

The
Indian Housing Program

Program Briefing and Statistical Summary



Office of Indian Housing
U.S. Department of Housing and Urban Development

OFFICE OF INDIAN HOUSING

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INTRODUCTION

The purpose of this paper is to provide a basic overview of the fundamentals, history and current issues of the Indian Housing program as administered by the U.S. Department of Housing and Urban Development (HUD).

In order to fully understand the environment in which the Indian housing program operates, there are a few basic concepts which should first be introduced.

What is an Indian Tribe?

The first is the concept of the Indian tribe itself. The Tribe is the fundamental unit of Indian law; in its absence there is no occasion for the law to operate. Yet, there is no all-purpose definition of an Indian Tribe. A group of Indians may qualify as a tribe for the purpose of one statute or federal program, but fail to qualify for others.

At the most general level, a tribe is simply a group of Indians that is recognized as constituting a distinct and historically continuous political entity for at least some governmental purposes. The key problem with this definition lies in the word "recognized." Recognized by whom? The answer is that recognition may come from many directions, and the sufficiency of any given recognition is likely to depend upon the purpose for which tribal status is passed.

By far the most important and valuable recognition is that of the federal government. Unequivocal federal recognition may serve to establish tribal status for every purpose, and the Department of Interior insists upon federal recognition as a prerequisite to its many federal programs.

Federal recognition may also arise from treaty, statute, executive or administrative order, or from a course of dealing with the tribe as a political entity. Any, or a combination of events, signifies the special relationship between the federal government and the concerned tribe.

The actions of the federal government are considered administrative, not subject to judicial review. In 1978, Interior published criteria for "acknowledgement" of the existence of tribes that were not otherwise "recognized." The criteria were designed to establish eligibility for federal services and other benefits of tribal status for Indian groups that have maintained a "substantially continuous tribal existence and which have functioned as autonomous entities throughout history until the present."

Tribal identity may be established by various types of evidence, including dealings as a tribe with federal, state or local governments, recognition by historical records, scholarly opinion, or dealings with other tribes. It is essential to recognition of the group that it exercise some "governmental" authority over its members and that it occupy specified territory, or inhabit a community viewed as distinctly "Indian."

It should be noted that the Congress may also terminate "recognition", even for tribes who have gained tribal status from a treaty.

At HUD, the CDBG program requires federal recognition and does not allow state recognized tribes to apply for funding, whereas there are both federally and state recognized tribes operating Indian housing authorities. The two latest federal programs authorized under the Cranston-Gonzalez Affordable Housing Act, HOPE and HOME, will use the CDBG criteria for eligibility.

Who is an Indian?

"Indian" is another term the meaning of which varies according to the purpose for which the definition is sought. In the most general terms, a person must meet two requirements to be an Indian: he or she must (1) have some Indian blood, and (2) be regarded as an Indian by his or her community. Because the requirement is only of "some blood", a person may be classified as an Indian despite a very low quantum of Indian blood, such as one-sixteenth.

For many federal jurisdictions, it is not enough that the person be regarded as an Indian by their community; the person must be a member of a federally recognized tribe. In this context, individual status follows tribal status, and there can be no Indian without a tribe.

It is not always necessary for an individual to be officially "enrolled" in a tribe to be recognized as a member for jurisdictional purposes. Nevertheless, enrollment is by far the best proof of Indian status. Individual tribes have differing blood requirements for enrollment. Many tribes require one-fourth, although some require five-eighths and, at least one, requires one sixteenth.

For HUD purposes, this is of importance when implementing "Indian preference" in contracting and hiring. It is also a consideration when allowing homebuyers into the Mutual Help program. Whereas, in rental housing, there is no statutory provision which allows IHAs to prohibit non-Indian renters, in Mutual Help, the Indian Housing Act of 1988 requires that non-Indians may be allowed in the program only when there is community necessity and no other housing is available.

What are Indian lands?

Indian lands may be held in a variety of ways, each of which presents its own problems and advantages. Two points must be made at the outset of any review of the subject. The first is that the term "Indian lands" refers to those lands that are held by Indians or tribes under some restriction or with some attribute peculiar to the legal status of its owners. Any Indian may purchase land on the private market and thereby acquire a fee title that is freely disposable. That real property is not "Indian land."

The second point is that ownership patterns differ from the concept of what is a reservation and what is meant by "Indian country."

Land presently set aside for Indians, whether by treaty, statute or executive order, may be held in a variety of ways. Nearly all of the land is in trust, with the United States (Bureau of Indian Affairs) holding naked legal title and the Indians enjoying the beneficial interest.

a. Communally Held Lands

In this case, the U.S. holds legal title, and the undivided beneficial interest is held by the Tribe as a single entity. When land is communally held by the tribe, individual members may simply share in the enjoyment of the entire property without having any claim at all to an identifiable piece of land.

b. Assignments

Although land is communally held, in practice, tribal members usually require some method of knowing that it is permissible for them to erect a residence on a given spot, to graze stock in a particular area, or to engage in other activities requiring a relatively fixed location. This need is customarily met by the Tribe's conferring a license upon the individual to use a particular land. That license may go by many names, but is commonly referred to as an "assignment." The terms of assignment differ, but in most cases, there is a tendency to "pass on" the rights of assigned land to heirs.

c. Allotments

The concept of allotted land is in total contrast to the concept of communal ownership. Under various statutes, particularly, the General Allotment Act of 1887 (Dawes Act), Congress provided for Indian lands to be allotted to individual Indians in an effort to have them assimilate into the population at large. Although the land was originally intended to remain in

trust for only a limited time, subsequent statutes indefinitely extended the trust period.

Title is held by the U.S., with the beneficiary being the allottee and the heirs. Over the years, many allotments have been shared not by one heir, but by many, resulting in allotments which are held simultaneously by many people. Decisions made concerning the land must be made by all parties.

d. New Mexico Pueblos

Pueblo lands are held communally, but title is unique in Indian country because the Pueblos hold their lands in fee, rather than having the United States hold it for them. The practical effects of this form of ownership are minimal.

e. Alaska Native Lands

Alaska Natives (Indians, Eskimos and Aleut) hold their land under a unique system imposed by the Alaska Native Lands Claims Settlement Act of 1971. That statute was a congressional response to conflict between non-Indians seeking to develop Alaska and Natives who claimed extensive tracts of aboriginal territory. The Act expressly extinguished all aboriginal rights to lands in Alaska. It provided for the establishment under State law of village and regional corporations in which enrolled Natives would receive corporate stock. Those corporations were then to select lands set aside under the Act for the Alaska Natives.

The Native corporations receive title to their lands in fee. While the Act imposes a restraint upon alienation of Natives' corporate stock for twenty years, there is no restraint against alienation of land by the corporate title holders. This freedom to alienate as well as the corporate ownership distinguishes the Alaska Native landholding from all other Indian land tenure.

All of the above forms of land ownership, plus the more commonly used legal instruments of fee simple ownership are found in Indian country and impact upon the Indian housing program from the time land is needed for a development until the time a unit is conveyed from the IHA to a homebuyer.

Why Is There an Indian Housing program?

One question which is frequently asked by persons unfamiliar with the Indian Housing program is, "Why is there a separate housing program for Indians?"

There are three reasons offered for the separate nature of this program. First, there is a special government to government relationship which has been established between the United States and Indian tribal governments. This relationship has a different political, legal and administrative structure than the relationship typically found between the U.S. and other state and local governments. Congress has emphasized this separate stature through the Indian Housing Act of 1988.

In order to achieve the national objectives of developing decent, safe and sanitary housing in Indian country, these differences must be clearly understood and, where necessary, modifications made to the traditional public housing program. The Department's Offices of Indian Programs (OIPs) specialize in Indian affairs and facilitate the efficiency and effectiveness of the program.

Second, because the Indian Housing program constitutes virtually all of the newly constructed housing on Indian reservations, the religious, social and cultural beliefs of Indian tribes have a major impact on the operation of the program. These beliefs vary from tribe to tribe and are very different from those found in non-Indian society. It is these factors that must be understood and accounted for in order to successfully operate the program.

Finally, although the Public Housing program was established in 1937, Indian tribes were not eligible for funding until the 1960s. By this time there was such a critical demand for housing that the Department decided to place a special emphasis in this area in order to meet the overwhelming need.

I. OVERVIEW OF INDIAN HOUSING

A. HISTORICAL PERSPECTIVE

Although the U.S. Housing Act of 1937, as amended, provided for public housing rental programs, it was not until 1961 and 1962 that the Public Housing Administration issued legal opinions that Indians living on reservations and in other Indian areas were eligible to participate in the public housing low-rent program (1961), and could establish a Mutual Help Self-Help program (1962). These opinions allowed for the establishment of Indian Housing Authorities (IHAs). HUD also established Interdepartmental Agreements with the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS) because of the roles these agencies played in Indian Housing.

By the end of the 1960s, the Rental and Mutual Help programs had been established. The on-going and increasing need to provide new and substantially rehabilitated housing in Indian areas prompted a commitment to produce a total of 40,000 units from FY 1970 through FY 1974. Although these goals were not realized, production figures during the 1970's were very high (Appendix One).

General Accounting Office reports in 1971 and 1978, and Congressional hearings and reports in 1975, 1976 and 1979 highlighted the need for an accelerated development program combined with a comprehensive national Indian housing policy.

HUD responded during the latter half of the 1970s by establishing special Indian field offices to concentrate specifically on monitoring and technical assistance for Indian housing and community development programs. Comprehensive Indian housing regulations were promulgated in 1976 and refined in 1979. The Interdepartmental Agreement was updated in 1976, and the position of Special Assistant to the Secretary of HUD for Indian and Alaska Native Programs was legislatively created in 1977. An Annual Report to Congress on the conditions of Indian housing was also mandated.

By 1978, HUD had established a permanent Office of Indian Housing (OIH) in Washington, D.C., and the office began concentrating its activities on establishing centralized operations, providing training and technical assistance to the Indian Field Offices, streamlining the development process, and reducing the IHA management problems which had arisen during the formative stages of the program. An Indian preference policy was also created to implement self-determination.

Since its inception, the Indian housing program was based on policies, rules and laws formulated for the Public Housing

program. While the reliance on public housing concepts produced needed housing in Indian country, it had long been recognized that the public housing requirements didn't "fit" the needs of Indian country. In the early 1980s, OMB established an Interagency Subcabinet Task Force to design a more cost-effective Indian housing delivery system that did not rely solely on public funds.

The OMB Task Force resulted in extensive analysis and discussion of alternative housing models, including grant and loan guarantee programs. Because these new program models had not been discussed with the Indian constituency, the Administration's legislative proposals were rejected by Congress in favor of the current HUD-assisted program. The only "surviving" concept passed by Congress was the HUD proposal for a separate FHA insurance program.

To address the concerns of the constituency, in 1984 HUD established an Indian Housing Advisory Committee composed of tribal, Indian housing authority, and Indian association representatives. At the committee's first meeting in the fall of 1984, a community development-type block grant program was rejected in favor of continuing the current Indian housing program.

The committee no longer exists as a formal body. However, OIH regularly meets with national and regional Indian housing associations, as well as individual IHA representatives.

Therefore, after several years of unsuccessful efforts at new Indian housing models, the HUD strategy became one of reforming the existing program. From FY 1981 to FY 1986, HUD reduced development costs by an average of \$24,000 per unit at reservation stage, established a recapture policy to recover units stagnated in the development pipeline, and implemented an Administrative Capability Assessment (ACA) to uniformly evaluate IHA performance and thereby objectively award new units based on standardized criteria. Other program refinements included a computerized management information system (MIRS) and an automated cash management system to expedite development payments. A technical assistance program for financially troubled IHAs was also implemented.

During the mid-1980's there was increasing criticism by leaders in Indian country that the public housing program was urban-oriented and did not fit the Indian housing situation. With the encouragement of the Indian housing constituency, Congress passed the Indian Housing Act of 1988, which separated Indian housing from public housing within the statute, and provided the impetus for providing separate Indian housing regulations and handbooks.

At the time the Indian Housing Act of 1988 was enacted, the

Department was moving in the direction of a separate regulatory framework for the Indian housing program. The passage of Indian housing legislation provided a mandate for distinct Indian housing policies and guidance materials.

In FY '90, the Department published the interim consolidated Indian housing regulation, along with a number of new Indian Housing handbooks. Also in FY 1990, a Commission to study Indian, Alaska Native and Hawaiian housing was authorized in the HUD Reform Act and funds were appropriated in a Supplemental Appropriation Act.

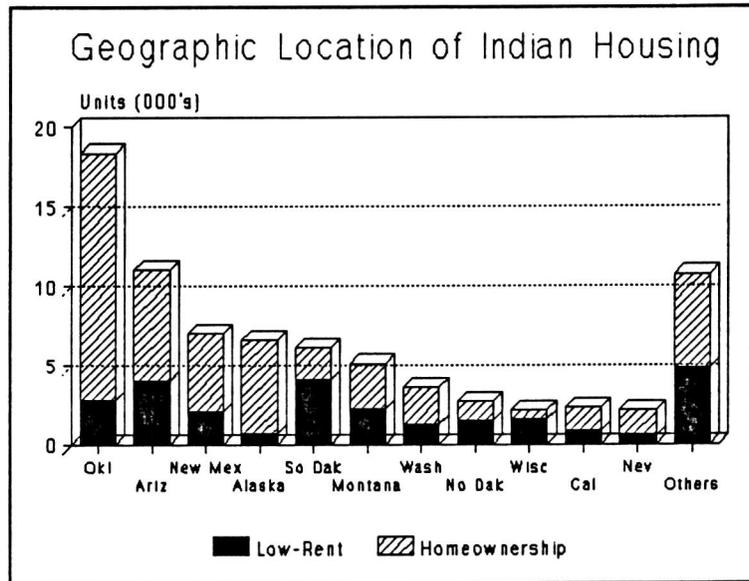
Also in FY 1990, the Cranston-Gonzales National Affordable Housing Act established two new programs, HOPE and HOME, which will provide additional housing opportunities in Indian country.

B. PROGRAM CHARACTERISTICS

1. Administered by Indian Housing Authorities

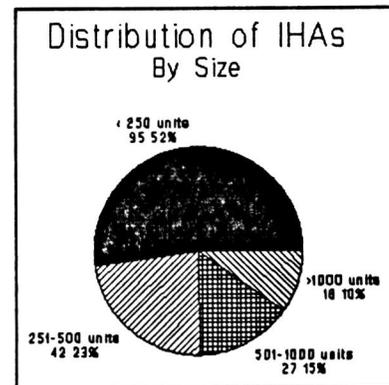
Beginning in 1961, Indian tribal governments were found eligible to establish Indian Housing Authorities (IHAs). IHAs are comparable to public housing agencies in structure and function. Depending upon their status, these tribes could organize IHAs under either tribal or state law. Once established, IHAs can develop and manage assisted housing units as authorized under the U.S. Housing Act. IHAs are normally operated by a board of five or more members, usually selected by the tribal governing body. An Executive Director is hired by the board to manage the day-to-day affairs of the IHA.

There are currently 186 IHAs operating in reservation areas, as well as in Oklahoma, California (rancherias) and Alaska. These IHAs represent 267 Indian tribes and 199 Alaskan villages. The difference in the number of IHAs as compared to Tribes is accounted for by the presence of "umbrella" IHAs, which serve the needs of anywhere from two to fifteen tribes. In Alaska, IHAs serve many villages within one Native Corporation's jurisdiction.



A large majority of IHAs operate fewer than 500 units. A number of IHAs, particularly in Oklahoma, operate the Section 8 Existing program and a growing number are utilizing Housing Vouchers, where feasible. New IHAs are being created every year as Indian tribes seek to establish stronger tribal organizations and utilize available federal programs.

The 18 Indian housing authorities with unit inventories of over 1,000, control over 35,000 of the nation's total Indian housing units. This is approximately 45 percent of the total units under management and in the pipeline. Thus, less than 10 percent of the IHAs control almost half of



the units.

2. Program Size

As of September 30, 1991, Departmental Indian housing programs have produced almost 80,000 units in Indian country. Approximately 8,000 units are in development, and the Congress appropriated funds to build 2,700 units in FY 1992.

The HUD Indian housing program is the primary, and oftentimes the only, source of affordable, decent, safe and sanitary shelter on the reservation. According to the FY 1990 Bureau of Indian Affairs (BIA) Consolidated Indian Housing inventory, 49,434 Indian families living on reservations, in Alaska Native villages, and in other Indian areas, needed either new homes. Another 38,734 needed their homes substantially rehabilitated.

The more than 8,000 units in the HUD Indian housing pipeline can be expected to offset a portion of the need for additional housing. During the last five years, the BIA estimate of need for additional units has dropped slightly, indicating that births and new family formation have not quite equalled housing production. It should be noted, however, that BIA estimates do not consider Native Americans seeking to move back to the reservation area. The low income character of many Indian reservations as well as the trust status of the land precludes the possibility of meeting their housing needs without some form of financial assistance or government intervention. It should also be noted that Native Americans are the fastest growing minority group in the U.S. today on a percentage basis. In summary, the Department's success in producing additional housing over the last few years has been of obvious benefit to Indian communities, but a substantial number of Indian families still lack decent, safe and sanitary housing.

3. Programs

a. Rental Housing

Rental housing represents a permanent housing resource available to tribal members. Rental housing units are developed according to the methods described later in this report. Once developed, the Department provides operating subsidies to make up the difference between the IHA's anticipated income and maintenance, utilities and administrative costs. These payments are based on a formula, the Performance Funding System (PFS), which calculates the needs based on the expenses of a prototype well-managed housing authority.

Once a family has been found eligible to participate in the program, they will pay either 30 percent of their adjusted income, ten percent of their gross income, or the portion of public assistance allocated for housing. One exception to this is where the IHA has established "ceiling rents". Ceiling rents are permitted as a result of the Housing and Community Development Act of 1987 and allow IHAs to establish a maximum rent for a class of units based on debt service and operating expenses. Where ceiling rents have been approved, tenants will pay the lower of their calculated rent or the approved ceiling rent.

Since the first rental unit project application was received from the Oglala Sioux of Pine Ridge, South Dakota in 1961, the Department has funded a total of approximately 27,000 rental units for \$1.341 billion dollars. These projects constitute approximately 35 percent of the total Indian housing inventory.

b. Mutual Help Homeownership Opportunity (MHO) Program

The Mutual Help Homeownership Opportunity (MHO) program consists of three distinct, but similar programs: "old" MHO; "new" MHO; and "self-help" MHO. Both new and old MHO are virtually the same programs, except that old MHO was established and operated under HUD administrative directives and handbooks, while the first consolidated Indian housing regulations, which became final on March 19, 1976, marked the beginning of "new" MHO. Therefore, units developed prior to March 19, 1976 are old MHO units, and units developed after that date are new MHO. Self-help MHO is a new program, authorized by the Indian Housing Act of 1988 (Pub. L. No. 100-358), and is a cooperative owner-built activity similar in certain aspects to the Farmer Home Administration's Section 523 Self-Help program.

1.) Old and New MHO

The Mutual Help Homeownership Opportunity programs provide housing for qualified lower income Indian families residing on Indian reservations, in Alaska Native villages, or in other Indian areas (such as the State of Oklahoma, or in certain locations in California). Qualified Indian families purchase, with HUD's assistance, decent, safe, and sanitary housing of modest design.

The program evolved during the early 1960s as an alternative to the low-rent program, which at that time had fixed rents which proved financially prohibitive to the lowest income Indian families. The Public Housing Administration's General Counsel found that sufficient authority existed under the U.S. Housing Act of 1937 to administratively create a home ownership program, which would instill pride of ownership and thus enhance owner participation, at a reasonable cost. Required contributions of land, materials, money or actual labor to build the homes would increase the financial feasibility of the projects and make the homes affordable to the lowest-income families.

Participating families sign a Mutual Help and Occupancy Agreement with the IHA, which specifies their obligations over the 25-year term of the contract. In addition to the initial contribution of at least \$1,500 in land, materials, money or labor, the families pay between 15 and 30 percent of their adjusted incomes, but at least an administration charge, and are responsible for all utilities and maintenance for their units. HUD modernization funds are available only in emergency situations. HUD provides a utility allowance, but no utility reimbursement.

As of September 30, 1991, over 49,800 MHO units have been developed. This represents approximately 62 percent of the total HUD Indian units built since the programs began. Of this total, approximately 6,000 units have been paid-off by the homebuyers and are no longer part of the program. Specifically, the Old Mutual Help Program, which are units reserved prior to 1976, produced 16,579 units for a total cost of over \$439 million. The New Mutual Help Program produced 31,317 units of new housing for a total cost of \$2.118 billion.

2.) Self-Help Mutual Help

Section 203(f) of the Indian Housing Act of 1988 established a new Self-Help MHO program within the Department, modeled after the program authorized under Section 523 of Title V of the National Housing Act of 1949, and operated by the Farmers Home Administration of the U.S. Department of Agriculture.

On September 26, 1988, interim regulations were issued to implement the new program. Lower income Indian families cooperatively build their own homes by providing the major portion of the labor, supervised by someone with technical expertise in construction. Indian housing authorities may, if they wish, apply to the Indian field offices, to participate in this program, rather than the regular MHO program.

Thus far, no IHAs have applied to develop units under this program. However, there has only one been one funding cycle since its authorization and there is growing interest in the concept.

c. Turnkey III

During the 1970s, another lease-purchase program was administratively authorized. Implementing regulations can be found in 24 C.F.R. Part 904. The Turnkey III program is based on a cooperative form of homeownership, where all participating families pay, at minimum, operating expenses and debt service, along with routine maintenance. Although minimal operating subsidies are available, the program relies on additional payments from those families within the project who are able to pay more than the minimum required for their units. Participant payments in excess of the minimum charge go into the Nonroutine Maintenance Reserve (NRMR), and any other payments beyond a certain specified amount are deposited into the family's Earned Home Payments Account (EHPA).

Homeownership contracts are for either 20-, 25- or 30-year terms. Those executed prior to establishment of the 1982 regulations required a payment of between 15 and 30 percent of adjusted income; agreements executed after the 1982 regulations set a mandatory payment of 30 percent of adjusted income.

Today, there are fewer than 2,100 units in the Indian housing program. The public housing program has some 10,000 Turnkey III units. No new Turnkey III units will be developed. The Department has issued policies allowing conversion to either the MHO or Rental program, as appropriate.

d. Modernization

Section 14 of the U.S. Housing Act of 1937 established the Department's current public and Indian housing modernization program: the Comprehensive Improvement Assistance Program (CIAP). The CIAP program provides Federal assistance to PHAs and IHAs to improve the physical condition of existing public and Indian housing developments and for upgrading the management and operations of such projects.

Assistance under the program has been available primarily to rental projects currently under an Annual Contributions Contract (ACC) with the Department. Only certain health and safety, energy conservation, handicap accessibility, and development-related design and construction deficiencies were eligible modernization costs for homeownership units. However, a major legislative change was passed in the Cranston-Gonzalez Affordable Housing Act of 1990 which provides for management improvements for homeownership developments and allows for a one-time comprehensive modernization of Mutual Help units. Comprehensive modernization for Mutual Help units which are at least 10 years old, special purpose modernization for vacant and non-homebuyer occupied Turnkey III units and management improvements for homeownership developments will be implemented in CIAP in FY 1992.

The general categories of CIAP are as follows:

- *Comprehensive Modernization
- *Emergency Modernization
- *Special Purpose Modernization
- *Homeownership Modernization

Over the past several years, the Indian housing program has received between two and three percent of the total funds appropriated each fiscal year. In FY 1989, IHAs received \$43,200,000 or 2.64 percent of available CIAP resources (\$1,646,948,000). In FY '90, IHAs received \$53,277,677 or 2.7 of the total available funds (\$1,973,247,307). In FY '91, the total allocation set a record for Indian housing with \$67,365,000 allocated. In FY '92 the allocation for IHAs participating in the CIAP program will again exceed previous allocations as the IHAs are expected to receive 6 percent of the funds available for CIAP.

CIAP Funding for Indian Housing
1981-1990

Fiscal Year	Allocation
1980	7,200,000
1981	14,218,093
1982	19,771,977
1983	22,870,830
1984	10,812,919
1985	11,228,545
1986	14,136,391
1987	28,770,482
1988	54,895,154
1989	44,687,046
1990	53,277,677
1991	67,365,000
1992	32,676,063

Source: Management Information Retrieval System

Note: 1992 is the first year of Comprehensive Grant

e. Comprehensive Grant Program

Section 119 of the Housing and Community Development Act of 1987 (Pub. L. No. 100-242) amended Section 14 of the U.S. Housing Act of 1987 and contained a provision which significantly revised the public and Indian housing program. Section 119 of the 1987 Act established the new Comprehensive Grant Program (CGP) which was designed to govern the modernization needs of larger PHAs and IHAs.

The Comprehensive Grant program has two basic objectives for PHAs and IHAs that own or operate 500 or more units (250 or more units beginning in FY 1993): (1) to provide greater flexibility and discretion to IHAs and PHAs in carrying out their modernization programs, and ; (2) to establish reliable funding for capitol improvements through the use of formula funding.

Under the program, larger IHAs and PHAs receive capital improvement funds by a formula allocation method, instead of the current competitive, discretionary CIAP program in which HUD decides which developments are to be funded by setting priorities, establishing a ranking system, and reviewing and approving individual applications. The CGP program will be implemented by a final regulation, which is expected to be published in the Federal Register in November, 1991, and to become effective for FY 1992. The CIAP regulations will continue to apply to IHAs and PHAs with fewer than 500 units (249 or fewer units beginning in FY 1993).

The CGP program will provide larger IHAs funds to address both the physical and management improvement needs of Indian rental and homeownership developments. For formula allocation purposes, rental units will each be counted as one unit. Turnkey III units will be counted as 1/4. Mutual Help units will each be counted as one full unit, until they have been comprehensively modernized.

Mutual Help units which are at least 10 years old will be eligible to be comprehensively modernized one time. Once a Mutual Help unit has been comprehensively modernized, it will no longer be counted either for purposes of the threshold for participation in the program or for formula funding purposes. As a result, an IHA that wants to provide additional limited physical and management improvements for a Mutual Help unit which has already been comprehensively modernized would have to do so using CGP funds allocated on behalf of its other units.

Vacant or non-homebuyer occupied Turnkey III units may be comprehensively modernized under the CGP program on an as-needed basis, in order to facilitate the sale of the unit to a homebuyer family. Because of statutory limitations, homebuyer occupied Turnkey III units may receive only limited physical and

management improvements, to take into account the homebuyer's responsibility for certain maintenance and repair costs.

Under the CGP program IHAs and PHAs will be required to develop a comprehensive plan which includes: an assessment of all physical and management needs; an action plan which covers all activities the IHA/PHA proposes to fund over a period of five years, and; an annual statement detailing the activities the IHA/PHA expects to fund with the current year's grant. The comprehensive plan must be developed in consultation with local or tribal government and residents.

CGP Funding for Indian Housing 1992	
Fiscal Year	Allocation
1992	92,783,010

Source: Office of Indian Housing

f. Operating Subsidy

Section 9(a) of the U.S. Housing Act of 1937, as amended, authorizes the payment of operating subsidies, on an annual basis, to make up the shortfall, if any, between the revenues projected by a PHA or IHA, and its operating expenses. Payments to eligible PHAs and IHAs in the rental program are generally calculated under the Performance Funding System (PFS), a formula based on what a prototype well-managed PHA or IHA would need to operate its programs. In the rental housing program, an allowable expense level is determined, and the utilities expense level is then added. The total expense level, the result of these amounts, is then subtracted from the projected operating income level to determine the operating subsidy needed. These amounts, in per-unit per-month figures, are then multiplied by the appropriate number of unit-months available. Independent audits, certain costs attributable to deprogrammed or vacant units, and added costs due to statutory or regulatory revisions are additional allowable expenses.

Operating subsidies for all housing authorities in the Turnkey III program and for housing authorities in the rental housing program in Alaska, Guam, Virgin Islands and Puerto Rico are based on operating budgets approved by the HUD field offices.

Operating subsidies in the MHO program are limited to the following:

- * HUD-approved independent audit costs;
- * administration charges for vacant units;
- * collection losses from terminated MHO participants;
- * maintenance, including repairs and replacements, to the units of terminated MHO participants;
- * HUD-approved homebuyer counseling not otherwise funded;
- * HUD-approved costs for training IHA staff and Commissioners;
- * unusual operating costs, as approved by HUD Headquarters.

In addition to other changes to the PFS, the Housing and Community Development Act of 1987 mandated a revision, by June 15, 1988, to "accurately reflect the increase in insurance costs incurred by public housing agencies."

A proposed rule was published on December 19, 1989 which would allow housing authorities to appeal their current allowable expense levels. A final rule is currently in preparation.

The Department provided total operating subsidy payments to IHAs in the amount of \$58,640,929 in Fiscal Year 1990. This total is comprised of the following amounts:

	Pct of Total	
\$45,922,522	78.5%	PFS Funding
\$ 307,804	.5%	Insurance Premiums
\$ 9,298,138	15.8%	Mutual Help Subsidy
\$ 716,268	1.2%	Turnkey III Subsidy
\$ 2,396,197	4.0%	Alaska

Operating Subsidy for Indian Housing Authorities
1980-1990

Fiscal Year	Allocation
1980	11,463,408
1981	16,723,969
1982	22,730,642
1983	19,623,329
1984	27,131,857
1985	33,512,149
1986	38,945,647
1987	46,124,433
1988	49,813,998
1989	55,200,515
1990	58,640,929

Note: Includes Alaska Subsidy

Source: ROBOTS

g. Child Care Demonstration Program

Section 222 of the Housing and Urban/Rural Recovery Act of 1983, as amended by Section 117 of the Housing and Community Development Act of 1987, authorized a demonstration program designed to provide grants to nonprofit organizations to assist them in establishing child care facilities. The program will help to enable parents or guardians of school-aged children who reside in public or Indian housing to seek, retain or train for employment.

During Fiscal Years 1988 and 1989, the Department issued a Notices of Funds Availability (NOFAs) to award \$5 million each year directly to child care providers. The FY 1990 and FY 1991 Child Care funding allocations are being combined with the Department of Health and Human Services HeadStart program. The Cranston-Gonzalez National Affordable Housing Act authorized an Indian Child Care demonstration program. However, no funds have been appropriated.

Child Care Funding
By Fiscal Year

Fiscal Year	Available (\$)	Grantees	Funded (\$)	Pct of Total
1988	5,000,000	5	379,507	7.5%
1989	5,000,000	9	732,751	14.6%
1990	4,777,000	6	1,575,703	32.9%
Total	14,777,000	20	2,687,961	18.2%

Source: Office of Indian Housing

h. Drug Elimination Program

The Anti-Drug Abuse Act of 1988 authorizes HUD to make grants to Indian housing authorities for use in eliminating drug-related crimes from housing projects. To receive funding, the IHA must develop a plan for addressing drug related crime which indicates how the assisted activities will further the plan. Grant funds may be used for a variety of activities including: 1) Security personnel; 2) reimbursement to local law agencies for security; 3) physical improvements; 4) employing investigators; 5) tenant patrols; 6) innovative programs; 7) security and prevention programs of RMCs and RCs.

Applications are scored based on the following criteria:

- 1) The extent of drug related crimes
- 2) The quality of the plan
- 3) Applicant's admin capability
- 4) Local and community support
- 5) Resident involvement and participation

In FY 1989, the first year of the program, \$8,200,000 in grants were available. Of that total, one IHA was funded for \$100,000. In FY 1990, a much greater number of IHAs competed for Drug Elimination grants and 14 IHAs were selected for a total of \$2,741,169. By 1991, IHAs interest in the program was very high and the number of fundable applications more than doubled.

Drug Elimination Funding
By Fiscal Year

Fiscal Year	Available (\$)	Grantees	Funded (\$)	Pct of Total
1989	8,200,000	1	100,000	1.2%
1990	97,409,000	15	2,741,169	2.8%
1991	140,775,000	31	4,443,734	3.1%
Total	246,384,000	47	7,184,903	2.9%

Source: Office of Indian Housing

i. Youth Sports Programs

The Youth Sports Program (YSP) is used for sports, cultural, educational, recreational, or other activities designed to appeal to youth as alternatives to the drug environment in the public of Indian housing projects. There are a number of eligible activities. Youth Sports Program funds may be used to assist in carrying out sports, cultural, recreational, educational or other activities for youth. In addition, acquisition, construction, or rehabilitation of community centers, parks, or playgrounds is an eligible activity under the Youth Sports Program.

The first year in which Youth Sports funding was available was FY 1991 when \$7,500,000 was available. The funding round was not completed and has been combined with FY 1992.

j. Resident Management Grants

Since 1988, the Department has provided technical assistance in the form of monetary grants to resident councils, resident management corporations and resident organizations. Initially, Indian organizations were not eligible for RM grants. However, with the publication of the Interim Indian Housing Rule in FY '91, a definition for an Indian resident organization was established and Indian associations began the process of formation.

The first year of eligibility saw 35 Indian resident organizations formed, with 24 applying for technical assistance. Of those 24, four were successful.

Resident Management Funding
By Fiscal Year

Fiscal Year	Available (\$)	Grantees	Funded (\$)	Pct of Total
1989	5,000,000	0	0	0.0%
1990	5,000,000	0	0	0.0%
1991	5,000,000	4	160,000	3.2%
Total	15,000,000	4	160,000	1.0%

Source: Office of Indian Housing

k. Section 8 Existing Certificates and Vouchers

The Indian housing program is the primary source of housing assistance in Indian areas. Nonetheless, a number of IHAs and Tribes have taken advantage of other HUD programs. Section 8 Vouchers and Certificates have been used successfully, although they are not widespread.

IHAs in the state of Oklahoma have operated the Section 8 Existing program successfully for a number of years. More recently, in FY 1988, 500 vouchers were allocated to IHAs under a special set-aside. These units were distributed to IHAs where there was available rental housing and were quite successful in supplementing the low-rent and homeownership programs. However, applicability of both the Section 8 Existing program and Voucher program is limited in Indian country due to the scarcity of available rental stock.

IHAs Using Section 8 Vouchers and Certificates

<u>STATE</u>	<u>IHA NAME</u>	<u>NO. CERT</u>	<u>NO. VOUCHERS</u>
Alaska	Kodiak Island Housing Authority		50
Arizona	Navajo Housing Authority		50
Minnesota	White Earth Housing Authority		25
Montana	Blackfeet		70
	Salish & Kootenai		50
North Carolina	Qualla Housing Authority		70
Nevada	Pyramid Lake Housing Authority		50
New York	Akwesasne Housing Authority		25
Oklahoma	Cherokee Nation IHA	809	126
	Chickasaw	685	143
	Choctaw Nation IHA	313	86
	Seminole	24	50
	Seneca-Cayuga	20	
	Delaware	10	

Washington	Cascade Inter-Tribal	138
Wisconsin	Menominee Tribal HA	25
	-----	-----
	1,861	958

Source: Policy Development and Research Report

C. HOUSING DEVELOPMENT

1. General Overview

IHAs develop, own and administer Indian housing projects for eligible lower Indian families residing on Indian reservations, in Alaska Native villages and in other Indian areas.

Funding for the development of new units for Indian Housing is appropriated separately from the Public Housing program. OIH, utilizing statistics provided by the BIA, allocates the funds to the six OIPs based on a total need factor for all of the IHAs located within each jurisdiction.

Beginning in FY '90, the Office of Indian Housing in Headquarters developed a national Notice of Fund Availability (NOFA) for use by all OIPs. Funding decisions made by OIPs will be based on a number of factors outlined in the NOFA, including need, current pipeline, administrative capability for development and management, and other circumstances which affect administrative capacity.

The field offices then contract with IHAs through the Annual Contributions Contract (ACC) to develop housing units by acting as the developer to either build new units or substantially rehabilitate existing units (the conventional method); by contracting with private developers to either build or substantially rehabilitate existing units (the turnkey method); or by acquiring existing housing, if available (the acquisition method).

The following steps are utilized in the development of the typical Indian housing project using the conventional method:

1. HUD - Headquarters allocates funds to each region based on needs assessments.
2. HUD - OIPs prepare Notice of Fund Availability indicating the number of units available and outlining the basis for funding decisions.
3. IHA - IHAs prepare applications and submit to HUD, including data on need, waiting lists and site identification.
4. HUD - OIPs review applications and send approval and disapproval letters to IHAs.

5. HUD/IHA - A project coordination meeting is held which includes the BIA and IHS and other appropriate parties.
6. IHA - The IHA advertises for and selects a design architect.
7. IHA - The IHA prepares the Preliminary Site reports including site maps and utility requirement.
8. HUD - OIP reviews sites and prepares an environmental assessment. Authorizes the preparation of a Development Program.
9. IHA - The IHA prepares and submits a Development Program to HUD which includes an initial project budget, schematic drawings, leases and easements and project cost estimates. This is typically submitted within 12 months from the time of approval of the project.
10. HUD - The OIP reviews the Development Program and authorizes preparation of bidding documents.
11. IHA - The IHA prepares bid documents for HUD review.
12. HUD - The OIP reviews bid documents and authorizes the IHA to advertise.
13. IHA - The IHA advertises the bid using Indian Preference procedures.
14. IHA - The IHA reviews bids, makes a selection and submits to HUD for concurrence.
15. HUD - The OIP reviews the bid process and, if proper, concurs in the selection by notifying the IHA to execute the contract.
16. IHA - The IHA executes the contract and issues the Notice to Proceed.
17. HUD/IHA - The project preconstruction conference is attended by the IHA, HUD, architect, general contractor, subcontractors and other federal agencies as necessary.
18. IHA - The IHA and the architect oversee the construction phase.
19. HUD - The OIP construction analyst reviews contract status in field on a regular basis, usually once per month.

20. IHA - When the project reaches the Date of Full Availability (DOFA), the contractor furnishes a punch list and the IHA prepares completion documents for input to HUD.
21. HUD - The OIP reviews the completion documents and authorizes final payment to contractor after adjusting for claims.
22. IHA - The IHA pays the contractor and one year warranty period begins when units become occupied.

2. Interagency Coordination

Since the inception of the Indian housing program there has been a need for HUD to coordinate housing development with the Bureau of Indian Affairs (BIA) and the Indian Health Service (IHS). As stated previously, it was necessary for HUD to enter into an Interdepartmental Agreement with BIA and IHS to coordinate the following infrastructure:

with BIA - land leases (BIA is the trustee of Indian lands)
- off-site and project roads (BIA funds off-site roads and sets standards for both types of roads.)

with IHS - Water and sewer systems (HUD provides funds to the IHA, which usually contracts with IHS to construct these systems.)

The Inter-Departmental Agreement requires the Indian Field Offices and IHAs to work closely with BIA and IHS in planning Indian housing projects. A project coordination meeting is required between the IHA, HUD, BIA and IHS during the planning phase of each project.

In a further effort to enhance inter-agency communication, the Office of Indian Housing meets on a regular basis with Washington staff from IHS, BIA, as well as the Environmental Protection Agency and, the Department of Labor, the Veteran's Administration and HUD's Community Development to discuss and solve common problems.

During the past year, new policies have been issued on solid waste related to HUD-assisted housing and standards used in building roads within HUD-assisted housing projects. In addition, the ability to handle solid waste is now being addressed in the application process for new units.

3. Indian Preference

The statutory basis for Indian Preference in HUD's Indian Housing programs comes from the Indian Self-Determination and Education Assistance Act which was enacted January 4, 1975. Although this legislation was specifically directed at federal programs for Indians administered by the Secretary of the Interior through the Bureau of Indian Affairs and what was then the Secretary of Health, Education and Welfare through the Indian Health Service, HUD, utilizing Section 7(b) of the Act, established an administrative policy which required that Indian housing authorities give preference to Indians in matters of employment and contracting and sub-contracting.

A proposed rule was published on September 19, 1975 which established HUD's policy for implementing Indian preference, but did not include specific methods for implementation. A final rule was published on March 9, 1976. In summary, this policy called for Indian preference as long as it did not result in higher costs or greater risks of non-performance. As in all cases, the contract was awarded to the lowest responsive bid or the best proposal.

Almost immediately after, in June of 1976, and in response to public comments for institution of procedures to facilitate the award of construction contracts, the Department waived those portions of the newly published regulation limiting award to the lowest bid and resulting in higher cost. Through a handbook notice, HUD established four procedures for implementing Indian preference; two which allowed for Indian only bids and two which permitted a cost differential.

In January, 1979, HUD issued new proposed Indian Housing regulations and again revised portions of the Indian preference requirements. The cost differential method was eliminated as unworkable since it reduced competition in bidding. In November 1979, a final regulation was issued which allowed the Indian only preference methods. At that time the Department restated its policy that contracts should be awarded to the lowest responsive bidder.

On September 26, 1984 the Department issued an Indian Preference statement of policy which provided clarification and guidance in implementing the Indian preference regulation which had been in existence for the previous five years and gave notice to the public that HUD was in the process of preparing a proposed rule for publication in the Federal Register. Public comments were invited at that time.

Based on the comments received, the Department issued a proposed Indian Preference rule on January 3, 1986. After

considering additional comments received from the public, a Final Rule was published December 4, 1986 which constitutes the existing regulation. The effective date of this regulation was March 15, 1987.

Since the current final rule was published, HUD, in an attempt to clarify its policies, has on a number of occasions provided training to HUD field attorneys and Indian housing staff. Headquarters has worked with numerous local IHAs and has conducted a training session at the national convention of the National American Indian Housing Council. In addition, each Office of Indian Programs has conducted its own training sessions for the IHAs in their regions.

The method which has been established gives the IHAs flexibility to select among 3 options for providing preference in contracting and subcontracting:

- all Indian;
- competitive with a price differential for Indian firms; or
- another method proposed by the IHA and Tribe and approved by HUD.

The regulations also contain Indian preference requirements for subcontracting and employment and provided a complaint resolution process.

HUD's Indian Preference policy has resulted in 97.6% of all Indian Housing funds (\$139,557,916 of \$143,117,266) awarded to Indian enterprises in FY 1990. In FY 1991, 59.5% of Indian Housing funds were awarded to Indian or minority enterprises (\$121,765,387 of \$204,781,907 available).

4. Development Costs

Since 1981, both the Administration and the Congress have been concerned about the rapidly rising costs of Indian housing. In the FY 1982 Appropriations Act, HUD was directed to report on Indian housing cost reduction measures. The table below illustrates the history of Indian housing costs from 1972 to date; the earliest figures may be artificially low because 1) these reflect smaller, simpler houses, 2) there was relatively greater investment of "sweat equity," and 3) the earliest projects were frequently built in more convenient sites. In contrast, the peak cost numbers in 1981 may be overstated because this data includes a disproportionate number of houses in Alaska.

Still, the trend illustrates that in spite of inflation and ever-increasing consumption of easily-developed sites, costs of new Indian housing units are remaining near levels of eight to ten years ago. In current dollars, and in constant dollars adjusted for inflation, the 1989 costs represent about a 20% reduction from the peak 1981 cost levels.

Indian Housing Average Cost				
Fiscal Year	Units Reserved	Loan Authority Reserved	Loan Authority Per Unit	Percent Change
1972			\$22,124	-
1973			\$28,201	27.47%
1975			\$35,760	26.80%
1976			\$40,828	14.17%
1977			\$55,420	35.74%
1978			\$56,928	2.72%
1979			\$62,862	10.42%
1980	5,494	\$390,963,953	\$67,593	7.53%
1981	2,258	\$167,915,766	\$73,873	9.29%
1982	3,016	\$192,448,758	\$63,809	-13.62%
1983	2,325	\$131,918,875	\$56,739	-11.08%
1984	2,635	\$143,002,664	\$54,270	-4.35%
1985	2,002	\$116,507,242	\$58,195	7.23%
1986	2,078	\$115,996,706	\$55,821	-4.08%
1987	3,627	\$245,041,593	\$67,560 1/	21.03%
1988	2,873	\$196,497,818	\$69,287	2.56%
1989	1,429	\$102,698,966	\$68,833	-0.66%
1990	1,823	\$136,099,095	\$74,657	8.46%
1991	2,518	\$216,083,133	\$85,815	13.00%

Note: FY 1974 data is not included, due to the program's temporary suspension. Starting in FY 1987, initial reservation of funds include an estimate for off-site water and sewer costs.

The Table above reveals that the per-unit reservation amount increased substantially in the FY 1987 funding cycle. The reason for this increase is that, with the FY 1987 funding cycle, initial reservations of funds for Indian housing projects have been increased to include an estimated allowance for the cost of off-site water and sewer. A second increase occurred in FY 1990 as a result of the Green Amendment which changed the manner in which Total Development Costs are calculated.

For a number of years prior to FY 1987, the cost of off-site water and sewer has been assumed by HUD as a category of amendment funding; the project was "amended" a year or two later than the initial reservation to provide the necessary additional funds. The cost of off-site infrastructure varies from less than 5% of unit cost (particularly in Oklahoma, or any place where new homes are built in close proximity to existing infrastructure systems) to as much as \$9,000 to \$10,000 in the case of difficult or remote sites.

Beginning with the FY 1987 funding cycle, the Department has increased the per-unit allocation of development funds and reduced the availability of amendment funds accordingly. Amendment funds are used primarily where it was essential for additional funds to complete projects for occupancy.

 Amendment Funding - FY 1986 TO FY 1991

Year	Amendment Authority
1986	\$30,505,639
1987	\$14,801,000
1988	\$20,354,146
1989	\$ 8,727,000
1990	\$44,274,601
1991	\$46,000,000

Distribution of Amendment Funds - FY 1989 TO FY 1991

	FY 89 Amendment Authority	FY 90 Amendment Authority	FY 91 Amendment Authority
Chicago	876,317	8,200,000	8,439,422
Okl City	382,951	5,814,353	300,000
Denver	2,073,798	4,530,000	5,842,316
Phoenix	2,100,529	13,786,245	13,906,949
Seattle	650,000	3,608,000	3,788,813
Anchorage	2,643,405	8,334,003	7,722,500
U.S. Total	8,727,000	44,274,601	46,000,000

Source: Program Accounting System (PAS) Grant Status Report

The reduction in amendment funding from 1986 to 1987 depicts the revision in the funding source for off-site water and sewer from amendment funding to new construction funds. In FY '90 and '91, the use of amendment money increased substantially as a result of the Green amendment.

5. Pipeline Movement

In the early 1980's the Indian Housing program was criticized as having a stagnated pipeline. Since 1986 pipeline movement has accelerated considerably and there are few, if any, localized problems with slow moving projects.

Indian housing authorities, in conjunction with the HUD Indian field offices, made considerable progress moving units through the development pipeline to maximize the production of decent, safe and sanitary Indian housing units for lower-income families in Indian areas. As a result of this progress, the Department stopped developing goals for reservations, starts and completions in the FY 1990 Departmental Management Plan.

The chart below provides a status report of reservation, starts and completions in FY 1991 for each of the six OIPs.

PIPELINE ACCOMPLISHMENTS IN FY 1991

Field Office	Reservations	Starts	Completions
Chicago	400	210	180
Okl City	399	355	257
Denver	323	105	333
Phoenix	920	843	685
Seattle	167	73	229
Anchorage	309	144	213
U.S. Total	2518	1730	1897

Source: Management Information Retrieval System

Over the last several years, the Department has emphasized the goal of reducing the project processing and development times and expediting the process of moving projects from approval-and-funding to occupancy.

IHAs have consistently reduced processing times as depicted below.

 AVERAGE PROCESSING TIMES FY 1985 - FY 1990 (MONTHS)

Category	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91	Mths +/-
Rsrvtn-Start	38.7	34.4	33.6	25.5	21.9	25.8	27.9	-
								10.8
Start-DOFA	13.1	11.0	10.6	12.1	11.2	11.6	14.3	
								+1.2

Source: Management Information Retrieval System

 Listed below is a three year review based on the individual data for program reservation to Construction start from each Office of Indian Programs.

 Average Processing Times
 In Months

Office	FY 1989	FY 1990	FY 1991
Chicago	19.2	16.0	27.4
Okl City	22.6	17.4	22.5
Denver	18.5	22.3	27.0
Phoenix	29.8	28.0	32.3
Seattle	24.8	31.9	28.0
Anchorage	18.0	27.0	25.2

Source: Management Information Retrieval System (MIRS)

 Overall, the reduction in new units allocated due to budget constraints has also had a pronounced effect on the total pipeline. Since FY 1983, the total number of units in processing has been reduced 34 percent. A slight increase in the pipeline was experienced at the end of FY '90, as a result of a higher appropriation level of funds. That increase continued with

almost 3,000 new units reserved in FY '91.

END-OF-YEAR DEVELOPMENT PIPELINE REDUCTIONS

End of FY	Pre- Construction	Under Construction	Total	Pct +/-
1983	9,200	4,315	13,515	-
1984	9,087	3,298	12,385	-8.3%
1985	7,777	3,996	11,773	-4.9%
1986	6,139	4,107	10,246	-12.9%
1987	6,535	3,596	10,132	-1.1%
1988	6,719	2,192	8,911	-12.1%
1989	5,027	2,699	7,726	-13.3%
1990	4,725	3,344	8,069	+4.4%
1991	5,648	3,165	8,813	+9.2%

Source: HUD Budget Documents, 1984-1988
Management Information Retrieval System

Pipeline statistics for the end of FY 1991 by OIP are as follows:

Office	Pre-Construction		Under Construction		Total		Pct of US Tot
	Projects	Units	Projects	Units	Projects	Units	
Chicago 14.1%	55	916	17	325	72	1,241	
Okl City 15.3%	40	872	20	472	60	1,344	
Denver 12.8%	35	728	14	398	49	1,126	
Phoenix 39.7%	91	1,965	62	1,531	153	3,496	
Seattle 8.1%	21		477	11	236	32	713
Anchorage 10.1%	41	690	15	203	56	893	

Source: Management Information Retrieval System (MIRS)

D. MANAGEMENT

1. General Overview

Although HUD does not directly manage any Indian housing units, it is responsible for ensuring that IHAs perform all management functions required by the Annual Contributions Contract (ACC).

For the Low-Rent program, the IHA is responsible for the taking of applications from prospective tenants, income verification, rent determination and monthly collections, and for all routine and non-routine maintenance on the units. In order to accomplish these functions, the IHA maintains an administrative and maintenance staff. Staff salaries, equipment, supplies and other expenditures are paid through income received from rental payments and, as necessary, Operating Subsidies from HUD.

Each IHA, on an annual basis, submits to HUD a budget and supporting documentation for these expenses. HUD reviews and approves budget submissions. At the beginning of the budget year, HUD also establishes a schedule for the payment of operating subsidies to the IHA. The approved budget becomes an agreement between the IHA and HUD as to how income will be spent for the year. Revisions to the budget may be authorized with the submission of a revised budget to HUD.

At the end of the IHA's fiscal year, a financial statement is submitted to HUD which lists the actual expenditures.

For the homeownership programs, the IHA performs the same functions of receiving applications, income verification and calculation of monthly payments as in the Low-Rent program. However, there are differences from Low-Rent in the income requirements of the prospective homebuyer and the percent of income paid for a monthly payment.

Unlike Low-Rent, there is no utility reimbursement which results in a negative payment. And, even if income is insufficient to calculate an actual payment, the prospective homebuyer must pay a monthly administrative fee to the IHA. This fee covers insurance costs on replacement of the unit as a result of fire or natural disasters and covers the IHA's administrative costs for operating the program. Since the Mutual Help programs require that all routine and non-routine maintenance be paid for by the homebuyers, no IHA staff or funds are used for these activities. The IHA is allowed to provide counseling to homebuyers in the proper care and maintenance of the unit.

As with the Low-Rent program, budgets and financial statements are submitted to HUD for review and approval.

HUD performs regular reviews of each IHA, depending on their administrative capability, to insure that the above functions are carried out properly and timely and in accordance with regulations and guidelines. In addition, HUD provides the IHA with technical assistance where the administrative capacity is lacking.

Each year, an independent audit is performed on the IHA. The results are submitted to HUD for review. Where findings have been made by the auditor, HUD is responsible for insuring that the IHA corrects any deficiencies.

2. Administrative Capability Assessment

In response to IHA concerns regarding the award of funds, the OIH developed an objective means of evaluating and analyzing IHA performance in a number of key areas. The purposes of the Administrative Capability Assessment (ACA) are: to provide information to the OIP in the determination of awarding development and modernization funds; to identify IHAs with problems and to determine where reviews are needed; to highlight areas where training or technical assistance may be necessary; to document good performance by IHAs; and to provide IHAs and Tribal governments with a regular and formal performance assessment.

The ACA is used as a guide to IHA performance, not as the sole criterion for the award of new units or modernization funds. Other factors are considered and given equal weight within the assessment process. The elements which comprise each IHA's evaluation under the ACA include: administration; development; financial management; occupancy management; maintenance management; and CIAP.

In each category, there is a number of objective "yes/no" questions asked. The entire ACA consists of over 200 possible questions.

Since its inception in FY 1986, the ACA has given IHAs the ability to concentrate their efforts on those management areas deemed most important by HUD. As a result, significant improvement may be seen in each of the six ACA categories.

The chart below lists the average scores in each of the six categories.

AVERAGE IHA SCORES 1986 - 1991

Fiscal Year	Admin	Maint	Finance	Occup	Devel	CIAP	Raw Score	Total Score
FY '86	75.6	73.1	65.9	81.7	74.1	72.5	72.5	72.5
FY '87	79.5	83.8	68.3	81.4	75.9	73.4	75.6	74.9
FY '88	82.4	85.3	71.2	85.9	82.9	68.7	79.4	76.2
FY '89	84.7	84.5	71.8	84.0	81.3	80.2	80.0	78.0
FY '90	84.1	85.9	69.9	82.3	81.8	81.6	79.6	77.1
FY '91	81.9	84.2	68.5	80.4	77.4	78.6	77.0	75.0

Source: Management Information and Retrieval System

3. Tenant Account Receivable Stabilization

During FY 1989 and FY 1990, the tenant account receivables increased substantially, reversing the slowing trend of the past three year period immediately preceding.

One indication that TARs are going up is the number of tenant accounts past due. In FY 1985 there were 21,808 tenant accounts past due; as of 9/30/90 there were 21,308 tenant accounts past due, or an over-all decrease of 2.3%. However, there was an increase in the number from the end of FY '89 to the end of FY '90 with almost 4.5 percent more Indian housing residents having a delinquent TAR balance.

TENANT ACCOUNTS PAST DUE

Fiscal % Year	Chi	OKC	Den	Phx	Sea	Anc	U.S. Total	Yrly +/-
9/85	2,203	3,113	8,726	4,793	1,340	1,633	21,808	-
9/87	2,224	2,607	6,784	4,789	1,068	1,467	18,939	-13.1
9/88	2,253	2,569	6,740	4,230	1,318	1,442	18,552	-2.0
9/89	2,487	2,297	8,135	4,424	1,571	1,438	20,397	+9.9
9/90	2,772	2,419	8,111	4,637	1,732	1,637	21,308	+4.4
9/91	2,864	2,874	7,635	4,851	1,693	1,683	21,600	+1.4
Pct +/- 85-91	+30.0	-7.6	-12.5	+1.2	+26.3	+3.1	-0.1	
Pct +/- 90-91	+3.3	+18.8	-5.9	+4.6	-2.2	+3.1	+1.4	

Source: Management Information Retrieval System (MIRS)

Overall, the national total of Tenant Accounts Receivable increased by vastly different levels in each OIP. Chicago and Seattle experienced large increases, whereas Phoenix remained steady and Oklahoma City continues to experience decreases.

TOTAL TENANT ACCOUNTS RECEIVABLE

Field Office	9/30/85	9/30/90	9/30/91	----- +/- ----- 85-91	90-91
Chicago	\$1,115,203	\$1,374,440	\$1,517,972	+36.1	+10.4
Oklahoma	965,861	765,013	970,440	+ 0.4	+26.8
Denver	6,459,994	7,884,532	8,165,733	+26.4	+ 3.5
Phoenix	1,464,223	1,997,440	2,265,420	+54.7	+13.4
Seattle	367,801	690,512	790,836	+115.0	+14.5
Anchorage	1,807,615	2,214,101	2,023,415	+11.9	-8.6
Nation	\$12,180,497	\$14,906,038	\$15,733,816	+29.1	+5.5

Source: Management Information Retrieval System (MIRS)

These trends indicate that IHAs are collecting participant receipts at an annual rate of approximately 87-93 percent.

TAR TREND

Year	%Change in TARs
FY 1983	+13.7%
FY 1984	+13.3%
FY 1985	+10.3%
FY 1986	+ 8.6%
FY 1987	- 7.4%
FY 1988	+ 1.1%
FY 1989	+ 8.8%
FY 1990	+ 8.7%
FY 1991	+ 5.5%

Source: Management Information Retrieval System (MIRS)

In FY 1989, OIH redefined the TAR Management Plan Objective to stress the stabilization of collection efforts at each IHA. Each OIP established goals for the number of IHAs that could stabilize TARs by the end of the FY. The definition of stabilization is a decrease in total TARs for tenants in possession or an increase of no more than 2 percent. Listed below are the number of IHAs by OIP and the number stabilized at the end of Fiscal Years 1989 - 1991.

TAR Stabilization '89-91
No of IHAs

FY IHAs	Chi	OKC	Den	Phx	Sea	Anc	U.S. Total
	42	27	28	47	24	14	182
1989	18	16	11	17	9	6	77
1990	20	16	12	17	9	7	81
1991	16	17	16	24	12	5	90
89-91 +/-	-2	+1	+5	+7	+3	-1	+13

TAR Stabilization '89-91
Pct of IHAs

Fiscal Year	Chi	OKC	Den	Phx	Sea	Anc	U.S. Total
1989	42.8	59.2	39.3	36.1	37.5	50.0	42.3
1990	47.6	59.2	43.8	36.1	37.5	50.0	44.5
1991	38.0	62.9	57.1	51.1	50.0	35.7	49.4
89-91 +/-	-4.8	+3.7	+17.8	+15.0	+12.5	-14.3	+7.1

Source: Management Information Retrieval System

4. Occupancy

The Indian housing program experiences a relatively high rate of occupancy and where vacancy concerns do exist they are limited to isolated areas. Only in the rental program in Oklahoma does there appear to be a problem which may warrant some programmatic initiative in the future. Data over the four year period, 1988-1990, do not indicate any particular up or downward trends.

Occupancy Rates by Office

Fiscal Year	Chi	OKC	Den	Phx	Sea	Anc	U.S. Total
9/88	93.7	92.4	93.2	97.0	98.1	95.4	95.0
9/89 (LR)	93.3 (95.0)	91.1 (83.2)	93.2 (91.5)	96.9 (94.0)	97.8 (94.4)	96.2 (88.6)	94.7 (92.1)
9/90 (LR)	95.9 (94.8)	94.1 (81.7)	93.6 (91.8)	95.1 (90.4)	98.0 (96.8)	97.1 (92.5)	94.9 (91.0)
9/91 (LR)	96.9 (95.4)	93.4 (79.3)	94.4 (93.0)	94.8 (90.4)	98.0 (96.7)	97.3 (92.8)	95.0 (91.3)
Chg +/-	+3.2 (+.4)	+1.0 (-3.9)	+1.2 (+1.5)	-2.2 (-3.6)	-0.1 (+2.3)	+1.9 (+4.2)	- (-0.8)

Source: Management Information Retrieval System

5. Management Expense

Although the Department subsidizes the operation of IHA Rental programs, there is still a great deal of importance placed on efficient and effective operations. On an annual basis each IHA projects income from program participants and expenses to operate the program. Financial statements are submitted on a semi-annual and annual basis to the Department for review.

Financial Information - Low Rent (PUM) (10/91)			
	10/90	10/91	+/-
Operating Receipts	58.21	62.18	+3.97
Administration	50.40	46.94	-3.46
Tenant Services	1.25	1.62	+.37
Utilities	38.91	34.26	-4.65
Ordinary Maintenance	73.28	66.82	-6.46
Protective Service59	.79	+.20
General Expense	25.50	25.70	+.20
 Routine Expenses	 189.94	 176.13	 -13.81
 Non-Routine Maintenance	 6.76	 7.42	 +.66
Total Expenditures	196.69	183.55	-13.14

Source: Management Information Retrieval System (MIRS)

6. Insurance

In June 1986, the Department was informed by the carrier of the master insurance policy for Indian housing that, as a result of the "insurance crisis" experienced during the mid- 1980s, it was likely that renewal costs would increase between two- and three-fold. Discussions then began among IHAs and the National American Indian Housing Council (NAIHC) on the feasibility of establishing a self-funded risk management pool to meet the insurance needs of IHAs.

The result of these discussions was the creation of the AMERIND Risk Management Corporation (AMERIND), a nonprofit entity incorporated on October 31, 1986 under the laws of the Red Lake Band of Chippewa Indians. AMERIND submitted a proposal to HUD which was nearly one-half the cost of the nearest responsive proposal. Coverage includes fire losses and extended coverage, fidelity bond, general liability and nonowned automobile exposure for IHAs. A major insurance company will act as third-party claims administrator and provide claims management, loss prevention and loss data analysis.

The establishment of AMERIND continues the trend toward self-funded insurance pools in public housing. The Department found that the pool was substantially equivalent to a financially sound and responsible insurance carrier and, in FY 1988, issued final approval to AMERIND. Today, AMERIND maintains a reserve pool of approximately \$12,500,000 and its annual receipts are over \$2,000,000.

In November, 1990 HUD authorized AMERIND to extend coverage to Mutual Help units which have been paid-off. This represents a major success both for AMERIND and HUD. Previously, many homeowners were faced with the possibility of not being able to secure insurance after they left the Indian housing program. This caused many to stay in the program, long after they could have paid-off the unit.

E. UNIQUE FEATURES

1. Relationship of Tribes to the U.S. Government

The unique legal posture of Indian tribes in relation to the federal government is deeply rooted in American history. Indian issues and the government's position has shifted back and forth a number of times as popular feelings and beliefs have changed. Despite the policy shifts, at least four themes have remained basically the same.

First, tribes are independent entities with powers of self-government. This is true even for the smallest tribes. Second, the independence of tribes is subject to the powers of Congress to regulate and modify the status of tribes. Third, the power to deal with and regulate the tribes is wholly federal; the states are excluded unless Congress specifically delegates powers to them. Fourth, the federal government has a responsibility for the protection of the tribes and their properties, including protection from encroachments by the states and their citizens.

Frequently, conflicts arise as a result of interpretations on the powers of tribal, state and federal government. When they occur, they take the form of jurisdictional issues.

It is very difficult to clearly mark the boundaries of these relationships and the extent of each of their jurisdictions. At its broadest, the relationship includes the legal duties, moral obligations, understandings and expectancies that have developed between the federal government and tribes. In the narrowest sense, the relationship approximates that of a trustee (U.S.) and its beneficiary (tribes) with the trustee subject in some degree to its legally enforceable responsibilities.

This trust relationship and its impact on the Indian Housing program is most frequently felt when dealing with land issues. Indian housing is usually built on trust or tribal land and, therefore, cannot be transferred permanently to the IHA or homebuyer. Thus, an arrangement with the tribe and the BIA must be established before a unit can be built on an individual piece of land.

In addition, ownership of the unit for succession purposes does not follow the same principles as found in non-Indian law. Tribal customs and ordinances frequently determine the owner which, in some cases, may conflict with the objectives of the Indian Housing program.

Probably, the most complex problems in the Indian Housing program arise when there is a civil matter involving a construction claim by a contractor or architect against the IHA. Adjudicatory

jurisdiction between the federal, state and tribal courts is frequently questioned by the parties involved as they seek a venue which they believe will be more favorable to their claims.

Subject matter jurisdiction is usually decided by determining the following issues: (1) whether the parties involved are Indians and (2) whether the events in issue took place in Indian country. Despite the apparent simplicity of these factors, many state courts become involved with cases which most properly should be handled in tribal courts. When this occurs, the matter at hand usually takes a back seat to the question of jurisdiction itself.

One final area which is frequently discussed is the definition and extent of tribal sovereignty. Sovereignty is a word of many meanings and it is used in a number of different ways in Indian affairs. At its most basic, the term refers to the inherent right or power to self-govern. Unlike a city or state, a tribe is its own source of power. Thus, a tribe's right to establish a court or levy a tax is not subject to question on the grounds that Congress has not authorized the tribe to take these actions. The tribe is sovereign and needs no authority from the federal government.

This is not to suggest that tribal sovereignty is without limits. The point to be emphasized is that when a question of tribal power arises, the relevant inquiry is whether any limitation exists to "prevent" the tribe from acting, not whether any authority exists to "permit" the tribe to act.

The implications for the Indian Housing program are overwhelming. This one federal program could theoretically have to deal with hundreds of different rules depending on the requirements of each Indian tribe. It is primarily for this reason that the Congress in 1988 established a separate Indian Housing program which could be more closely tailored to meet the needs of Indian governments and their needs.

2. Interest Groups

The Indian constituency structure consists of both National and regional organizations.

On the National level, the National American Indian Housing Council (NAIHC) represents almost all of the Indian housing authorities. NAIHC is a professional housing group and does training and technical assistance as well as Indian housing advocacy. In 1989, NAIHC was approved as a Certifying Organization for to develop a training course for Indian housing managers. It is located in Washington, D.C.

Another national group, the National Congress of American Indians (NCAI) represents Indian tribes and maintains an interest in all major Indian causes including Indian housing. NCAI is also located in Washington, D.C.

Also, the Housing Assistance Council represents both rural housing and Indian housing needs nationally.

There are also regional housing and Tribal associations that represent the specific views of their membership and coordinate with the Indian field offices on regional issues. These organizations work in conjunction with the national associations.

The public housing interest groups (NAHRO, PHADA, and CLAPHA) do not generally focus on Indian issues, although public and Indian housing groups often have some common concerns and many IHAs have joined these groups.

3. Congressional Committees and Indian Housing

Indian housing activities, unlike those in public housing, are subject to oversight by many congressional committees.

A. Appropriations

The House and Senate Budget Committees set maximum levels, by budget function, under which the Appropriations Committees function. Before annual appropriations legislation (which must originate in the House of Representatives) is passed, public and Indian housing development, modernization and operating subsidy funding levels must be reported by the HUD-Independent Agencies Subcommittee of the House Appropriations Committee, and then receive the approval of the full House Appropriations Committee. That legislation is then voted on by the entire House of Representatives.

The approval process now moves to the Senate Committee on Appropriations. As on the House side, the Subcommittee on HUD-Independent Agencies must report the measure. It then is approved by the full Senate Appropriations Committee before the Senate votes on it.

For public housing, the process is now over. But for Indian housing, there are many more elements necessary. Roads funding for Indian housing is under the jurisdiction of the Bureau of Indian Affairs, within the Department of the Interior. It must be approved by the House and Senate Interior and Related Agencies Subcommittees, before receiving approval by the respective full Interior Appropriations Committees.

Sanitation facilities, under the jurisdiction of the Indian Health Service (IHS), Department of Health and Human Services, remain part of the Interior Committees' jurisdiction. Therefore, the subcommittees and full committees responsible for the Department of the Interior will also handle IHS appropriations.

Finally, both bodies in the Congress must approve identical measures before the annual appropriations legislation is signed by the President and becomes law.

B. Other Legislation

Substantive legislative actions, not subject to the appropriations process, must be introduced and approved under a similar procedure. However, there are significantly more committees involved in approving Indian housing legislation than for public housing.

Indian housing legislation on the House side is subject to

review and approval by the House Subcommittee on Housing and Community Development, with subsequent approval necessary by the full House Banking, Finance and Urban Affairs Committee.

On the Senate side, a somewhat different arrangement exists. There is an agreement between the Senate Select Committee on Indian Affairs and the Senate Committee on Banking, Housing, and Urban Affairs that specifies joint jurisdiction over legislation affecting the HUD Indian housing program, exclusive jurisdiction for the Banking Committee on omnibus housing legislation, and exclusive Indian Affairs Committee jurisdiction over non-HUD Indian housing legislation.

Legislation pertaining to Bureau of Indian Affairs Roads Construction and IHS Sanitation Facilities is subject to House Interior and Insular Affairs Committee jurisdiction. On the Senate side, the Senate Select Committee on Indian Affairs may share the responsibility for these issues, with primary jurisdiction in the Indian Affairs Committee.

Congressional committees involved in Indian housing matters generally exceed fourteen, and, depending on the issue, may include even more.

4. Other HUD Programs

Section 8/202 Housing

Section 8/202 projects have been developed in Oklahoma, Alaska and Arizona with success. One urban Section 8/202 project has been developed by an Indian organization in Denver, CO.

Multifamily Assisted Housing Programs

A number of Section 221d(3), 221d(4) and 236 projects have been built on Indian reservations and in other Indian areas during the history of these programs. In most cases, the tribe or a subsidiary non-profit organization acted as the sponsor.

Single Family Insurance Programs

Prior to the creation of Section 248 which allows for the insurance of single family properties on Tribal (trust) lands, all FHA insured units (Section 203 (b)) were located on fee simple lands located within Indian reservations or in Indian country.

Section 248 was established in 1987 and requires an arrangement with the tribal government be established in order to determine the method for disposition in case of a default. Most typically, the tribe maintains the right of first refusal to purchase a unit which has been foreclosed upon.

Community Development Block Grant

Tribal governments are eligible to receive Community Development Block Grant funds under Title I of the Housing and Community Development Act of 1974, as amended. In 1977, CDBG for Indians was established under a separate program called the Secretary's Discretionary Fund.

One of the main uses of CDBG funds is for the rehabilitation of existing housing. Since 1975, tribes have received over \$367 million in CDBG funding. Although the percent of funds used for housing rehabilitation changes every year, the average since 1981 is approximately 35 percent or \$70 million during that period. In addition, Indian tribes are eligible for the Urban Development Action Grant program as a result of an amendment in 1980.

5. Management Information Retrieval System (MIRS)

MIRS is the first HUD micro-computer based tracking systems to produce nationally accessible data for effective remote monitoring of IHA performance and Indian Field Office operations at both the field office and Headquarters levels. As a result of its success, MIRS has become the prototype for the development of other field systems using micro-computers.

MIRS is a fully integrated database management system designed to provide comprehensive information on all aspects of the Indian Housing program. Programmed in the dBASE III Plus language, MIRS is totally menu-driven and very "user-friendly". The system operates on a Novell Local Area Network allowing instantaneous access to an average of over 1,200 pieces of data per IHA.

The system was designed and developed by a task force of Indian Program field staff. The total development period was approximately 8 months with implementation taking place from March, 1987 through June, 1987.

MIRS consists of 15 national modules. Each module represents a major aspect of the Indian Housing program, such as individual project information, tenant account receivables and financial statistics, and IHA addresses and personnel information. Some modules contain sub-modules which provide information on a more distinct aspect of the subject. In addition to the national modules, MIRS allows each region the flexibility to develop regional modules which can also be integrated into the over-all system.

Each module contains a series of pre-programmed historical, trend and exception reports. In addition, there are a number of "view" screens which allow the user to scan important information while seated at the "work station". Again, MIRS provides each region with the flexibility to develop its own set of regional reports.

Presently, all Indian Program Offices transmit regional information to Headquarters via the HUD Telecommunications Network where the data is aggregated into a national database. Virtually all manual reporting between the field and Headquarters has been eliminated as a result of MIRS.

The use of MIRS is being expanded to include direct input from IHAs directly into regional databases. In addition, the Office of Community Planning and Development has established a MIRS-CPD which gives the OIPs a true Indian Program data system.

II. PROGRAM AND BUDGET STATUS

A. FY 88/89/90 FUNDING SUMMARY

<u>CATEGORY</u>	<u>FY 1988</u>	<u>FY 1989</u>	<u>FY 1990</u>
New Construction			
Carryover prior FY	191,490	6,647,996	6,001,059
Appropriation	130,200,000	89,350,788	130,098,036
Total beginning FY	130,391,490	95,998,784	136,099,095
Recapture in FY	72,754,324	6,700,182	TBD
Expended in FY	196,497,818	96,697,907	TBD
Carryover to FY	6,647,996	6,001,059	TBD
Amendment Funding	20,354,146	8,727,000	32,000,000
<u>CIAP</u>	54,895,154	45,049,144	53,277,677
<u>Operating Subsidy</u>	45,049,144	54,392,000 (est)	TBD
<u>Child Care</u>		732,751	
<u>Drug Elimination</u>		100,000	

B. KEY PROGRAM INDICATORS

1. Management Plan Goals

Reserved

2. FY 1989 OIH Work Plan

Reserved

C. ORGANIZATIONAL STRUCTURE

1. Office of Indian Housing

a. Functions

The Office of Indian Housing is one of four organizational components under the Assistant Secretary for Public and Indian Housing. The other three being the Office of Public Housing, Office of Resident Initiatives and the Office of Finance and Administration.

Although OIH is solely responsible for the administration of all aspects of the Indian housing program, it relies upon Public Housing staff to perform some functions which overlap. CIAP and the distribution of Operating Subsidy are two functions for which OIH utilizes Public housing staff to perform certain functions.

As outlined in HUD Organizational Handbook 1103.3 REV 5, the Office of Indian Housing is responsible for the following:

This office provides advice and assistance on Indian Housing programs and ensures effective administration of these programs and provides guidance and direction to Regional Offices on all matters related to the coordinated delivery of the Indian Housing programs; monitors Regional Office plans and strategies for conformance with program policies and priorities; develops and monitors the ongoing effectiveness of policies, procedures, guidelines, and directives for all aspects of the development and management of Indian and Alaska Native Housing; coordinates the design and implementation of Indian Housing occupancy, financial management, maintenance, and modernization activities, and advises and assists in the development and justification of budget estimates for Indian Housing development programs, operating subsidies, and modernization; provides information and data to the Office of Finance and Management for the assignment of Indian Housing development funds; develops standards, procedures, and guidelines for architectural, construction, and equipment contracts as well as maintenance and property standards; develops and monitors program initiatives to provide Indian Housing in a more cost-effective manner; develops and maintains land and use and other environmental standards; monitors program initiatives for financially-troubled IHAs, including the development, implementation, and evaluation of special projects to improve Indian Housing management; develops policies, standards, and procedures pertaining to the financial systems and procedures of IHAs, including budgeting, financial reporting and internal controls, eligibility of applicants, tenant selection and assignment, leases, rents, and continued occupancy; advises and assists in the development of legislative proposals and responds to litigation related to Indian Housing, and ensures that the Indian Housing program furthers fair housing and Indian

preference in contracting.

b. Structure

The Office of Indian Housing is a separate office within Public and Indian Housing.

The office is organized, as follows:

Director
Deputy Director
Program Advisor
Secretary

Development Division
Director
2 Hsg Dev Specialists
Resident Init Coordtr
Secretary

Management Division
Director
Senior Mgt Specialist
2 Mgt Specialists
Finance Specialist
Secretary

The chart above shows that OIH is organized by program specialty area. Each staff person is responsible for all program matters within his/her area. In addition, each staff person is assigned responsibility as Desk Officer for a specific Office of Indian Programs.

2. Indian Field Offices

The Offices of Indian Programs (OIPs) located in Chicago, Oklahoma City, Denver, Phoenix, Seattle and Anchorage administer the HUD Indian housing and community development programs and provide technical assistance and oversight to both Indian housing authorities (IHAs) and Tribes throughout Indian country.

The OIPs were established in 1980 at the request of Congress and the Indian constituency. There was a strong belief that the regular HUD field offices did not serve Indian programs adequately. The OIPs are located in central areas of Indian population and are not contiguous to the HUD Regional or field office structure. The OIP is considered an area office and the OIP Director reports to the Regional Administrator. The only exception is in Oklahoma where the OIP reports to the Manager of the Oklahoma office. In addition, the Director also performs the function of a Regional Director of Indian Housing.

<u>Office</u>	<u>Areas Served</u>
Chicago (V)	Regions I - V and Iowa
Oklahoma City (VI)	Oklahoma, Kansas, Missouri, Texas, Arkansas and Louisiana
Denver (VIII)	Region VIII and Nebraska
Phoenix (IX)	Region IX and New Mexico
Seattle (X)	Region X except Alaska
Anchorage (X)	Alaska

III. CURRENT ISSUES

- A. DEBT FORGIVENESS p.
- B. HOUSING CONDITIONS ON RESERVATIONS p.
- C. ALASKA AUDIT p.
- D. SPECIAL COMMITTEE ON INVESTIGATION p.
- E. PROGRAM ISSUES AND RECOMMENDATIONS p.
- F. INDIAN HOUSING COMMISSION p.

III. CURRENT ISSUES

A. **DEBT FORGIVENESS**

Section 3004 of the Consolidated Omnibus Budget Reconciliation Act of 1985, P.L. 99-272, (Apr. 7, 1986), provides for the cancellation of loans made by the Secretary of HUD under section 4(a) of the United States Housing Act of 1937. That legislation amended section 4 of the United States Housing Act of 1937 by authorizing the Secretary of HUD to cancel any loan made by the Secretary under section 4(a) that has any principal amount outstanding or accrued (other than loans the repayment of which was not to be made using annual contributions).

The amendment provided that "such cancellation shall not affect any other terms and conditions of such contract, which shall remain in effect as if the cancellation had not occurred." This provision does not expressly mandate continued operation of the public or Indian housing project but does preserve "any other terms and conditions" of the Annual Contributions Contract (ACC) which are to "remain in effect as if the cancellation had not occurred."

The loan forgiveness legislation is not self-executing. Section 3004 authorizes the Secretary to cancel the loans; the Department canceled the public and Indian housing debt (except for the small portion of public and Indian housing debt financed through the Federal Financing Bank or through long term bonds). Also, the Department published a policy notice in the Federal Register. The notice states that there are no significant changes in the operation of the program.

Administrative charges and equity payments will continue to be collected by IHAs, as specified in homebuyer agreements. The Notice, however, does not specifically address the disposition of net proceeds from individual unit sales "or does it discuss accumulated residual receipts held by the IHA in the Mutual Help Program.

On August 10, 1989, Notice 89-38 was issued which allowed IHAs to retain residual receipts and the proceeds of sale for both the and the Mutual Help program and Turnkey III. IHAs were to complete required ACC amendments and request waivers for this purpose.

Replacement reserves were to be established and all funds could be used for new construction, acquisition and modernization.

Subsequently, the Department has considered expanding the uses of the dollars and is considering other options which will provide more flexibility for IHAs.

B. HOUSING CONDITIONS ON RESERVATIONS

The most controversial issue related to Indian housing is the number of new units proposed by the Administration for development each year. From 1980 through 1987, 0 new units were proposed with the Congress appropriating funds for 2000 units. For FYs 1989-1991, the Administration proposed 0 new units and Congress responded with between 1250 to 1800 (1991 has not yet been decided at this time).

The Indian Housing program represents virtually all of the new units built in Indian country in any given year. In addition, the voucher program, while successful where attempted, has only limited applicability to Indian reservations. Thus, the elimination of new units from the budget has become both a critical and visible issue among Indians.

There is a substantial need for housing in Indian areas; recent Bureau of Indian Affairs (BIA) data shows a housing need of over 92,270 units in Indian country, including new units and those needing rehabilitation. Many IHA and Tribal officials contend that the need is really much greater. In 1988 the State of Alaska funded a special survey of rural housing needs which showed a housing need substantially more than the BIA data.

Even the increases proposed by Congress for new housing do not have a substantial impact on the need. Although the current pipeline is approximately 7,000 units, almost 4,000 will have been completed or under construction by the end of FY 1990.

A number of letters have been received from the Indian constituency in the past few months complaining of the Department's proposal for 0 units. It is expected that this pressure will continue.

C. ALASKA AUDIT BY THE OFFICE OF INSPECTOR GENERAL

The objective of the Office of Inspector General (OIG) of Alaska was to determine if the Anchorage Field Office's administrative controls are adequate to ensure that Alaska Mutual Help Housing is being developed and managed in accordance with HUD policies and procedures and in an efficient and economical manner.

Mutual Help Housing projects developed and maintained during 1984 through 1988 were reviewed and inspected. HUD staff, Indian Housing Authority officials, homebuyers, and architects were included and interviewed during the review.

The final report was issued on August 29, 1989 (89-TS-101-007), entitled "Report on Audit of the Anchorage Office's Administration of Development Activities in the Alaska Mutual Help Homeownership Program".

There were four findings. The first concerned the administration of The MH program itself. The OIG felt that the program as designed was unacceptable for Alaska and contributed to substandard housing for Alaskan Natives. The second finding related to questionable uses of amendment monies for design and construction deficiencies. The third finding discussed the Office's administration of CIAP. The fourth finding concerned the administrative cap set on the cost of each unit.

PIH responded to the Audit by removing the cost cap, which had a detrimental impact on the over-all administration of the program and contributed significantly to the other three findings. In addition, the Regional Administrator was directed to undertake a series of reviews of internal procedures to insure that were being properly followed.

A number of regulatory changes were included in the Indian housing Consolidated Regulation, published June 18, 1990, which also addressed the OIG's concerns. Also during June, a team of staff members from the Office of Indian Housing performed an on-site review of the Anchorage Office to insure that all functions were being satisfactorily performed.

The Audit has been closed by the OIG.

D. SPECIAL COMMITTEE ON INVESTIGATION

During the week of October 4-11, 1987, the Arizona Republic (Phoenix, AZ) published a series of articles relating to federal programs on Indian reservations. The majority of the series dealt with the BIA and the IHS and the problems of administering their programs in Indian country.

HUD was included in one section of the report. The article primarily discussed the lack of adequate housing. Although, there were remarks from Indians who were dissatisfied with the quality of the units built.

As a result of the report, Sens. DeConcini and McCain from Arizona, established a Special Committee for Investigations to look into the newspapers articles.

The initial work of the Committee delved into contracting and abuse of children in BIA schools. The primary thrust of the Committee's concern as related to HUD was in the area of Indian Preference in contracting. It was the Committee's finding that many of the Indian firms qualified by the IHAs as Indian firms were, in fact, not true Indian organizations. Although no federal funds were misspent or stolen, the spirit of Indian Preference was not achieved.

A second review of the HUD program indicated that projects built in the early 1980s took too long to complete. This was particularly true where a number of political jurisdictions were involved with the construction progress.

A final report was issued on November 20, 1989 (Report 101-216). Its primary recommendation was to create a block grant approach, called a New Federalism, to Indian issues and funding and provide dollars directly to tribes from the Executive Office of the President. It was indicated that this could be considered for the Indian housing program at some point in the future.

Recommendations which would affect the IH program more directly included a consolidation of all Indian preference laws into a new statute, establish a requirement that no Indian housing projects be built without assurances that utilities were available, provide additional funding for OIPs to hire architects and engineers, require that IHA inspectors meet a minimum qualification standard and revise existing handbooks to assure that development responsibilities are clearly defined.

E. HUD ISSUES AND RECOMMENDED SOLUTIONS

1. Development

a. Continued Reduction of Processing Times

Issue: The Indian Housing program continues to strive to reduce processing times from reservation to start and has established a series of timeframes for IHAs to follow. However, in the Housing and Community Development Act of 1987, the Department was restrained from recapturing units from IHAs not properly processing development projects for a period of 30 months, excluding time for HUD delays, litigation, etc.

This law has virtually eliminated any leverage the Department should have in enforcing its processing requirements.

Solution: The Department should seek a legislative action which eliminates the recapture prohibition. In exchange, HUD could develop an administrative procedure which will reduce the possibility of unwarranted recaptures, at the same time providing the Department with a mechanism to insure proper processing of development applications.

b. Impact of the Green Amendment

Issue: In FY '90, Congress passed the Green Amendment which requires the Department to set maximum cost standards which correspond to national cost systems, E.G. Marshall and Swift. These standards have limited applicability in Indian Country and have caused the Department to make a considerable number of changes to its Total Development Cost Standards. Because, these standards produce TDCs higher than the current standards, it is expected that the cost of Indian Housing will rise in the next few years.

Solution: A TDC Notice will be published which will give the OIPs some ability to keep costs in-line by requiring a "cost-appropriate" for each project developed. However, it may be difficult for the OIP to maintain its position if the IHAs utilize Congressional pressure in areas where the national indicators are considerably higher.

c. Stretching Resources to Meet Housing Needs

Issue: The most critical issue related to Indian housing is the number of new units proposed by the Administration for development each year. From 1980 through 1987, 0 new units were proposed with the Congress appropriating funds for 2000 units. In 1988, the Administration proposed 1,000 new units and Congress appropriated 1,243 units. In FY 1989 through FY 1990, the Department once again proposed no units.

The Indian Housing program represents virtually all of the new units built in Indian country in any given year. In addition, the voucher program, while successful where attempted, has only limited applicability to Indian reservations. Thus, the elimination of new units from the budget has become both a critical and visible issue among Indians.

There is a substantial need for housing in Indian areas; recent Bureau of Indian Affairs (BIA) data shows a housing need of over 100,000 units in Indian country, including new units and those needing rehabilitation. Many IHA and Tribal officials contend that the need is really much greater. In 1988 the State of Alaska funded a special survey of rural housing needs which showed a housing need substantially more than the BIA data.

Even the increases proposed by Congress for new housing do not have a substantial impact on the need. Although the current pipeline is approximately 6,000 units, almost 4,000 will have been completed or under construction by the end of FY 1989. In addition, over 1,200 units belong to one IHA (Navajo). The remainder, per IHA, is therefore very small.

A number of letters have been received from the Indian constituency in the past few months complaining of the Department's proposal for 0 units. In addition, a February 5, 1990 letter from the Senate Select Committee on Indian Affairs expressed "deep disappointment" at the Department's proposal for no new funding.

Solution: Reevaluate the Department's position on funding for the Indian Housing program in line with the HOPE proposal, the critical need for new units in Indian country, the limited use of Vouchers and Section 8 Existing for Native Americans and the continued efforts of the Administration to reduce the Federal deficit.

d. Up-Front Planning by Tribes

Issue: Most Indian Tribes have not established comprehensive plans for the geographic areas which comprise their reservations. Therefore, when units are awarded, there is frequently no plans for infra-structure other than what is provided by HUD, the IHS and the BIA. This lack of planning compounds many of the environmental and economic issues already facing Indian Tribes.

In addition, it causes the price of future housing to be higher than normal because water and sewer facilities are not developed in a cost-effective manner.

Solution: The Department could allow IHAs to use a small part of each development project's funds to, first, establish, and, in subsequent projects, update a comprehensive development plan for

housing on the reservation. Such a plan must be developed with and approved by the Tribal government.

e. Eradication of "Indian-Fronts"

Issue: A fairly large number of non-Indian firms are taking advantage of HUD Indian Preference regulations by hiring Indians to act as fronts for their cooperative ventures. In reality, the Indian ownership in the company is nothing more than a paper exercise. It is difficult for the IHA, and even more difficult for HUD, to investigate these companies and determine the actual involvement of the Indian ownership.

Solution: The IHAs and the OIPs must continue using as much vigilance as necessary in monitoring all construction contracts for Indian preference violations. Where necessary, an IHA may have to cancel a contract for such violations and risk legal action by the contractor. The Department must be prepared to fund such an action. The results, if positive, could demonstrate the Department's determination in this area.

f. Reduced Staffing Impacting On-Site Monitoring

Issue: From the beginning of the Indian Housing Program until the supply of funds was drastically reduced in the early '80s, monitoring of new development projects by HUD was not as effective as it should have been. The large number of on-going projects prohibited the off-site and on-site technical assistance and monitoring which was necessary to produce projects of good quality. The result was a large number of projects being built with design and/or construction deficiencies. These projects require more expensive maintenance and upkeep and have less durability than properly developed projects.

Although the number of projects in the pipeline has been reduced significantly, staff and travel resources have been cut to a greater extent. This could produce some of the same problems which occurred in the earlier years of the program.

Solution: Workload factors must be developed to provide Department decision-makers with a clear picture of the amount of staff necessary to protect the Federal interest in its housing investment.

g. The Cost of Housing in Alaska

Issue: The cost of housing in Alaska far exceeds that of housing elsewhere in the United States. The cost of one Indian Housing home on the north slope may exceed the cost of six homes in Oklahoma. In the past, the Department "capped" the cost of housing in the state causing the development of a large number of inferior units which were highlighted in a recent Office of Inspector

General (OIG) audit. In FY '89, the "cap" was removed, but funds available only rose slightly because insufficient funds were allocated by Congress to meet the true cost of housing, including Alaska's share of the funds.

Solution: The Department should provide Congress with a revised per unit cost of housing which takes into consideration the high cost of housing in Alaska if they decide to allocate new funding in FY '91.

2. Management

a. Mismatch between Eligible Residents and Mutual Help

Issue: Because the rental program requires residents to pay 30 percent of adjusted income and the MH program requires as low as 15 percent, many IHAs place their lower income applicants in MH because they believe this to be more advantageous for the resident. What they forget is that in MH there is a minimum administrative charge which must be paid, there is no maintenance on the unit provided and there is no utility reimbursement to the homebuyer. As a result, in many instances, the resident actually pays five to six times more than had they been in rental housing paying 30 percent of income.

The result is poorly maintained homes, rising tenant account receivables and under-financed.

Solution: The Department must issue new guidelines concerning the admission of persons into the MH program. People who do not clearly demonstrate income capacity to become homeowners should be placed in the rental program. OIH is currently developing a program bulletin which will attempt to explain this concern to IHAs and prospective homebuyers. Although this will produce some positive impact, the voluntary method of compliance will be sporadic.

Any initiative by the Department must be handled sensitively or it will be met with major protests from the Indian community who will see it as the opposite from the Secretary's initiatives of homeownership.

b. Deteriorating Homeownership Units

Issue: As discussed above, IHAs have not made a concerted effort to put true homebuyers into the MH program. In addition, HUD contributed to this problem in Alaska by unofficially discouraging the use of the rental program and requiring IHAs to place all residents in MH. As a result, many of the more than 40,000-MH units are in need of repair.

Solution: Any solution has budgetary ramifications. A more

extended use of CIAP to handle non-routine maintenance items, the conversion of MH units back to the rental program and a new requirement for IHAs to establish higher administrative charges for non-routine maintenance are items which the Department could pursue.

c. Proper Utilization of CIAP

Issue: CIAP receives much less on-site monitoring than new construction, yet the cost involved may be just as high. Current staffing and travel resources make more in-depth monitoring prohibitive.

Solution: In lieu of increased staffing and travel dollars, PIH must review its monitoring policies to insure that monitoring is accomplished where the funds are most vulnerable.

d. HUD Monitoring of IHAs with Reduced Staff

Issue: As with Issue Number 6, reduced staff and travel resources impact monitoring of the housing management functions of Indian housing authorities. Because these housing authorities tend to have a great deal of turnover, monitoring and technical assistance are key to protecting the Federal interest and to insuring that Indian residents are being properly sheltered.

Solution: OIH must continue to more sharply define its monitoring policies to insure that the most critical needs are being met. Standardized training and guidebooks must be developed to insure that when educational resources are developed that they are available.

e. Maintenance of Rental Units

Issue: In many cases, IHAs have not attended to the maintenance needs of their physical housing stock and this neglect, coupled with poor financial situations, has resulted in a deteriorating inventory. Although CIAP can be used to correct the problem temporarily, the real solution is to developing consistent maintenance programs at the housing authority itself.

Solution: HUD, through the OIPs and in Headquarters, must begin emphasizing this aspect of management. There is no HUD Maintenance handbook available which specifically relates to the type of units found in Indian Housing and that deals with some of the issues which face IHAs which are not seen in urban areas.

F. COMMISSION ON INDIAN HOUSING

The HUD Reform Act of 1990 authorized the creation of a special commission with the responsibility for looking at housing delivery systems for Indians, Alaska Natives and Native Hawaiians. The Act did not appropriate funds.

The Commission was to be composed of twelve members, three of which were to be selected by the HUD Secretary. The other nine were selected by Congressional committees.

Subsequently, the Dire Supplemental Appropriation Act appropriated \$500,000 for the initial creation of the commission which was to be reprogrammed from existing CIAP funds. Commission appointments are to be made by July 25, 1990. A report is expected to be completed by April, 1992.

APPENDICES
EXHIBIT ONE

INDIAN HOUSING UNITS BY YEAR
FISCAL YEAR 1962 TO 1991

<u>Fiscal Year</u>	<u>Reservations</u>	<u>Starts</u>	<u>Completions</u>	<u>Cumulative Completions</u>
1962	299	50	0	0
1963	1,114	56	0	0
1964	1,827	320	50	50
1965	600	564	250	300
1966	354	569	488	788
1967	811	1,049	628	1,416
1968	1,515	1,308	901	2,317
1969	3,949	863	1,324	3,641
1970	5,679	3,688	968	4,609
1971	5,686	3,886	1,532	6,141
1972	9,714	3,472	2,442	8,583
1973	562	2,945	3,072	11,655
1974	1,288	2,377	4,475	16,130
1975	6,726	2,336	4,156	20,286
1976	6,888	3,229	3,415	23,701
1977	8,065	3,763	2,048	25,749
1978	4,858	4,581	2,861	28,610
1979	5,731	4,599	4,363	32,973
1980	5,494	4,163	5,379	38,342
1981	2,258	4,337	4,084	42,426
1982	3,016	2,193	3,279	46,155
1983	2,325	3,248	3,062	49,217
1984	2,635	2,221	3,291	52,508
1985	2,002	3,419	2,471	54,979
1986	2,078	3,279	3,231	58,210
1987	3,627	3,412	3,469	61,679
1988	2,873	2,373	3,981	65,660
1989				
1990				
1991				

Source: Previous Annual Reports

Note: Prior to FY 1980, reservations is defined as gross reservations less recaptures; after FY 1980, reservations is defined as gross reservations only.

ACKNOWLEDGMENTS

The information included in this report was derived from a number of sources. They are as follows:

Introduction - Legal references and discussion taken from American Indian Law, William C. Canby, Jr. October, 1983.

Historical Perspective - Excerpts from "Indian Housing in the U.S.", prepared by the Housing Assistance Council under a HUD contract. February, 1987.

Program Characteristics - Portions excerpted from "HUD Program Descriptions" and from program brochures developed by the Housing Assistance Council under a HUD contract (December, 1991.)

Information in the Program Characteristics, Housing Development and Housing Management sections was derived from the following HUD data systems:

- Management Information Retrieval System (MIRS)
- ROBOTS
- Multifamily Characteristics Tracking System
- Program Accounting System
- Assisted Housing Accounting System

In addition, HUD budget documents from 1980-1985 were consulted for information not contained in the above data systems.