

Response to Tribal Leader Comments on HUD’s Draft Report on American Indian and Alaska Native Housing Needs

On July 7, 2016, HUD released to tribal leaders and tribal housing authorities a draft of the final report on American Indian and Alaska Native housing needs, produced as part of the congressionally mandated Assessment of American Indian, Alaska Native, and Native Hawaiian housing needs. Comments were collected until August 26, 2016.

HUD received 9 sets of comments from tribal leaders and housing officials, representing 42 small, medium, and large tribes or tribally designated housing entities from across the country. The comments reveal that a great deal of careful consideration and serious thought were invested in the review. HUD and its research team, led by the Urban Institute and including subcontractors NORC and SSI, are indebted to all those who took the time to read the draft and submit comments.

The importance of producing an accurate and informative final report cannot be overstated. It is expected that Congress, HUD, and other federal agencies will refer to the final report as they consider future policy and funding issues. It is certain that this tribal review and the comments received will result in an improved report.

HUD greatly appreciates both the praise and the criticisms offered and will endeavor to incorporate into the final report many of the suggestions that were offered. This document summarizes the critical comments and inquiries received along with HUD’s responses.

Comments and HUD Responses

Confusing use of terms “Indian Country,” “tribal lands,” “tribal areas,” etc.

Many commenters felt that the draft report uses key terms in confusing and inconsistent ways, including: “tribal areas,” “Indian Country,” and “tribal lands.”

We appreciate this comment and we have asked the Urban Institute to clarify the uses of these terms in reporting the study findings. The phrase “tribal areas” in the report refers to geographic areas from which data were collected and/or analyzed to produce study findings. The definition of “tribal areas” used is the census definition, which includes federally recognized reservations, state-recognized reservations, trust lands, joint-use areas, and several types of statistical entities, including tribally designated statistical areas, and Alaska Native Village statistical areas. These geographies are not defined by NAHASDA. An appendix to the final report defines tribal areas.

In this report, the term “tribal lands” means the same thing as “tribal areas.”

The phrase "Indian Country" is used in the common colloquial sense to mean tribal areas, including Alaska Native Villages. The phrase "Indian Country" is not used as a legal term in this report.

Section 184 Indian Home Loan Guarantee program

Comments about the Section 184 loan program questioned the use of federal courts rather than tribal courts to adjudicate foreclosures, and asked why Section 184 is used on fee-simple land when conventional loans should be available.

At this time, the Department of Justice, which handles all court actions for the Section 184 program, does not have statutory authority to pursue Section 184 actions in tribal courts. HUD continues to work with the Department of Justice to explore program-related jurisdictional issues. One reason that Section 184 lending is used on fee-simple land is that, for some Native American borrowers, the program offers more attractive terms and conditions than other programs.

Unclear text passages

Readers identified several places in the text that were unclear or potentially misleading.

HUD conveyed these comments to the Urban Institute and requested that these text passages be revised to improve clarity and accuracy.

Drug-related criminal activities

Commenters criticized the report for not discussing the problem of drug-related criminal activities in tribal areas, emphasizing that methamphetamine activities damage housing and that remediation costs are high and must be paid for out of the already tight budget for housing.

This problem is mentioned but not discussed in the draft report. HUD is aware of the urgent problem of contamination of housing by methamphetamine production and use in tribal areas and in other areas. At this time, HUD's Office of Native American Programs is considering different approaches to addressing the problem but has not committed to any specific actions.

Conditions specific to Alaska

Several comments drew attention to conditions that might be specific to Alaska, including permafrost, climate, indoor air quality, large distances between Native Villages and urban centers, the high proportion of Alaska Natives among the literally homeless in Alaska, the extra high cost of construction there, and more.

The Assessment of American Indian, Alaska Native and Native Hawaiian Housing Needs was designed to produce national estimates and to show some regional differences. A closer look at specific challenges in Alaska is beyond the scope of the study.

Vacancy rates

Commenters noted that vacancy rates stated in the report appear to be very high and that reporting such high vacancy rates might lead readers to the erroneous conclusion that there is no housing shortage in tribal areas.

HUD conveyed this concern and urged the research team to make sure that text passages explain how to interpret the quantitative findings on vacancy rates.

Household survey sampling methods

Several commenters criticized the sampling methods for the household survey.

- **Criticism:** The sample is too small to be representative.
- **Response:** *In fact, the sample was selected using statistically valid methods that ensure each household has a known and positive chance of being included in the sample. In addition, the sample is large enough to produce valid national estimates of housing needs and conditions. The sample cannot, and was never intended to, provide estimates for geographies smaller than the national level. For more information on sampling, please see https://www.huduser.gov/portal/publications/pdf/IntroductiontoSampling_030212.pdf.*
- **Criticism:** The household survey sample did not include the Alaska Regional Corporations even though they are recipients of block grant funds under NAHASDA.
- **Response:** *This is true. The sample was drawn from a list of tribal areas that included Alaska Native Village statistical areas, but did not include the Alaska Native Regional Corporations. The sampling frame—the list of entities from which the sample is drawn—was tribal areas as reported in the Census 2010, but excluding the Alaska Native Regional Corporations, tribal subdivisions, and Native Hawaiian areas. The sampled tribal areas were selected from a list of 617 tribal areas with 150 or more people that are not in Hawaii. (There is a separate study on Hawaii.) This approach works well for creating a nationally representative survey of households in tribal areas. HUD and the research team understand that this means large parts of Alaska's territory were not included in the sampling frame. It would require a different study to capture the special conditions in Alaska. At the same time, sampling the Alaska Native Village statistical areas allowed the study to include Alaska, which was necessary to produce national estimates.*
- **Criticism:** The report does not show what is happening in specific tribal areas; the tribes are so different, why not assess each tribe separately?
- **Response:** *The household survey was intended to produce national estimates of housing needs and conditions. It cannot support valid estimates for any specific tribal area. The study did not assess each tribe separately because it would have taken too much time and cost far too much to conduct such a study as a way to produce national estimates.*

- **Criticism:** The geographies used in this study are inconsistent with NAHASDA.
- **Response:** *This is true. The geographies used to create the sample were defined based on census-defined tribal areas because this was the only feasible way to create a scientific sample that would support national estimates of housing needs and conditions in tribal areas. The sampled tribal areas were selected from a list of 617 tribal areas defined by census that have at least 150 people that are not in Hawaii. (There is a separate study on Hawaii.) The sampling frame—the list from which tribal areas were selected for the household survey—included all the American Indian and Alaska Native areas defined by census, except for the Alaska Native Regional Corporations and the tribal subdivisions.*

- **Criticism:** The research team excluded the majority of Alaska Native Claims Settlement Act regional corporation geographies from the scope of the needs study.
- **Response:** *In fact, the household survey included Alaska Native Villages in its sampling frame, and the Villages are scattered across the whole of Alaska. The sample was designed to support national estimates of housing conditions in American Indian and Alaska Native tribal areas and Alaska Native Villages were included in the list of tribal areas that the sample was drawn from.*

- **Criticism:** Reporting information from the household survey appears to cite a lot of data specific to the 38 tribes sampled and fails to look at averages for the 38 tribal areas from which data were gathered.
- **Response:** *The 38 sampled tribal areas are used to create estimates of housing conditions and needs in tribal areas nationwide. The data cannot support estimates for any one specific tribal area, not even averages.*

Measuring private investment in tribal areas

Commenters pointed out that the information on private investment in tribal areas in the report has some specific deficiencies that should be stated clearly in the report, including: (1) It would be necessary to estimate the amount of private investment in tribal areas to give a full picture on housing development; (2) APR data reported to HUD on leveraging is not accurate because reporting is voluntary.

HUD partially agrees with these comments. Yes, it would be necessary to include private investment to give a full picture of housing development in tribal areas. Unfortunately, a complete analysis of the private investment in housing in tribal areas was outside the scope of the study. Tribes are required to report to HUD on their APRs on other funds used with IHBGs, and HUD is working with tribes to increase compliance with this reporting requirement.

Need for housing in tribal areas

Several commenters described local conditions and housing needs in detail and identified the resources necessary to relieve the need.

HUD is aware that federal programs currently do not provide enough funding to alleviate overcrowding and substandard housing in most Indian areas. As a result, far too many Indian families suffer the physical, emotional, and cultural hardships associated with insufficient housing. It is HUD's intention for the Assessment of American Indian, Alaska Native, and Native Hawaiian housing needs to provide hard evidence to appropriators and policy makers on the extent of the need, and the effects that HUD programs can have on housing conditions. HUD remains committed to working with tribal governments to improve lives and strengthen communities using all available tools and resources.

Flaws in U.S. census data

Several commenters noted that US Census data is not ideal for a number of reasons; for example, census geographies seldom exactly match the NAHASDA Indian areas, and the census is known to have historically undercounted Indian populations.

HUD recognizes that U.S. Census data is imperfect, but has not found a better independent data source. Tribal members of the negotiated rulemaking committee who recently examined the Indian Housing Block Grant (IHBG) formula spent most of a year (2015-2016) researching and evaluating alternative data sources. However, ultimately they found that Census data, despite its flaws, was the most consistent and suitable data source with which to calculate the IHBG formula. Similarly, for this study, the data from the decennial census and the American Community Survey provide the most consistent and suitable data source. HUD remains committed to using the best possible data sources and is willing to evaluate and consider proposed alternative data sources.

Native American identity

HUD received several critical comments about the report's concept of Native American identity and definitions of Native American used in the study.

Criticism: The report suggests that the farther Native Americans live from tribal areas, the weaker their tribal ties are. Commenters pointed out that many Native Americans live far from their tribal areas while maintaining strong ties to their tribe; to suggest otherwise is offensive to many Native Americans.

Response: *HUD agrees with these comments and has conveyed these concerns to the research team with requests for removing these assumptions and implications from the text of the final report.*

Criticism: The report implies that multiracial tribal members may be less identified with their tribal culture than Native Americans who self-identify as having only one race, but this is not necessarily true.

Response: *HUD agrees with these comments and has conveyed these concerns to the research team with requests for removing these assumptions and implications from the text of the final report.*

Criticism: The report focuses on population characteristics of Native Americans who self-identify as having only one race.

Response: *It is true that much of the analysis of data from census data products is restricted to Native Americans who self-identify as having only one race. This was due to data and analysis constraints. Insofar as possible, though, the report also includes information on multiracial Native Americans. The definition of Native American used for the household survey included people who self-identified as American Indian or Alaska Native alone or in combination with another race.*

Criticism: Hispanic surname is not an accurate indicator of Hispanic ethnicity because names have been forced on Native peoples.

Response: *Surnames are not used to identify ethnicity. The study uses census data products to analyze race and ethnicity, and these data are based on self-reported race and ethnicity.*

Causes of overcrowding

Commenters criticized the report for suggesting that overcrowding in Indian Country results from cultural values rather than a lack of housing.

HUD conveyed this concern to the research team and requested that the text be revised to avoid implications that Native American values are the cause of overcrowding.

References to other studies

Commenters noted that there are other studies of housing needs that might be of interest to readers, including housing needs assessments conducted for specific tribes or tribal areas.

The final report when published will include an appendix that lists several reports, including historical reports from the 1970s onward with citations and websites (where available).

Views on IHBG funding future

Several commenters requested that the report refrain from commenting on the appropriateness of the current Indian Housing Block Grant (IHBG) formula and on whether IHBG funding would increase or decrease in the future.

HUD agrees with these comments and requested that the research team revise the relevant text passages.

Estimate of units needed to meet housing needs

Commenters expressed doubts about the estimate of units needed presented in the report.

HUD requested that the research team clearly explain exactly how they produced the estimate of units needed so that the estimate may be critically evaluated and compared with other approaches to producing such estimates.