



REAL ESTATE ON RESERVATIONS

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WHAT DO YOU THINK
ABOUT WHEN YOU
THINK ABOUT REAL
ESTATE ON TRIBAL
RESERVATIONS?



Introduction

- Started real estate career in January 2007
- Trained and participated in helping homebuyers in Arizona using the Neighborhood Stabilization Program (NSP) federal housing program during the foreclosure housing crisis 2009-2012
- Assisted in multiple capacities in completing a full homeownership mixed income project of 23 townhomes and oversight of 26 single family lots for the Navajo Housing Authority that used NAHASDA and TERA funding to develop 2012- 2015
- Assisted in writing housing and/or loan policies for tribal housing authorities and tribal economic development departments
- Represented the Navajo Nation in purchasing 28,000+ acres of aboriginal lands in Colorado, equitable land exchange with the New Mexico State Land Office 90,000+ acres, transferred a domestic violence shelter from a non-profit in Utah to the Navajo Nation

Presentation Topics



Land
Status

Funding &
Financing

Policy
Impacts



Land Status Definitions

- **Tribal Trust Land:** Land or interest in land held in trust by BIA for the Tribe may not be encumbered or alienated (leasehold)
 - Land cannot be sold, given or willed only the structure
- **Allotted Land:** Land or interest in land held in trust by the BIA for an individual Indian(s) (leasehold)
 - Tribe had no interest in land
 - Subject to restrictions against alienation or encumbrance
 - Land cannot be sold, given or willed only the structure
- **Fee Simple Land:** Estate in land that is absolute or unrestricted (freehold)
 - Located on reservation or within Tribe's operating area for housing off reservation
 - Owner can sell, give or will land
 - *The sale of home and/or foreclosure; land and home sold together*

Land Status Financing & Title



- **Tribal Trust Land**
Loan Types: Section 184 Loan, USDA, VA
Title Process: BIA
- **Allotted Land:**
Loan Types: Section 184 Loan, USDA, VA
Title Process: BIA
- **Fee Simple Land:**
Loan Types: Section 184 Loan, USDA, VA, FHA,
Conventional, CDFI
Title Process: County Recorder

MORTGAGE LENDING PROCESS BASED ON LAND STATUS



Fee Simple	Tribal Trust	Allotted
No restriction against alienation or encumbrance; land serves as collateral	Restrictions against alienation or encumbrance; leasehold interest in land serves as collateral	Individual Trust: Restrictions against alienation or encumbrances; allottee must document interest in land to serve as collateral
Fee Simple Mortgage Approval:	Leasehold Mortgage Approval on Tribal Trust Land:	Trust Mortgage Approval on Allotted Individual Trust Land:
Lender: <ul style="list-style-type: none"> • Receives loan application • Provides loan pre-qualification • Prepares credit package • Orders Title Insurance Company • Orders appraisals • Pre-approves borrowers • Submits underwriting package to HUD • Receives HUD commitment • Closes loan 	Lender: <ul style="list-style-type: none"> • Receives loan application • Provides loan pre-qualification Lender/Borrower contacts BIA to obtain certified TSR to verify interest in land, legal description, and existing encumbrances <ul style="list-style-type: none"> • Borrower applies for a Homesite Lease • Borrower obtains an Environmental Review or a Categorical exclusion • BIA Realty Officer provides approved lease and commitment for Mortgage/deed of trust approval 	Lender: <ul style="list-style-type: none"> • Receives loan application • Provides loan pre-qualification • Lender/Borrower contacts BIA to obtain a certified TSR to verify applicant's interest in land, legal description, and existing encumbrances.
Lender files loan documents with County Recording Clerk.	Lender: <ul style="list-style-type: none"> • Reviews executed lease by Tribe, BIA, and borrower for program compliance • Prepares credit package • Orders appraisal • Pre-approves borrower • Submits underwriting package to HUD for approval • Receives HUD commitment • Closes loan 	Lender: <ul style="list-style-type: none"> • Prepares credit package • Orders Appraisals • Pre-approves borrower • Submits Mortgage documents to HUD and BIA for approval • BIA Credit Officer and/or Realty Officer approves credit package Lender: <ul style="list-style-type: none"> • Receives HUD/BIA commitment • Closes loan
	Lender files loan documents with BIA and County/Tribal Recording Clerk as required.	Lender files loan documents with BIA and County/Tribal Recording Clerk as required.
	BIA issues the final TSR and/or BIA endorsement and certificate of approval to lender with recorded Mortgage and lease.	BIA issues the final TSR and/or BIA endorsement and certificate of approval to lender with recorded Mortgage.
Time frame: 30-90 days to close	Time frame: Unknown could be years	Time frame: Unknown could be years

BIA's Role & Responsibilities

- Serves as a trustee for tribal trust land
- Approves lease/mortgage
 - Approves lease if tribe has not received approval to utilize the HEARTH Act to approve leases
- Provides/updates certified title status report (TSR)
- Records mortgage/lease on to TSR
- Underwrite/review loan package (allotted land)
- Authority to approve a Land Consolidation Plan



Funding for Housing



- Community Development Block Grant (CDBG) Indian Community Block Grant (ICDBG) 1% of CDBG
 - *Congress recently increased the CDBG-DR 30% to \$1.34 Billion with Sen. Brian Schatz efforts and other senators from both sides of the isle to pass a bipartisan bill*
- Neighborhood Stabilization Program (NSP) created to address the foreclosure housing crisis
 - *HUD provided grants to communities hardest hit by foreclosures and delinquencies to purchase, rehabilitate or redevelop homes to stabilize neighborhoods.*
- Native American Housing Assistance and Self Determination Act (NAHASDA) enacted in 1996, U.S. Congress enacted to put tribes in control of meeting communities' housing needs that previous programs failed to do.
 - *Created opportunity for mortgage-based homeownership in Indian Country.*
 - *Encouraged tribes to partner with lenders to develop first-time homebuyer programs.*

Housing Needs

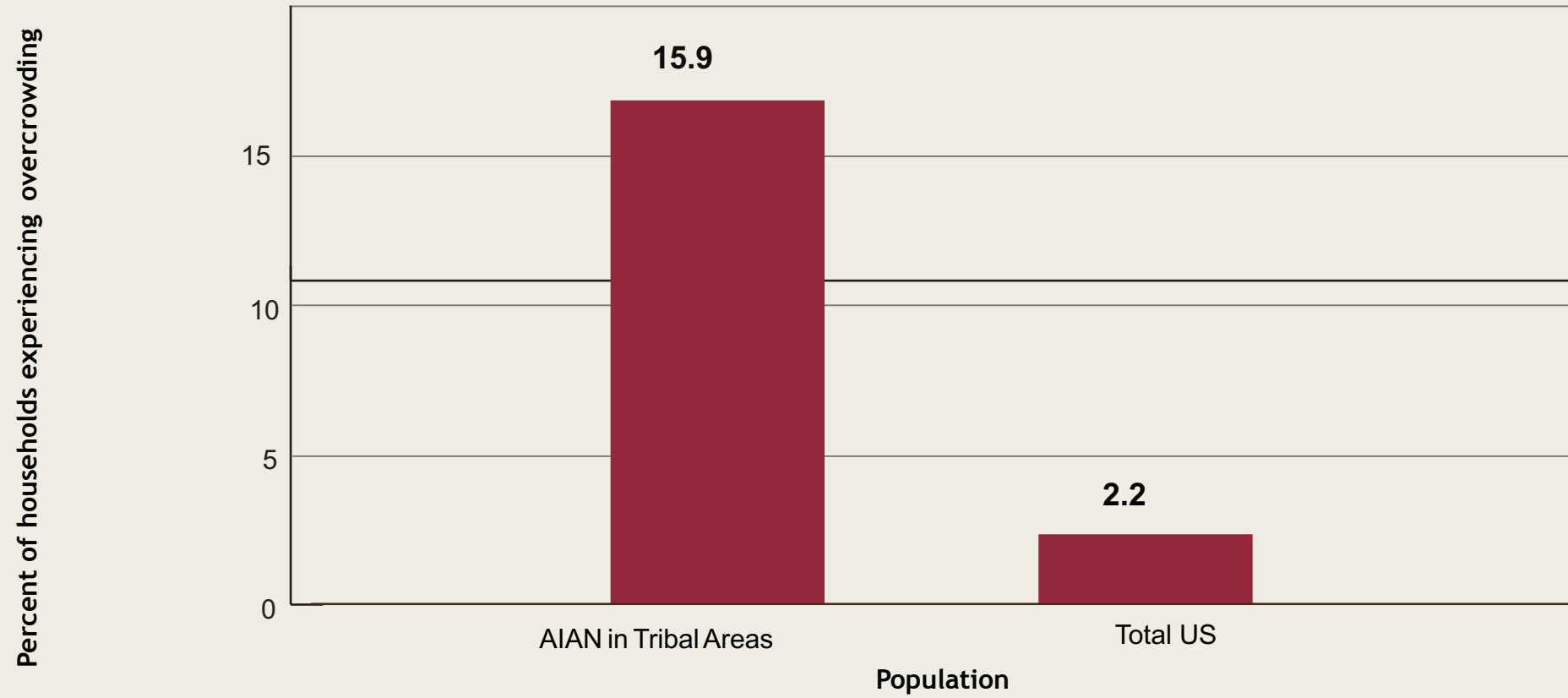
BASED ON HUD'S HOUSING NEED REPORT 2017
THE HOUSING INSTABILITY WAS BETWEEN 42,000
TO 85,000 PEOPLE THAT WERE HOMELESS

HOMELESSNESS IN INDIAN COUNTRY MEANS
OVERCROWDING INSTEAD OF PEOPLE LIVING IN
THE STREET

HOMELESSNESS REPRESENTED ABOUT **2.9%** OF
THE NATIVE AMERICAN POPULATION IN 2014

TODAY OUR NATIONAL HOMELESSNESS IS **.17%**
TRANSLATES TO 553,742 PEOPLE

Exhibit ES.3 - Overcrowded Households in Tribal Areas and United States



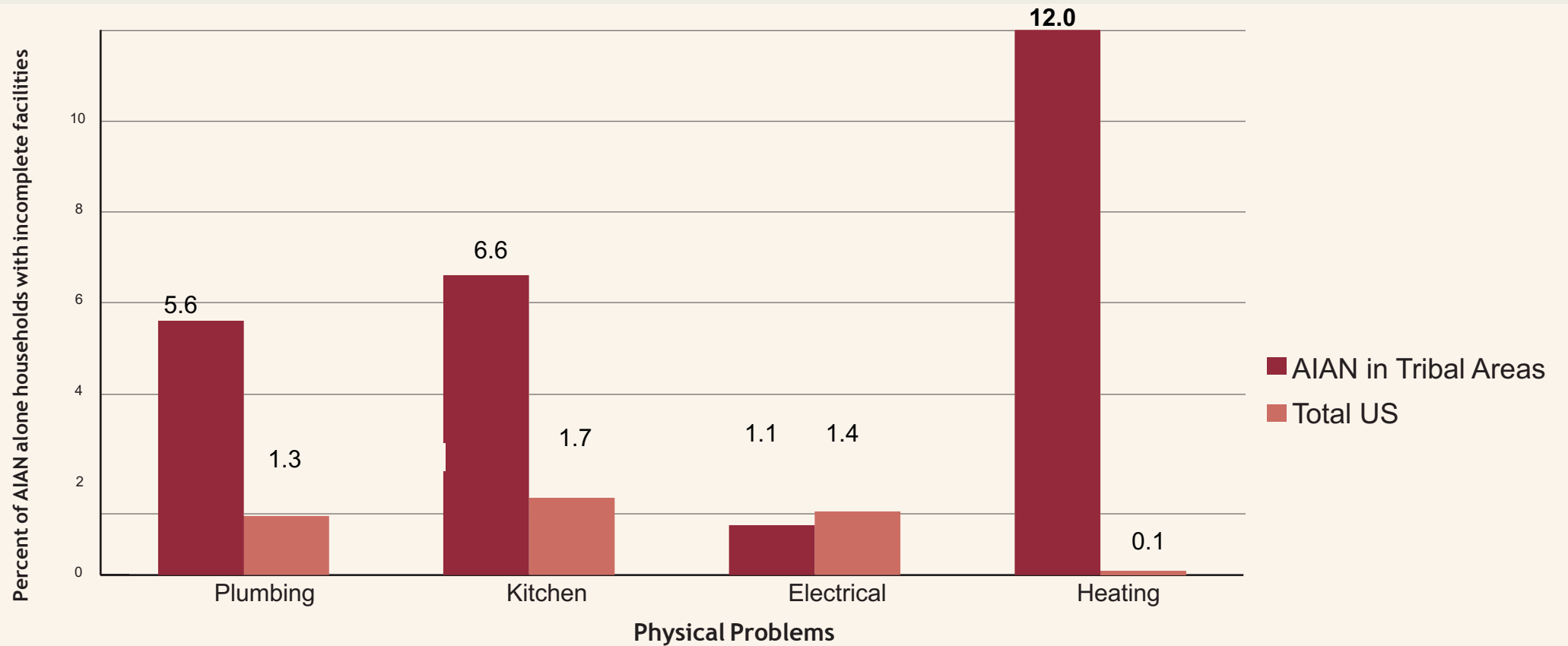
Source: Urban Institute Household Survey 2013-2015. American Housing Survey, 2013.

Housing Conditions

- 34% of AIAN households have severe infrastructure deficiencies, such as inadequate plumbing, heating and electrical issues compared to U.S. households.
- 23% of AIANs live in housing with a physical condition problem of some kind compared to 5% of all U.S. households



Exhibit ES.2 - Individual Housing Problems in Tribal Areas and United States



Source: Urban Institute Household Survey 2013-2015. American Housing Survey, 2013.



**HOW MUCH MONTHLY
INCOME DOES A
FAMILY NEED TO
MAKE MONTHLY
PAYMENTS**



NAHASDA INCOME LIMITS

No. 2023-01
July 6, 2023

Guidance: Pursuant to 24 CFR §1000.10, median income for the IHBG program is defined as the greater of:

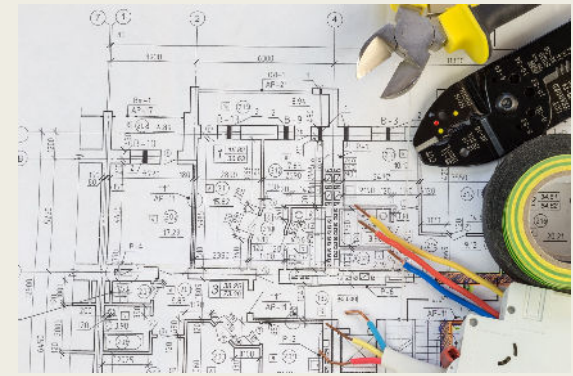
- 1) The median income of the counties, or their equivalent in which the Indian area is located; or
- 2) The median income for the United States.

**2023 Median Family
Income \$96,200**

% Median Income	1 Person	2 Persons	3 Persons	4 Persons	5 Persons	6 Persons	7 Persons	8 Persons
80%	\$53,850	\$61,550	\$69,250	\$ 77,000	\$ 83,100	\$ 89,250	\$ 95,450	\$101,600
100%	\$67,350	\$77,000	\$86,600	\$ 96,200	\$103,900	\$111,600	\$119,300	\$127,000



Construction Prices and Monthly Payments



\$180/ sq. ft.

\$250/ sq. ft.

Price/ sq. ft.	\$180		
Sq. Ft.	700	1500	1700
Beds	2	3	3
Baths	1	1.5	2
Price	\$126,000	\$270,000	\$306,000
Estimated Housing Payment- 6.5% Interest	\$860 Principal & Interest +/- month	\$1,844 Principal & Interest +/- month	\$2,090 Principal & Interest +/- month

Price/ sq. ft.	\$250		
Sq. Ft.	700	1500	1700
Beds	2	3	3
Baths	1	1.5	2
Price	\$175,000	\$375,000	\$425,000
Estimated Housing Payment- 6.5% Interest	\$1,195 Principal & Interest +/- month	\$2,561 Principal & Interest +/- month	\$2,902 Principal & Interest +/- month

Monthly Income



80 % of the US Median Income

Family of 4

Salary of \$77,000

Max Housing Payment of 30%
\$1,925

Estimated max Purchase Price without Down Payment
Assistance
\$282,000

100% of the US Median Income

Family of 4

Salary \$96,200

Max Housing Payment of 30%
\$2,250

Estimated max Purchase Price without Down Payment
Assistance
\$330,000

**Loans for pre-existing home purchases off
Reservations range between \$380,000 and
\$580,00**

**Assuming Section 184 Loan at 6.5% interest with Mortgage
Insurance, no property taxes, no hazard insurance*

Policy Funding Trends



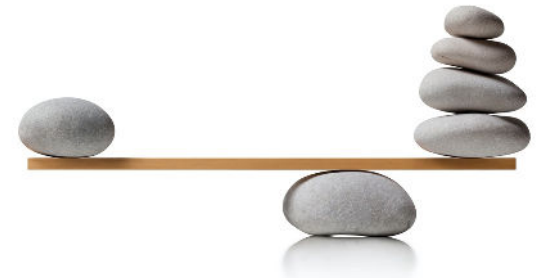
Current IHBG- NAHASDA Rules

- Need to spur economic development through housing, business and job creation considering the economic inequities tribes face
- Need to assist in advancing racial equity and provide the appropriate support to historically underserved tribal communities.
- Need to promote and create opportunities for tribes and tribal members to take part in improving their own communities

HUD Proposed Rule's Goals to CDBG- IHBG

- Target resources towards communities with the greatest need
- Improve data collection from the CDBG Program to measure effectiveness
- Improve program outcomes
- Address poor performance
- Clarify eligible uses

Why is there so much less housing and development on Reservations?

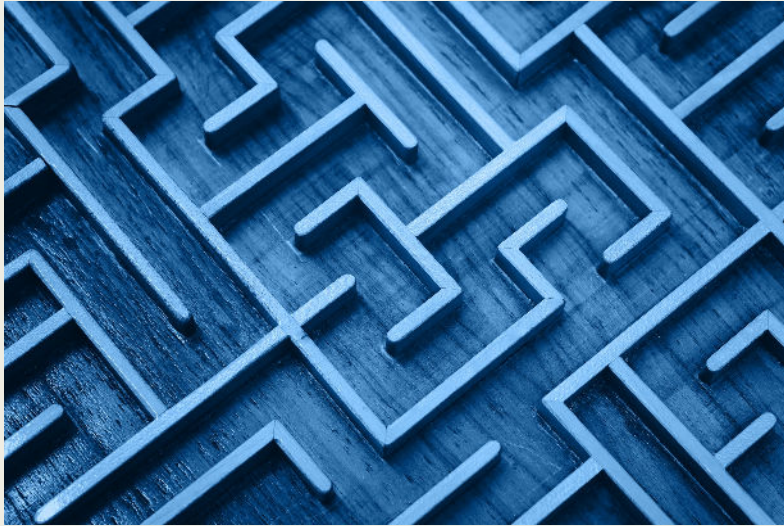


On Reservations

- Land Status is comprised of Indian Trust Land, Allotted Land and Fee Simple Land
 - *No Title Insurance or ownership on Trust or Allotted Land*
 - *Limits lending opportunities*
- Received less funding, offer fewer funding programs
 - *Hinders housing*
 - *Hinders employment*
- Restricted primarily to Low Income households
 - *Suppresses neighborhoods from developing*
- Low Incomes, lack of collateral, bad credit
- Lack of developable land
- Lack to infrastructure access

Off Reservations

- Land is mostly Fee Simple Land
 - *Enables an easier development process*
 - *Provides Title Insurance, real estate services*
 - *Creates lending opportunities*
- Receive more funding, offer more funding programs
 - *Creates more housing options both rental or homeownership*
 - *Spurs employment development*
- In time of crisis assisted Low to Medium Income Households (80%-120% AMI)
 - *Stabilized neighborhood nationally after housing foreclosure crisis with the Neighborhood Stabilization Program (NSP)*
 - More developable land options
 - Access to infrastructure



The Call to Action

- Explore changing land status options from Trust Land to Fee Simple or Fee Restricted Land using the Land Consolidation Act
- Changes to NAHASDA eligibility requirements to include Low-Income to Moderate Income households up to 120% of the Area or US MFI. To give Indian Country the same opportunity given in a housing crisis like the Neighborhood Stabilization Program provided
- Systemic changes that would have an impact within the system that tribes have to work with federal agencies to develop real estate spurring economic and community development on tribal lands with the intention of equitable growth

Trust to Fee

- Fee Simple Land has the greatest possible estate in land, owner has the right to:
- Use it, exclusively possess it, commit waste upon it, dispose of it by deed or will, and take its fruits. Fee simple represents absolute ownership of land, and therefore the owner may do whatever he or she chooses with the land. If an owner of a fee simple dies intestate (without a will), the land will descend to the heirs.

Restricted Fee Land

- The ownership is the same as **fee simple** land, but there are specific government-imposed legal restrictions on use and/or disposition.

Land Status Options



A satellite image of the Earth, showing the Americas (North and South America) in the center, surrounded by the Atlantic and Pacific Oceans. The image is oriented vertically, with the top of the frame showing the Arctic region and the bottom showing the Antarctic region. The landmasses are shown in shades of green and brown, while the oceans are a deep blue. White clouds are scattered across the scene, particularly over the North Atlantic and the Pacific.

Land Consolidation Act

- Section 204 of Indian Land Consolidation Act (as codified at 25 U.S.C. § 2203) authorizes the disposition of certain tribal lands/interests, while requiring that the proceeds of those dispositions be earmarked for other tribal land purchases.
- The lands/interests to be disposed of, and the lands/interests to be purchased with the proceeds, must be identified (though not with great specificity) in a tribal Land Consolidation Plan approved by the BIA.
- Use of a Land Consolidation Plan to facilitate Indian housing by providing for the conveyance of fee title to tribal members which can include Deed Restrictions devised by tribe

Land Consolidation Act Continued...



The disposition authority in a Land Consolidation Plan would give tribes more flexibility in managing their land, to be exercised on an entirely voluntary and case-by-case basis

- (1) fair market value is paid for the land or interest being conveyed by the tribe
- (2) the sale proceeds are segregated and made available only for land acquisition purposes.

In 1991, Section 204 of Indian Land Consolidation Act (ILCA) was amended to allow dispositions to be made at less than fair market value with congressional approval

Upon the completion of the transfer from trust to fee status, NO BIA approvals or title certifications would thereafter be required to support the financing, construction or transfer of the Indian housing units.

**Comparison of U.S. Department of Housing & Urban Development
CDBG Program- NSP vs. IHBG Program- NAHASDA-2015**



Using NSP Guidelines- Created for 'First time homebuyers'

Homebuyer Eligibility Criteria

Similarities:

- Contribute Earnest Money
- Cannot be on the title of any residential property
- Must be a permanent legal U.S. resident
- Occupy the home as the primary residence
- Homebuyer Education Certificate

Differences:

- Earn within the program's income requirements
- First time homebuyer (couldn't have owned a home in last 3 year)
- Could receive up to \$50,000 in Down Payment Assistance if eligible with or without a need for the assistance

All activities funded by NSP must benefit low-, moderate-, and middle-income persons whose incomes **do not exceed 120 percent** of the area's median income (AMI). For example, a household of four can make up to **\$74,300** or less and still qualify.

Household Size	1	2	3	4	5	6	7	8
120% AMI Income	\$52,000	\$59,400	\$66,850	\$74,300	\$80,200	\$86,150	\$92,100	\$98,050

Using NAHASDA Guidelines- Created for Native Americans

Homebuyer Eligibility Criteria

Similarities:

- Contribute Earnest Money
- Cannot be on the title of any residential property
- Must be a permanent legal U.S. resident
- Occupy the home as the primary residence
- Homebuyer Education Certificate

Differences:

- Earn within the program's income requirements
- Provide proof of housing need and there is no other housing availability
- Must Show there is a need for Down Payment Assistance to receive the amount specifically needed for gap

All activities funded by NAHASDA must benefit low-, moderate-, and middle-income persons whose incomes **do not exceed 80 percent** of the US median income (USMI). For example, a household of four can only make up to **\$51,120** or less to qualify.

Household Size	1	2	3	4	5	6	7	8
80% USMI Income	\$35,784	\$40,896	\$46,008	\$51,120	\$55,210	\$59,299	\$63,389	\$67,478



Thank you!!

Questions & Answers

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