appropriate counseling services without relying on third party organizations to provide services throughout tribal reservations. In our area, the certified counseling agencies include: Quickcert, Inc., which specializes strictly in reverse mortgages, Housing Partners of Tulsa, Inc., which provides services inside the Tulsa city limits; and Community Action Resource and Development in Claremore, which restricts one-on-one counseling and focuses on homebuyer's education classes.
- C. Part of cultural appropriateness includes in person, one-on-one counseling services. Online and telephone counseling is not effective for tribal citizens. Additionally, counseling should be able to address specific situations applicable to tribal citizens, which is difficult for non-tribal organizations to understand and provide.

Cherokee Nation recommends modifications to testing and reporting. At the very least, if the certification requirements are not completely waived for tribes, the test should be broken into sections so that it can be taken and passed in sections, like the Certified Public Accountant exam. HUD should keep in mind that these employees are often frontline employees with a minimum education background. HUD should also provide additional feedback on test results so that studying can be more specific. Current test result feedback is very vague on areas that require improvement.

We anticipate challenges because the testing does not cover tribally specific areas, such as trust property and leases for those properties. The test is burdensome resource requirement for training and testing with already scarce resources, which reduces funding and direct services to tribal citizens.

If you have any questions or require further information, please contact our Manager of Government Relations, Travis Noland, at travis-noland@cherokee.org or (918) 729-5392.

Sincerely,

A handwritten signature in black ink that reads "Chuck Hoskin Jr." in a cursive, slightly stylized script.

Chuck Hoskin Jr.
Cherokee Nation Principal Chief



March 17, 2021

David L. Berenbaum, Deputy Assistant Secretary
Office of HUD Counseling
U.S. Department of Housing and Urban Development

Re: Tribal Consultation for Housing Counselor Certification Requirements

Dear Mr. Berenbaum:

In response to your Dear Tribal Leader letter dated December 21, 2020, The Salish and Kootenai Housing Authority (Housing Authority) wishes to offer the following comments. To put it in prospective our Housing Authority has one of the most successful homeownership programs in Indian Country and we serve those on the Flathead Reservation in Montana.

Within the Housing Authority is the Flathead Finance Program (FFP) which is our First Time Homebuyers program. This program works closely with Neighborworks Montana and receives funding from them for our counseling program. In addition, our Housing Resource Manager sits on the board of Neighborworks Montana. This program counsels families that are exploring homeownership and families who may be in a foreclosure crisis. In the five years prior to the COVID pandemic, FFP counseled 730 families which is an average of 146 per year. In the last five years our program has successfully helped at least fifty families become homeowners.

Since we receive funding from Neighborworks Montana our FFP staff has been required to take the Housing Counseling Certification. This has proven challenging as a majority of the test does not pertain to our Counselors jobs. Our Counselors primarily work is with Confederated Salish and Kootenai Tribal members on tribal lands. The added requirement of the Housing Counseling Certification has added much unneeded stress to our staff as they are now forced to take time out of their already busy jobs to study and learn aspects of a program that was tailored for programs that don't serve Indian country. In addition things they need to know to serve Indian country is not included in this test. Even if our people were to take the test and become certified by these standards they would not be prepared to counsel Indian people.

However, we are not stating that we don't believe in educating our counselors and ensuring that they are certified. It has always been the stance of the Housing Authority to educate our

counselors by ensuring they are certified through the National American Indian Housing Council's (NAIHC) Pathways program. Pathways focus is on first time homebuyers and credit counseling needs in Indian country. The Pathways course considers the culture of Indian people, the different Tribal Land issues, and encourages counselors to walk hand in hand with their clients through the process. It has been very successful and each of our counselors who has attended and been certified in this course has been successful in creating homeownership on the Flathead Reservation.

We highly encourage the office of HUD Counseling to work hand in hand with the NAIHC and utilize the Pathways certification program in lieu of the HUD Housing Counselor Certification. I thank you for your time and consideration in this matter. If you have any further questions please contact me at the number below.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jody Perez".

for Jody Perez
Executive Director



March 19, 2021

Mr. David L. Berenbaum
Deputy Assistant Secretary
Office of Housing Counseling
U.S. Department of Housing and Urban Development
451 7th Street SW
Washington, D.C. 20410

Submitted via electronically via email at tribalconsult@hudexchange.info.

Re: Tribal Consultation for Housing Counselor Certification Requirements

Dear Mr. Berenbaum:

We are writing on behalf of the South Dakota Native Homeownership Coalition's Policy Committee to respond to your "Dear Tribal Leader Letter" dated December 18, 2020 from the U.S. Department of Housing and Urban Development's (HUD's) Office of Housing Counseling (OHC) requesting feedback about how to best implement the statutory requirements of Section 106 of the Housing and Urban Development Act of 1968, as applied to the Indian Housing Block Grant (IHBG) program and the Indian Community Development Block Grant (ICDBG) program, and to determine how best to apply the housing counseling program and certification requirements in Section 106 to these programs.

The South Dakota Native Homeownership Coalition was born out of a need to expand homeownership opportunities for Native Americans in the state of South Dakota. Created in 2013, the Coalition is a diverse group of agencies, institutions, and organizations with a mission to increase homeownership opportunities for South Dakota's Native people to build strong and healthy communities. Our membership includes representatives of South Dakota's tribes, federal and state agencies, tribally designated housing entities (TDHEs), nonprofit organizations, housing developers, lenders, and community development financial institutions. We work to increase Native homeownership rates by strategically leveraging knowledge and resources among stakeholders and other key entities.

c/o Lakota Funds, P.O. Box 340, Kyle, South Dakota 57752 • (605) 455-2500

CREATING A CLEAR PATH TO HOMEOWNERSHIP

First, we welcome your efforts to expand the availability of housing counseling resources in Native communities, where there has been an historic lack of access to capital and credit. While the enactment of the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA) brought an important recognition of the right to self-governance of sovereign nations, neither the IHBG nor ICDBG programs have been adequately funded to support the important roles they play with providing affordable housing and community development initiatives in Native communities, including housing counseling services.

If appropriately structured, the inclusion of tribes and TDHEs in the HUD housing counseling program could provide an excellent opportunity to bring training and other resources needed to expand the rental housing and homeownership markets for Native people, especially on trust land. However, we have important concerns about the current final rule and offer the following responses to your questions.

1. Would the housing counseling certification requirements included in the final rule would be practical and effective in your community?

No, the housing counseling certification requirements in the final rule would not be practical and effective in Native communities in South Dakota because they do not reflect the unique needs and circumstances of the affordable housing rental and homeownership markets in remote, rural Native communities. The certification requirements include topics not relevant to our members' clients, e.g., fair housing laws and reverse mortgages. Also, the requirement to serve at least 30 clients annually would not be feasible for many Native organizations in South Dakota. In addition, with small staffs, the separation of duties requirement is not practical.

2. What impact will the housing counseling certification requirements would have on providing culturally relevant housing counseling and other programming in Indian Country and your community?

The certification requirements would have a negative impact on our members' programming because they would require more time and resources than most of our members are able to dedicate to obtaining and maintaining certification. These new requirements would require our members to divert attention to other more relevant housing counseling, financial coaching and homebuyer education services in Native communities, such as the *Pathways Home* homebuyer education program, the *Building Native Communities* financial education program or the South Dakota Housing Development Authority's Homebuyer Education Resource Organizations (HERO) program.

In addition, because our members are the "boots on the ground" for many government and private sector partners, HUD should take into consideration the services already being provided in the areas of loan packaging, credit building and repair, mortgage loan closing, post purchase counseling, and foreclosure prevention. Native organizations with a long history of providing these services could even be considered "grandfathered."

3. What changes to the housing counseling certification requirements included in 24 C.F.R. part 214 would you recommend to ensure that these certification requirements (a) are not administratively burdensome, (b) enable appropriate access to housing counseling services in your community – particularly in very remote areas – and (c) help tribal members address their housing issues?

Housing counseling services necessary to serve Native clients living on trust land are much broader than those in other geographic areas, and any resulting regulatory requirements should accommodate that. Native clients may require assistance with obtaining clear title to land through a leasehold instrument, identifying strategies to fund and install water, sewer and other utilities services, and facilitating the construction or renovation process in markets with few real estate professionals such as inspectors, appraisers, contractors and insurers. Housing counselors are often the only knowledgeable providers who can assist Native clients with these services. They should not be penalized for not being certified by standards that don't able to their markets. Without these practitioners, tribal members would not have their housing needs addressed.

HUD should develop a Native-specific certification process that addresses these and other issues unique to Native communities. Just as the U.S. Department of the Treasury has created customized certification and funding categories for Native community development financial institutions (Native CDFIs), HUD should create unique Native housing counselor and housing counseling agency certification and funding requirements. This designation should include Native-specific training and certification exams.

Another example of customizing a federal program to make it work better in Native communities is the U.S. Department of Agriculture (USDA) Section 502 home loan relending demonstration. Through this program, USDA Rural Development collaborated with two Native CDFIs to increase access to Section 502 direct home loans on trust land. The program was highly successful, deploying nearly \$2 million in mortgage loans on two South Dakota Indian reservations through this collaboration in less than a year – nearly twice the amount deployed by USDA alone in the previous decade. HUD should explore these types of customized pilots to improve the implementation of the housing counseling program in Native communities.

4. Any other ideas on how HUD can ensure that the counselor certification requirements applicable to HUD's Native American programs are effective in Indian Country?

We would like to offer the following suggestions about how to ensure that counselor certification requirements are effectively applied in Native communities:

- HUD should delegate the administration of housing counseling certification of Native entities to the Office of Native American Programs (ONAP), which is better versed in the delivery of housing services in Native communities. At a minimum, OHC should collaborate closely with ONAP.

- HUD should provide immediate access to training and technical assistance resources specifically designed for Native markets so that tribes, TDHEs and Native nonprofits can build their capacity to become certified, rather than restrict access to resources to those who are already certified.
 - HUD should establish an Advisory Committee comprised of representatives from TDHEs, Native CDFI, tribal land departments, Bureau of Indian Affairs, and other entities who work with land leases and mortgage loan products. This committee could advise HUD on how to establish a relevant training and certification process for housing counseling agencies and their staff serving Native communities.
 - HUD should work with existing Native intermediaries such as the National American Indian Housing Council and Oweesta Corporation to foster the development of Native housing counseling intermediaries to support networks of Native housing counseling agencies.
 - HUD should allow local entities who are collaborating with another certified community or regional agency to opt out of the certification process. This is especially important for smaller TDHEs who do not have the capacity to obtain and maintain certification on their own, but who administer IHBG and ICDBG funds.
 - There should be no penalty for a TDHE who does not have a HUD-certified counselor on staff. A TDHE could provide an annual statement on the reasons why they do not have a certified staff member and explain how they are working with potential homebuyers, such as through a referral system to other providers or a partnership with another entity to provide housing counseling services.
 - HUD should expand the role of Native community development financial institutions in its certification process. These entities are the most prominent lenders in many of the Native communities in South Dakota. In some cases, they are also the housing counseling agencies. HUD should take into consideration this dual role when crafting new requirements.
- 5. Do you anticipate challenges if the qualification process that HUD currently uses for approving units of State or local government included in 24 C.F.R. part 214 were applied to tribes or TDHEs?**

Federal policies recognize tribal governments as “Domestic Dependent Nations” who enjoy a “Nation to Nation” relationship with the federal government. The federal government also carries a trust responsibility for tribes. Therefore, tribes and TDHEs should not be subject to the requirements of approving units of state or local governments. HUD should administer the qualification and funding processes directly with tribal governments and TDHEs. This process would be better suited for a Native-specific program that is able to take into consideration the

legal issues unique to tribal jurisdictions such as tribal sovereignty, the trust status of land, and the applicability of tribal laws.

Another challenge that may exist if HUD implements the program through state or local governments is that the funds may not reach tribal communities. In some cases, state-administered HUD funds are structured to meet the priorities of the state but don't recognize the unique needs in reservation communities, even though tribal populations are included in the calculations to determine the state's funding allocation. Rather than be subject to additional and often irrelevant overlays or restrictions for state-administered HUD funds, OHC should work directly with tribes and TDHEs as their own jurisdiction.

We look forward to working with HUD's Office of Housing Counseling to ensure that Native people have access to relevant housing counseling services that meet their needs.

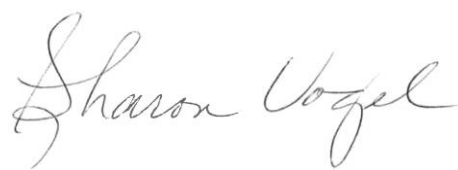
Thank you for your consideration.

Sincerely,



James "JC" Crawford
Enrolled, Sisseton Wahpeton Oyate
Principal
CBJ Producers

Policy Committee Co-Chair
SD Native Homeownership Coalition



Sharon Vogel
Enrolled, Cheyenne River Sioux Tribe
Executive Director
Cheyenne River Housing Authority

Policy Committee Co-Chair
SD Native Homeownership Coalition

**COMMENTS AND RECOMMENDATIONS FROM THE SICANGU WICOTI
AWAYANKAPI (SWA), ROSEBUD SIOUX TRIBE
TO
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
REGARDING
HOUSING COUNSELING CERTIFICATION REQUIREMENTS
(March, 2021)**

Submitted by e-mail to tribalconsult@hudexchange.info by March 19, 2021.

COMMENTS

We support relevant certification requirements for housing counseling. However, we believe numerous aspects of the requirements should be reconsidered or amended in order for tribally designated housing entities (TDHE), tribal CDFI, or other entities providing homeownership services in Indian Country to participate effectively. Below are the issues that are of particular importance to our TDHE.

Housing Counseling Definition – A clear definition of what services comprise Housing Counseling is required to avoid unnecessary training or testing for TDHE staff when not required by the rule.

Access to HUD Office of Counseling training opportunities. The Office of Counseling have great training resources that would strengthen the capacity of a TDHE if they could participate in these training sessions. This access needs to be immediate so those TDHE who want to pursue certification can use these training resources to prepare for the certification process. Right now, access is restricted to those entities who are certified HUD Counselors.

Make Certification Testing Topics Relevant to Indian Country. During the virtual consultation we learned that the current certification test does not contain topics of relevance to housing counselors in Indian Country. Homeownership and housing counseling on tribal land has its own unique challenges and requirements and any housing counseling certification testing should be directly relevant to the skills that are necessary to provide housing counseling in those locations.

Consider Separate Certifications for Tribal Rental Housing Counseling. Currently 24 C.F.R. part 214.300 (a)(8) contains counseling service requirements that include rental housing counseling. For many TDHEs, rental and homebuyer programs are separate departments with tasks and job descriptions specific to those program needs. It may be burdensome for some TDHEs to require occupancy or tenant services staff in rental programs to undergo training and testing for homeownership related services. Some

TDHE staff in rental departments may have difficulty passing certification exams due to lack of familiarity or experience. This could result in hiring challenges for some TDHEs, many of whom already have difficulty maintaining reliable staff in some departments. We recommend that HUD consider adapting the certification requirements to meet the actual rental counseling needs of TDHEs, Tribes, and Tribal CDFIs and not implement overly burdensome requirements that will create other practical hardships for these programs.

Option to Opt Out in Certain Circumstances. A TDHE should be able to opt out of the Certification process if they already have a partnership or memorandum of understanding (MOU) with a community or regional partner who is providing these services. This is important for small TDHEs who do not have the funds to attain and maintain certification.

No penalty for TDHEs that do not have HUD Counselors on Staff. There should be no penalty for a TDHE who does not have a certified HUD Counselor on staff. A TDHE could provide an annual statement on the reasons why they do not have a certified staff member and explain how they are working with potential homebuyers, such as with a referral system to other providers, or partnership(s) with another entity to provide services, etc.

Accept tribally certified Housing Counselors who are already providing homebuyer readiness services and HERO counseling. Perhaps these counselors could be grandfathered in as certified HUD Counselors so the TDHE would be in compliance with this regulation. We recommend that minimum criteria be established to be a tribally certified Housing Counselor (Pathways and other native curriculums, five years of experience in: Certified Instructor, Loan Packaging, Credit Repair, Mortgage loan closing, post purchase counseling, foreclosure prevention, etc.) that included multiple loan products for Native families.

Advisory Committee. We recommend that HUD establish an Advisory Committee comprised of representatives from TDHEs, Native CDFI, tribal government land agencies, BIA, and other entities who work with mortgage loan products who would advise HUD on how to establish a culturally, tribal government and trust land relevant curriculum process for TDHE to utilize for certifying their staff and/or community partners to meet the Tribal specific HUD Counseling Certification.

Thank you for the opportunity to provide input on this important program. Please feel free to contact us if you have any additional questions.

SWA Corporation


Gary LaPonite,
SWA Chief Executive Officer



CHEYENNE RIVER HOUSING AUTHORITY

COMMENTS AND RECOMMENDATIONS FROM THE CHEYENNE RIVER HOUSING AUTHORITY, THE TRIBALLY DESIGNATED HOUSING ENTITY FOR THE CHEYENNE RIVER SIOUX TRIBE

TO

U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT REGARDING HOUSING COUNSELING CERTIFICATION REQUIREMENTS

(March 19, 2021)

COMMENTS

We support relevant certification requirements for housing counseling. However, we believe numerous aspects of the requirements should be reconsidered or amended in order for tribally designated housing entities (TDHE), tribal CDFI, or other entities providing homeownership services in Indian Country to participate effectively. Below are the issues that are of particular importance to our TDHE.

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Consider Separate Certifications for Tribal Rental Housing Counseling. Currently 24 C.F.R. part 214.300 (a)(8) contains counseling service requirements that include rental housing counseling. For many TDHEs, rental and homebuyer programs are separate departments with tasks and job descriptions specific to those program needs. It may be burdensome for some TDHEs to require occupancy or tenant services staff in rental programs to undergo training and testing for homeownership related services. Some TDHE staff in rental departments may have difficulty passing certification exams due to lack of familiarity or experience. This could result in hiring challenges for some TDHEs, many of whom already have difficulty maintaining reliable staff in

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CHEYENNE RIVER HOUSING AUTHORITY

some departments. We recommend that HUD consider adapting the certification requirements to meet the actual rental counseling needs of TDHEs, Tribes, and Tribal CDFIs and not implement overly burdensome requirements that will create other practical hardships for these programs.

Option to Opt Out in Certain Circumstances. A TDHE should be able to opt out of the Certification process if they already have a partnership or memorandum of understanding (MOU) with a community or regional partner who is providing these services. This is important for small TDHEs who do not have the funds to attain and maintain certification.

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Thank you for the opportunity to provide input on this important program. Please feel free to contact us if you have any additional questions.

Sincerely,


Sharon Vogel, Executive Director

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Comments in Response to HUD Tribal Consultation on the Final Rule for Housing Counseling Certification

March 19, 2021

NAIHC appreciates that HUD is carrying out tribal consultation prior to making applicable to tribes any existing regulations or program guidance that would impact tribal housing programs and tribal communities. Through discussions surrounding the consultations, it has become apparent that the Housing Counseling rules found at Title 24, Part 214 of the Code of Federal Regulations (CFR) that HUD is contemplating making applicable to tribal housing programs are larger in scope than originally expected by tribes. Initially it was believed that HUD's application of Housing Counseling rules towards tribes would simply be an eligibility requirement or entry point for tribes and TDHEs to be eligible for and receive HUD Housing Counseling Program funds.

It has become clear, however, that HUD envisions through its current Housing Counseling rules that no funding flowing through HUD can be used for housing counseling services unless the funding recipient is a HUD-certified housing counseling agency. Currently, Tribes and TDHEs receive federal funding through HUD under the Native American Housing Assistance and Self-Determination Act (NAHASDA). NAHASDA was enacted in 1996 to promote tribal sovereignty and self-determination and allows tribes to create its own Indian Housing Plan to address its local housing needs, which often includes housing counseling for prospective homeowners and other community members.

Application of the current HUD Housing Counseling rules would significantly impact in a negative way tribes' ability to provide housing counseling services to individuals and families in tribal communities. In most cases, the organization providing housing counseling services in tribal communities is the entity that receives NAHASDA funds: either the tribe or TDHE. These entities are not eligible to become HUD-certified housing counseling agencies, as they are not included as an eligible entity described in 24 CFR 214.103(a) as currently interpreted by HUD. The current rule provides that a certified Housing Counseling Agency must "function as a private or public nonprofit organization, or be a unit of local, county, or state government." Most tribal housing programs do not fit this definition, though it is possible that some tribal housing programs have a formal designation as a "nonprofit organization". Additionally, NAIHC believes that other federal agencies and federal regulations have broadly

interpreted “a unit of local government” to include tribes. If HUD adopted this interpretation of “local government”, tribes would likely be eligible under the existing rules as written, but those rules would still create obstacles for tribes to carry out housing counseling services in an effective and streamlined manner.

HUD should recognize that in many cases, the only housing counseling services available in tribal communities are those provided by tribes and TDHEs. Any rules or requirements that would impact how a tribe or TDHE is able to provide those services may significantly curtail or altogether eliminate access to housing counseling services in tribal communities. Most certified Housing Counseling Agencies do not actively market their services to tribal communities, due both to the rural nature and/or sparse population density of many tribal communities, and the unique characteristics of tribal land and mortgage issues that most Housing Counseling Agencies are unfamiliar with. This leaves tribes, TDHEs, and other tribal entities as the only entities providing housing counseling services to tribal members. Additionally, most tribal entities, including TDHEs, have limited resources to provide a variety of housing services, and housing counseling services are rarely the sole focus of any one tribal housing program or single tribal housing professional, who are individually tasked to provide a variety of services. The current Housing Counseling rules largely envision stand-alone housing counseling programs, which simply do not exist in many tribal communities. Applying the existing Housing Counseling rules to existing tribal housing programs will likely diminish their ability to carry out these services, rather than enhance them, and tribal communities do not provide the economies of scale (and most tribes do not have the resources) needed to establish stand-alone housing counseling programs.

The following comments are in response to the specific questions asked by the HUD Office of Housing Counseling as part of the tribal consultation notice.

1. Whether the housing counseling certification requirements included in the final rule would be practical and effective in your community;

For many of the reasons stated above related to the current structures of tribal housing programs, NAIHC believes the certification requirements included in the final rule would not be practical, and therefore ineffective in supporting quality housing counseling services in tribal communities. In addition to the housing counseling certification requirements placed on the housing counseling agency, NAIHC is not sure that certification requirements for individual housing counselors are practical or effective to enhance housing counseling services in tribal communities. It is unclear if the curriculum and testing that individual housing counselors must undertake to become certified under existing Housing Counseling rules include any specificity to homeownership issues found in tribal communities. It is likely the case that tribal housing professionals wishing to become HUD-certified housing counselors would be forced to undertake trainings that are ill-suited for enhancing housing counseling services in tribal communities.

2. What impact the housing counseling certification requirements would have on providing culturally relevant housing counseling and other programming in Indian Country and your community;

The current certification requirements themselves do not include any discussion of culturally relevant housing counseling so they are unlikely to improve the quality of housing counseling services provided in tribal communities. Currently NAIHC provides its own homeownership education curriculum that fully incorporates tribal issues and does so in culturally relevant ways. Our “Pathways Home: A Guide to Native Homeownership” training follows a “train the trainer” model, where we provide homebuyer education training to tribal housing professionals in a way that allows them to return to their tribal communities and provide that homebuyer education to local residents. We also supply the curriculum materials to the tribal housing professional or program that they then provide to the prospective homebuyer or local resident. NAIHC has trained and certified over 1,000 tribal housing professionals since the program’s inception in 2004. In 2019, NAIHC provided the training to 99 housing professionals from 53 distinct tribal communities. NAIHC is unaware of other housing counseling curriculum that focuses on cultural relevance or includes issues specific to homeownership in tribal communities.

3. What changes to the housing counseling certification requirements included in 24 C.F.R. part 214 would you recommend to ensure that these certification requirements (a) are not administratively burdensome, (b) enable appropriate access to housing counseling services in your community – particularly in very remote areas – and (c) help tribal members address their housing issues;

Tribes and TDHEs often provide housing counseling services directly to tribal members, with the services carried out by staff within the tribe or tribal housing organization. In addition to the eligibility and certification concerns expressed, many of the requirements found in the existing Housing Counseling rules envision a level of structure or formality specifically for housing counseling services that are simply not found in many tribal housing programs. Many of the reporting requirements found in the existing Housing Counseling rules would likely be duplicative of reporting provided under their existing reporting obligations under NAHASDA. HUD should recognize that Indian Housing Plans that include housing counseling services and the corresponding Annual Performance Reports provided by tribal housing programs to HUD pursuant to NAHASDA should also satisfy any housing counseling requirements under Title 24, Part 214. Certification requirements (for both the organization and individual counselors) should be updated to recognize tribal housing programs history and capacity in managing NAHASDA funds and to recognize existing culturally relevant housing counseling training and certifications already held by tribal housing professionals.

One issue that would also need to be addressed is the applicability of fair housing and non-discrimination provisions that are currently found in the existing Housing Counseling rules. Most, if not all, tribal housing programs limit their services to Native Americans, which is based on the unique political relationship between the United States and Tribes and their members. Tribes are unlikely to have the resources to operate housing counseling programs that must serve all individuals in a given geography or community. Funding for tribal programs is based on population and need data solely related to Native Americans in their service areas, so it would be unlikely that tribes have sufficient funds available for housing counseling services for non-tribal populations.

4. Any other ideas on how HUD can ensure that the counselor certification requirements applicable to HUD's Native American programs are effective in Indian Country; and

If the current rules regarding housing counselor certification requirements are made applicable to tribes, HUD should ensure that tribal housing professionals have ample access to existing certification training and exams, and that the trainings and exams be updated to reflect the unique issues actually found in tribal communities.

Additionally, while NAIHC supports efforts to improve housing counseling services in tribal communities, NAIHC is concerned that HUD may attempt to make the existing Housing Counseling rules applicable to tribal programs, while also not providing tribal programs any additional eligibility to other Housing Counseling grants or funding opportunities. That outcome would certainly decrease the level of housing counseling services made available to tribal communities.

5. Do you anticipate challenges if the qualification process that HUD currently uses for approving units of State or local government included in 24 C.F.R. part 214 were applied to tribes or Tribally Designated Housing Entities (TDHEs)

If HUD moves forward applying the existing Housing Counseling rules to Tribes or TDHEs, NAIHC would either anticipate challenges to that process, the significant reduction of housing counseling services provided in tribal communities, or both. Neither outcome serves the interest of HUD, Tribes, or tribal communities. In addition to the numerous practical concerns outlined above of applying the existing Housing Counseling rules to tribes and TDHEs, doing so would be contrary to HUD's policy of supporting tribal self-determination under NAHASDA. Currently, tribes have the flexibility to address their local needs as they best see fit under tribally-developed Indian Housing Plans. To the extent a tribe's plan currently include housing counseling services, the delivery of those services would be severely frustrated by the additional layer of the existing Housing Counseling rules.

NAIHC looks forward to working with HUD and tribal housing programs to ensure the delivery of quality, effective housing counseling services in tribal communities. With many tribes already providing these much needed services in their communities, NAIHC believes HUD should recognize those efforts and devise rules that complement and enhance existing models tribally-provided housing counseling services which are designed specifically for their communities, rather than force tribes to alter their services to fit one national program.

Northern Ponca Housing Authority
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Norfolk, NE 68701
Tel (402) 379-8224
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MARCH 19, 2021

**COMMENTS AND RECOMMENDATIONS FROM THE Northern Ponca Housing Authority
(TDHE), Ponca Tribe of Nebraska
TO
U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
REGARDING
HOUSING COUNSELING CERTIFICATION REQUIREMENTS
(March, 2021)**

Submitted by e-mail to tribalconsult@hudexchange.info by March 19, 2021.

COMMENTS

We support relevant certification requirements for housing counseling. However, we believe numerous aspects of the requirements should be reconsidered or amended in order for tribally designated housing entities (TDHE), tribal CDFI, or other entities providing homeownership services in Indian Country to participate effectively. Below are the issues that are of particular importance to our TDHE.

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Thank you for the opportunity to provide input on this important program. Please feel free to contact us if you have any additional questions.

Sincerely,



Joey Nathan

NORTHERN PONCA HOUSING AUTHORITY
Executive Director



March 10, 2021

On behalf of Oweesta Corporation and the Native CDFI Industry, we would like to submit public comments (attached) regarding the Tribal Consultation for Housing Counselor Certification Requirements.

Oweesta Corporation is uniquely qualified and positioned to provide feedback on the proposed Housing Counselor Certification Requirements based on our experience operating as a Native CDFI, working with Native CDFIs, Native nonprofits, and Tribes/Tribal departments across the country, and coordinating a Native HUD Housing Counseling Network (we are currently in the process of putting together our application as a certified network intermediary).

We are a national, Native CDFI intermediary created over 20 years ago to address lack of capital and financial infrastructure holding back economic development in Native communities. Our mission is to provide opportunities for Native people to develop financial assets and create wealth by assisting in establishment of strong, permanent institutions and programs contributing to economic independence and strengthening sovereignty for all Native communities. We offer financial products and development services exclusively to Native CDFIs and Native communities. Specifically, Oweesta provides training, technical assistance, investments, research, and policy advocacy to help Native communities develop an integrated range of asset-building products and services, including financial education and products.

Thank you for the opportunity to provide feedback on the proposed Housing Counselor Certification Requirements.

Regards,

Chrystel Cornelius
President & CEO, Oweesta Corporation

OWEESTA CORPORATION

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HUD FEEDBACK

- Currently there is a lot of ambiguity and complexity in required compliance and operations as part of the HUD Housing Counseling work. This places a burden on Housing Counselors and their agencies.
 - Especially around tracking data – 9902 forms
- The timeframe and experience for housing counselors needs to be more flexible to account for turnover, which we see frequently. It can also be difficult when people need to focus on their direct work in communities (versus immediately worrying about studying for an exam).
- We have heard from many people that the exam is burdensome, difficult, and not always applicable to their work. We understand it is useful as an exercise to ensure understanding of key components, but we also hear it is challenging.
- A lot of the check the box pieces for compliance can be onerous for groups, such as recommending lenders when a Native CDFI/Tribal lender might be the nearest lender for 100+ miles (they are the best options). Fair housing compliance can also be a challenge as some groups may be focusing on serving a specifically underserved community.
- Small staff of many organizations make compliance difficult with the HUD Housing Counseling program; specifically, as it relates to separation of duties between counseling and lending.
- HUD should consider coaching as an approved activity for counselors.
- We would recommend partnering as much as possible with NeighborWorks America and the National American Indian Housing Council (NAIHC).
- The “at least 30 clients” (which really means households) per year requirement can be a high number for some communities, especially in multi-generational households.