



Investigation of Mismanagement of Federal Housing Funding by the Navajo Housing Authority

Office of Senator John McCain

June 1, 2017



Investigation of Mismanagement of Federal Housing Funding by the Navajo Housing Authority

Executive Summary

This report contains findings and recommendations of our investigation into claims that the Navajo Housing Authority (NHA) mismanaged federal housing grants provided by the U.S. Department of Housing and Urban Development (HUD). In coordination with staff from the U.S. Senate Committee on Indian Affairs (SCIA), the Office of Senator John McCain conducted document reviews and on-site interviews of NHA records and employees from March 2017 to May 2017.

From our investigation, we arrived at the following finds of fact:

- Over the past 10 years, NHA has received over \$803 million in Indian Housing Block Grants (IHBG)—far greater taxpayer assistance than any other Indian tribe in the nation received.
- But, in that time, NHA built a total of 1,110 new homes—far fewer than is needed to address the Navajo Nation’s chronic housing shortage.
- A lack of sufficient planning by NHA exposed its wasteful, fraudulent and abusive use of housing funds. Additional independent inquiry of NHA financial management practices appears warranted.
- NHA mismanagement of federal housing funding has resulted in cost overruns and schedule delays involving hundreds of homes totaling more than \$125 million.
- NHA Board members used income generated from NHA rental properties for “professional development” travel to Hawaii and Las Vegas.
- While NHA has made some improvements to internal controls in its accounting associated with its use of federal housing funds, oversight of NHA procurement activities must improve.

These findings support the following legal or policy conclusions:

- NHA lacks both the plan and capacity to achieve its stated goal of providing 34,000 homes to Navajo tribal members.
- NHA must improve how it manages its use of federal housing funds to instill confidence needed for Congress to continue helping the Navajo Nation address its chronic housing need.
- While this report could not conclude whether any of the financial mismanagement cited above rises to criminal misconduct, the findings warrant additional independent review and support calls by Navajo leaders for overhauling NHA’s leadership and improving NHA’s oversight structure.



With the foregoing in mind, we make the following recommendations:

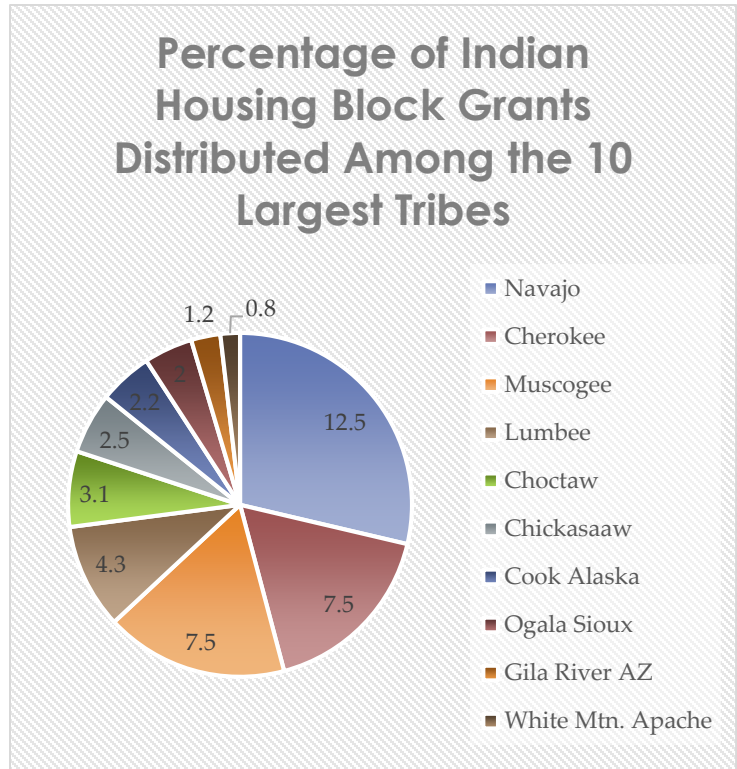
- Congress should cap or reduce Navajo Nation’s Native American Housing Assistance and Self-Determination Act (NAHASDA) allocation if NHA’s unobligated balance continues to grow and new home construction remains stagnant.
- NHA and Navajo Nation must streamline the process for acquiring land and permitting, and create some permanency for projects approved at the Chapter House-level.
- The NHA Board of Commissioners should be replaced with professional board members.
- NHA should improve coordination with collaborating tribal agencies [like the Navajo Tribal Utility Authority (NTUA) and the Navajo Nation Land Department (NNLD)].
- HUD should increase NHA site visits and more closely monitor and evaluate NHA procurement practices.
- NHA should consider entering a business-mentor relationship with a HUD-supported community development corporation that has a successful record in community-oriented development on Indian reservations.
- NHA and HUD should ensure that Annual Performance Reports provide the public and policy makers with clear, unambiguous data on how many houses have been serviced each year with expenditures categorized to differentiate between house constructed versus modernized, and rental versus homeownership.
- The Navajo Nation Council should consider the recommendations made by the 2009 JJ Clacs feasibility study to restrict NHA to managing its 1937 Housing Act rental units and designate a new “Tribally Designated Housing Entity” (TDHE) for new home construction.



Background & Need

What is the NHA?

NHA has been the public housing authority for the Navajo Nation since 1963. NHA says it operates and maintains 8,500 housing units and an additional 2,000 homes built or managed by organizations that partner with NHA as sub-grantees or “sub recipients.”¹ The NHA employs over 350 full-time employees, making it one of the most heavily staffed public housing programs in the nation and the largest housing program in Indian Country. Additionally, NHA says it supports an estimated 600 direct jobs through outside contractors and its sub-grant recipients.² The NHA’s reach spans the entire 27,413 square mile area of the Navajo Nation, roughly the size of West Virginia. In 1998, the NHA estimated that its unmet housing needs totaled 22,000 homes. By 2012, the NHA increased that estimate to 34,000 homes.³ NHA says it needs about \$9 billion in federal assistance to achieve its stated housing goal.⁴



Source: Data from HUD Office of Native America Programs (ONAP)

The NHA is overseen by an eight-member Board of Commissioners appointed by a committee of the Navajo Nation Council. In 2003, after years of internal debate, the Navajo Nation Council formally designated the NHA as TDHE to receive IHBG from the U.S. Department of Housing and

¹ *About The Navajo Housing Authority*, 2016, www.navajohousingauthority.org/about-us-3/.

² NHA Board Resolution 2867-97 adopted March 6, 1997.

³ Swaback Partners. *The Sustainable Journey of Beauty: A Planning Manual for Developing New Housing and Community Initiatives on the Navajo Nation*. 2012. www.navajohousingauthority.org/wp-content/uploads/2015/08/NHA-Sustainable-Community-Master-Planning-Manual-for-Chapters.pdf.

⁴ Minard, Anne. "Congress Overreaching: Navajo Housing Takes Second Big Hit." *Indian Country Media Network*, 8 July 2015, indiancountrymedianetwork.com/news/politics/congress-overreaching-navajo-housing-takes-second-big-hit/.



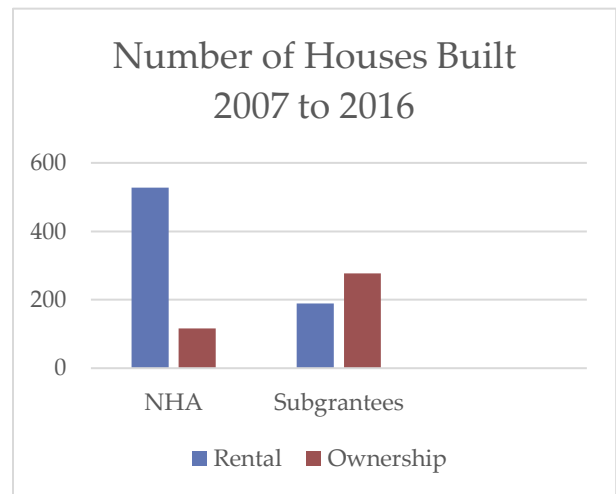
Urban Development (HUD) under NAHASDA.⁵⁶ Before obtaining TDHE status, from 1996 and 2004, the NHA received NAHASDA assistance as the “acting” TDHE. From 1963 to 1996, NHA built its existing stock of housing units primarily using HUD funds provided under the 1937 Housing Act. Among other things, the NHA engages in housing development and renovation activities, and operates a mortgage-financing program supported by two HUD loan guarantee programs.⁷

Need for Investigation

The NHA has a long history of financial mismanagement, construction delays, enforcement action by HUD and criminal prosecutions. First and foremost, this investigation responds to growing complaints from Navajo Nation leaders that NHA is not providing reliable housing services to its tribal members. Any mismanagement by the NHA of federal funding assistance also endangers the Nation’s ability to secure IHBG funds under the current favorable NAHASDA funding formula.

Another major catalyst for this investigation was the impactful *Arizona Republic* series published in 2016, entitled “The Navajo Housing Tragedy,” which investigated mismanagement in several NHA housing projects. The series also profiled the successful use of IHBG funds by the Cherokee Nation in Oklahoma, which received \$28.5 million from HUD in 2015 and built a total of 277 homes.⁸ By comparison, NHA received \$83.7 million from HUD in 2015, but only built 102 units.

Lastly, NHA has fallen under increased scrutiny from Congress, the Government Accountability Office (GAO) and HUD for failing to spend its IHBG block grant in a timely manner. Each year, NHA receives an average of \$95.7 million under NAHASDA and by fiscal year 2014 had an unspent



⁵ Navajo Nation Council Resolution CD-82-03. Signed on January 9, 2004.

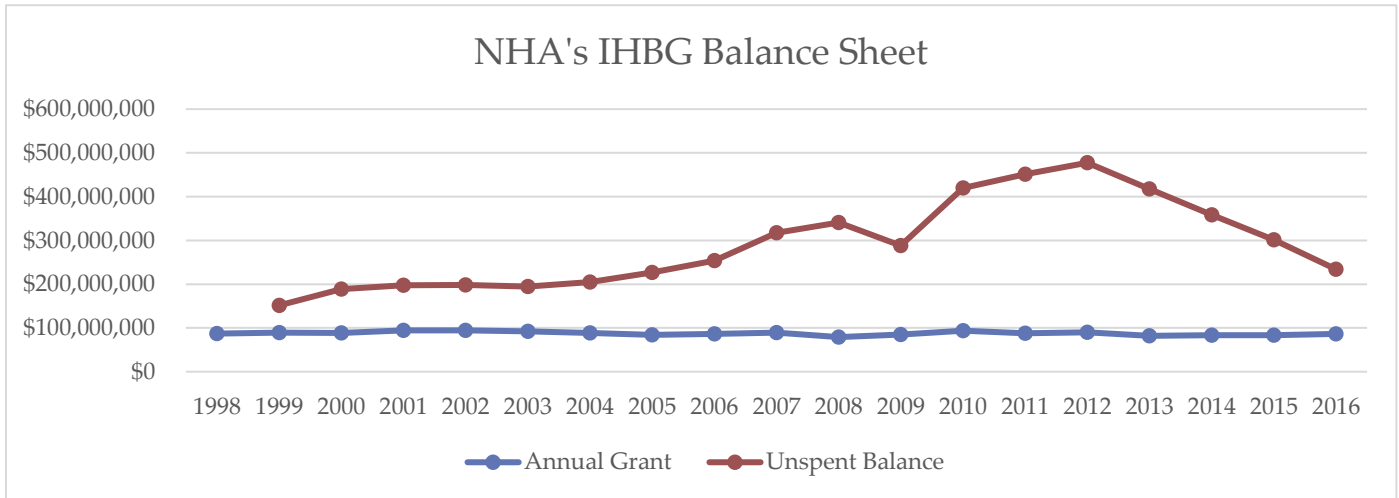
⁶ 25 U.S.C. 4101, *et seq.*

⁷ U.S. Department of Housing and Urban Development. "Funding Programs." portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/codetalk/fundingprogram#TLGP.

⁸ Harris, Craig, and Dennis Wagner. "Cherokee Nation: A case study in how to put roofs over the heads of Native Americans who need them." *The Arizona Republic*, www.azcentral.com/story/news/local/arizona-investigations/2016/12/14/cherokee-nation-housing-federal-funds/95349064/.



balance of nearly \$500 million.^{9 10} NHA blames this on HUD’s “lack of proper monitoring of timely expenditures and apparent lack of providing technical assistance.”¹¹ HUD regulations require every TDHE to obligate its funds within two years of a NAHASDA grant award.¹² Beginning in FY2015, NHA has worked to spend down its IHBG balance. However, this rapid spend-down has not resulted in an outpouring of new-home construction or the completion of long-awaited master planned communities, but rather to projects that repair or “modernize” NHA’s existing rental stock.



Source: Data from the *Arizona Republic* and HUD

Below are some examples of NHA’s beleaguered history of financial mismanagement:

- 2007: HUD Office of the Inspector General (OIG) issues report recommending that NHA discontinue usage of sub-grantees or that they implement stricter internal financial controls.¹³
- 2008: HUD issues letter stating NHA is violating monitoring requirements.
- 2009: Navajo Nation Council engages JJ Clacs Consultants to conduct a feasibility study on stripping NHA of its TDHE status.

⁹ Inasmuch as how much has been accumulated in interest from this corpus and what has been done with those proceeds remains unclear and falls outside the scope of this investigation, it appears ripe for outside, independent review.

¹⁰ HUD Letter of Warning to NHA dates April 30, 2013.

¹¹ NHA. “Updates on NAHASDA IHBG Expenditure Plan and Major Initiatives.” June 2015.

¹² 24 CFR Part 1000.523

¹³ United States. Dept. of Housing and Urban Development. Office of Inspector General. *Navajo Housing Authority Should Discontinue Its Use of Subgrantees for Development Projects or Implement Additional Program Controls*. 2007. www.hudoig.gov/sites/default/files/documents/audit-reports/ig0791008.pdf.



- 2009: HUD OIG issues a report warning that weaknesses in NHA's internal controls are impairing the effective use of American Recovery and Reinvestment Act stimulus grants for housing.¹⁴
- 2013: A federal judge sentences NHA subcontractor Bill Aubrey to four years in prison for embezzling IHBG funds provided to the Fort Defiance Housing Corporation (now bankrupt) to build a 91-unit housing project near Chilchinbeto, AZ.¹⁵
- 2013: HUD issues Letter of Warning to NHA stating they were in violation of not spending down \$149.2 million in NAHASDA funds.
- 2014: GAO issues report noting that NHA's unspent backlog had grown from \$300 million to nearly \$500 million in 2014.¹⁶
- 2015: U.S. House of Representatives passes legislation capping grants for tribes with unobligated balances that exceed 10% of the total IHBG allocation.¹⁷
- 2015: SCIA reports legislation capping Navajo's IHBG allocation unless the tribe spends down its unobligated balance by 2018.¹⁸
- 2015: Senate Appropriations Committee reports legislation effectively capping Navajo's IHBG allocation to just 10% of the full NAHASDA budget, down from 12%.
- 2015: HUD wins an administrative appeals case to recover \$96 million from NHA for failing to spend IHBG grants in accordance with its 2012 Indian housing plan. Navajo Nation files appeal.¹⁹
- 2016: *Arizona Republic* publishes its investigation series, titled, "The Navajo Housing Tragedy."
- 2017: Senator McCain writes letter to NHA initiating Senate inquiry.
- 2017: Navajo Nation Council passes resolution to replace the existing NHA Board.²⁰

¹⁴ United States. Dept. of Housing and Urban Development. Office of Inspector General. *HUD Should Provide Additional Monitoring of NHA's Implementation of Recovery Act-Funded Projects*. 2009.

www.hud.gov/offices/oig/recovery/Audit%20Reports/ig1091801.pdf.

¹⁵ U.S. Attorney's Office District of Nevada. "Builder Sentenced To Prison For Embezzling From Federal Housing Program." U.S. Department of Justice, 10 Sept. 2013, www.justice.gov/usao-nv/pr/builder-sentenced-prison-embezzling-federal-housing-program.

¹⁶ GAO-14-255. "Native American Housing: Additional Actions Needed to Better Support Tribal Efforts." Government Accountability Office. March 2014.

¹⁷ H.R. 360, NAHASDA Reauthorization Act of 2015. Passed the House on March 23, 2015. Vote: 297-98.

¹⁸ S. 710, NAHASDA Reauthorization Act of 2015. Passed by Committee on August 5, 2015.

¹⁹ Donovan, Bill. "NHA and HUD Still Fighting over \$96 Million." *Navajo Times*, 14 Jan. 2016, navajotimes.com/reznews/nha-and-hud-still-fighting-over-96-million/.

²⁰ Locke, Katherine. "Navajo Housing Authority Up in the Air." *The Navajo-Hopi Observer*, 25 Apr. 2017, www.nhonline.com/news/2017/apr/25/navajo-housing-authority-air/.



Investigation Method

We obtained the information in this report through reviews of NHA documents and interviews with managers and employees of NHA. We also visited the NHA headquarters in Window Rock, Arizona, on the Navajo reservation, where we met with NHA executives and grant management staff. We also conducted our document reviews between February 2017 and May 2017 and corresponded electronically with NHA representatives, who provided timely responses to our inquiries (except for requests for information relating to NHA's "unrestricted fund" and consultant contracts). We also met with representatives from the HUD Office of Native American Programs (ONAP), which is the federal agency that administers NAHASDA/IHBG funds.

Findings

In the course of this investigation, we uncovered previously unreported examples of poor project and financial management surrounding NHA housing projects that have resulted in cost overruns and delays. We also found inconsistencies in NHA records and procurement practices, which suggest the need for enhanced oversight by HUD. Finally, we obtained information that NHA board members and staff used NHA discretionary funds for travel expenses that have created at least an appearance of impropriety. Additionally, independent inquiry appears warranted. This investigation did not find evidence of criminal wrongdoing by NHA staff or board members based on our limited review.

Bluestone Development: A Bigger Disaster Than Originally Thought

The Bluestone Development is a 200-home sustainable master-planned community proposed for Houck, Arizona, a community along Interstate 40 (about 35 miles west of Gallup, NM). The *Arizona Republic* profiled NHA's Bluestone project in its 2016 investigation series, entitled "Hope Springs Eternal, but Solutions have Evaded Navajo Housing Authority". At the time, the *Arizona Republic* reported that the estimated price tag for the project was between \$60 million and \$75 million and was slated for completion by 2016. However, interviews with NHA staff indicate that the agency's investment into the project has since ballooned to roughly \$125 million over the past five years. NHA employees also told us that the project would complete 30 units by 2018, with the intention of adding more modular units sometime in the future.

NHA's work on Bluestone began after an 80-acre property in Houck, Arizona, was gifted to the NHA around 2003 and acquired as "fee-restricted land," meaning the property is not Indian trust land



but rather private land owned by the NHA that is subject to certain state and local codes.²¹ On August 20, 2014, NHA held an “unveiling event that included a catered steak meal, speeches and a traditional blessing ceremony.”²² The *Arizona Republic* reported that NHA and its consultant, Swaback Partners, claimed the project would move quickly because private reservation land avoids conflicts with grazing leases, local politics and other obstacles that typically make it difficult for NHA to build on Indian trust land. NHA was so excited about the prospects for investors in Bluestone that staff traveled to New York City “to do a meet and greet with financiers on Wall Street.”²³ Bluestone was celebrated as the “new way” of NHA housing.²⁴

Through this investigation we learned, however, that in late 2014, Bluestone was immediately halted by the NHA Board over what we understand to be concerns that NHA had not conducted a proper title search on the property before accepting it and that NHA had not completed an adequate market analysis to support building homes in the area.²⁵ In 2015, a newly elected Board reversed the previous Boards’ decision and authorized NHA to move forward with Bluestone.

We have reason to believe that NHA planners simply failed to duly take into account how state laws might affect Bluestone. For example, it appears that NHA did not account for the Arizona Department of Environmental Quality’s requirement that a 200-unit development must also include a wastewater treatment system. According to documents we obtained from NHA, it appears that Bluestone does not yet have a reliable water supply, but NHA did hire contractors to drill a 450-foot well before hitting sandstone. Based on our interviews, we estimate that a wastewater system at Bluestone could cost an additional \$14 million. Another example of poor planning and intergovernmental coordination lies in how NHA worked with the tribe’s utility provider, NTUA. When asked by NHA to supply electricity to the Bluestone project, NTUA spent \$2.7 million to upgrade a nearby substation that now sits underutilized as NTUA waits for NHA to break ground.

A review of NHA documents relating to Bluestone show at least four different outside consultants involved in the planning, engineering and design of the project. In 2012, NHA outsourced most of the project’s initial design work to Scottsdale-based architect consultants Swaback Partners for an initial sum not to exceed \$1.8 million over six months. By 2017, the contract with Swaback had been amended and increased to \$3.8 million. Another firm, Wood Patel & Associates, Inc., was engaged in

²¹ Special Report to NHA Board of Commissioners Bluestone Site Acquisition History. Not dated.

²² Wagner, Dennis, and Craig Harris. "Hope Springs Eternal, but Solutions Have Evaded Navajo Housing Authority." *The Arizona Republic*, www.azcentral.com/story/news/local/arizona-investigations/2016/12/14/navajo-housing-solutions-planned-developments/79542284/.

²³ NHA. Monthly Report to the NHA Board for November 2014. December 5, 2014. P. 2.

²⁴ Lee Bitsoi, Alastair. "Bluestone Shows New Way of Building NHA Housing." *Navajo Times*, 21 Aug. 2014, www.navajotimes.com/news/2014/0814/082114bluestone.php.

²⁵NHA. Directives Issued by the Board of Commissioners Regarding the Bluestone Development Project. Dated June 15, 2015.



2014 for engineering services involving Bluestone with a price tag of \$4.8 million through June 2017. In 2015, a third vendor, Kitchell Contracts, Inc., signed a \$3.2 million contract with NHA to provide technical assistance for the Bluestone design and was given authority to manage change orders for services provided by Wood Patel. A fourth vendor, SPS+ Architects, LLP, was engaged in 2015 for \$1.9 million.

Veterans Underserved

We obtained a copy of a letter dated August 4, 2016, signed by several Navajo veterans and their family members addressed to the Navajo Nation Resources and Development Committee outlining their frustration with the NHA.²⁶ The letter contemporaneously describes a NHA housing project totaling \$2 million to build homes for Navajo veterans and outlines specific complaints about the project. The letter reads: “We have witnesses [sic] poor eligibility screening and process, poor workmanship, poor communication, poor supervision, children at the worksite, running out of materials, delay after delay[...].” The project dates back over ten years and, according to the letter, no homes have been completed for this project.

The NHA staff we met with were unfamiliar with this particular project and some explained that the project predates NHA’s policy manual for grants and procurement that was updated in 2012, which they argue would have enabled NHA to prevent the complaints connected with this project.

NHA’s Management of Sub-Grant Recipients

NHA could do more to demonstrate that it has enhanced accountability among its sub-grant recipients. The NHA is authorized to award IHBG grants to businesses and non-profits as “sub-grant recipients.” NHA has long struggled to monitor and report on the progress of its sub-grant recipients. In 2007, HUD’s OIG issued a Monitoring Report calling on NHA to discontinue using sub-grant recipients or improve NHA internal controls for managing, auditing and inspecting their work. Between FY1998 to FY2016, NHA enlisted at least 65 sub-grant recipients, of which 17 reportedly went defunct or bankrupt.

Since 2007, NHA appears to have made progress in overseeing *ex post facto* its sub-grant recipients—when it, for example, removed at least 15 poorly performing or defunct sub-grantees from its program and required full access to their project sites for inspections. However, we could not determine whether NHA successfully tracked or recovered misspent or unspent IHBG grants from

²⁶ Letter from Tom Horse, et al., to NN RDC dated Aug. 4, 2016.



underperforming partners. We requested that NHA provide us with the total amount of un-recouped grants, which NHA failed to provide. Based on the limited data we could acquire, we estimate that NHA recaptured \$14.8 million from sub-grant recipients in 2010 and another \$31 million was recaptured in 2014. The 2014 amounts were reallocated to the NHA Sustainable Community Master Plan.

Questionable Practices by the NHA Board of Commissioners

Our investigation examined claims that NHA Board members used NHA discretionary funds to travel to locations far removed from the Navajo reservation for Board-related activities, including Hawaii and Las Vegas. In the case of the Las Vegas travel, we learned that NHA board members, among other things, spent two days for “exigent professional development.”²⁷ NHA representatives informed us that the funds for these trips came from the NHA discretionary fund (also called “unrestricted funds”), which is an account not supported by federal IHBG grants. However, we learned that the discretionary funding is supported by revenue generated by NHA rental properties. Moreover, the designation of funds as “unrestricted” does not license their abuse. While this particular use of unrestricted funds may not have been unlawful, it has raised the appearance of impropriety at NHA, which supports calls by Navajo Nation leaders to remove and replace the current NHA Board with professional Board members. We asked NHA for its accounting of NHA’s discretionary fund, which it failed to provide.

We also learned that the NHA Board recently increased its *per diem* rate for travel reimbursements from \$250 to \$355, although we could not determine when this decision was made or how that decision was justified. We believe the foregoing information warrants an additional thorough and independent audit.

NHA’s Use of Outside Consultants

During the course of our investigation, we inquired about press reports that NHA spent over \$1 million to pay consultants for community relation services from 2013 to 2017, around the time that Congress proposed to cap IHBG grants to the Navajo Nation.²⁸ NHA confirmed that they contracted with several individuals for these services, including Peterson Zah, the former President of Navajo Nation. Of concern is whether NHA used IHBG funds to pay for these activities and whether

²⁷ Letter from the Hon. Begaye, Bates, and Shepherd to NHA Board dated April 13, 2017.

²⁸ Becenti, Arlyssa. “NHA Paid Zah, Keeswood over \$1M as Consultants.” Navajo Times, 9 Feb. 2017, navajotimes.com/rezpolitics/nha-paid-zah-keeswood-1m-consultants/.



agreements with consultants follow rules or procedures that, if followed, adequately prevent conflicts of interests. NHA did not provide us with copies of their contracts, which we requested at the beginning of our investigation in March.

We note with concern that NHA may be unnecessarily duplicating its in-house services with outside contractors. When it comes to community outreach, NHA employs a staff of more than 350 individuals, which includes a Customer Care Department consisting of 60 housing specialists and housing technicians spread across 15 field offices (“Housing Management Offices”) whose jobs are to assist tribal members in navigating the agency’s housing program. NHA also employs three full-time employees in its Government and Public Relations division. When it comes to design and construction, the NHA employs a staff of four environmental clearance specialists, nine compliance officers, eight land survey specialists, four reality and title specialists, a 14-person planning and development office and a fleet of facility managers and construction specialists, which includes equipment operators and pest control technicians. Salaries at NHA range from \$20,800 to \$152,848.

Finally, a contract calendar provided by NHA, dated April 3, 2017, listed active contracts totaling \$14.2 million for services covering planning, design and environmental clearances for a number of projects, including the delayed Bluestone Project referenced earlier in this report. The contract calendar that we reviewed did not cover services paid for using NHA’s discretionary fund.

Where is the Money?

Under pressure from Congress, NHA initiated a 5-year plan to rapidly spend-down its unobligated IHBG balance from nearly \$500 million to \$238 million from 2012 to 2017. NHA says its spend-down plan was delayed while it assisted HUD to streamline rules concerning the agency’s financing structure and Line of Credit Control System (LOCCS). In total, NHA says its outlays totaled \$633 million from 2012 to 2016.

The spend-down plan achieved NHA’s goal of reducing its unspent balance from \$438 million in FY2012 to roughly \$238 million, an amount below the threshold that Congress proposed for capping future IHBG grants to NHA. However, we found that NHA spent most of its grants on repairing or “modernizing” 878 existing units instead of building new homes. The cost effectiveness of this modernization effort was not reviewed as part of this investigation. NHA also spent resources to provide 9,993 units with improved security services and crime prevention upgrades.



Units Served under NHA Spend-Down Plan:

IMPACT OF THE FIVE-YEAR EXPENDITURE PLAN						
	2012	2013	2014	2015	2016	Total
Modernization	200	188	335	105	50	878
New Construction (PR)	30	76	-	52	93	251
New Construction (HO)	124	66	21	50	26	287
Section 504 Accessibility	-	2	21	2	4	29
Crime Prevention and Safety	38	-	6,433	-	3,522	9,993
Transitional and Group Homes	70	34	16	24	-	144
Infrastructure Development	73	38	-	497	9	617
Model Projects	1	1	4	2	-	8
Land Acquisition (PR)	-	-	463	64	-	527
Land Acquisition (HO)	-	-	-	16	-	16
Emergency Shelters	-	-	20	-	-	20
New Construction (HO) – non-low income	-	-	3	-	-	3

NHA PRESENTATION FOR CONGRESSIONAL SITE VISIT

APRIL 2017

14

Whose Land Is It Anyway?

During our interviews, NHA employees delivered a consistent message that the biggest impediment to new home construction was the sheer size of the Navajo reservation combined with the difficult task of developing housing plans with various local-level Chapter Houses, determining land ownership, settling competing title claims, and a lack of infrastructure on the reservation. According to NHA, the total timeline to complete a housing project is generally 5 to 8 years as follows:

Example Project Timeline			
Tribal Level (1-3 years)	Planning (9-12 months)	Design (6-9 months)	Construction (2-3 years)
<ul style="list-style-type: none"> • Home site lease: <ul style="list-style-type: none"> ○ Grazing permit, official ○ Archaeological review ○ Environmental review ○ Fish and wildlife committee ○ Land assessment, flood plain status • Family disputes • Navajo Nation Land Department • Bureau of Indian Affairs – title status report 	<ul style="list-style-type: none"> • Home site lease approval • Utilities assessment • Environmental review – submit EROF to HUD • Feasibility assessment • Indian Housing Plan funding 	<ul style="list-style-type: none"> • Site visit with all parties • Site engineering – soil test • Project wage determination • Unit specifications 	<ul style="list-style-type: none"> • Procurement • Build unit(s) <ul style="list-style-type: none"> ○ Modular developments year-round – Southwest Indian Foundation ○ Universal design – ADA compliant • Third party inspection • 12-month warranty, project closeout

NHA PRESENTATION FOR CONGRESSIONAL SITE VISIT

APRIL 2017

4



The challenges identified by NHA were also documented in a 2014 GAO Report that laid out a NHA Case Study. GAO noted that NHA faces external and internal housing challenges including remoteness and related poor socioeconomic conditions, differing requirements for federal and tribal agencies and internal administrative difficulties. Nevertheless, NHA officials told GAO that they expected to be on track with incoming IHGB funds by 2016.²⁹

In the same GAO report, HUD/ONAP told GAO that NHA had a difficult task in working with the Navajo Nation's many chapters to pursue new development. ONAP recommended that NHA focus on rehabilitating privately owned homes and HUD-funded units to "allow NHA time to obtain additional land for development while spending funds that are currently in the pipeline."³⁰ According to HUD, about 13% of NHA's rental stock in 2015 was vacant and in need of repair.³¹ NHA appears not to be adhering to its 2011 "Modernization Program Policy," which states that it would achieve "100% project completion" of modernizing homes within nine months.³²

We interviewed representatives from the NTUA and NNLD who echoed similar challenges in working with federal and state agencies on their respective projects. However, we were also told that NHA is generally unresponsive to requests for increased coordination or in-person meetings when it comes to planning housing projects.

Procurement Practices Need Further Examination

NHA appears to have made strides in reforming its internal controls as echoed by HUD in a recent monitoring report (2016), which "commended" NHA for quick action to address certain financial management concerns."³³ This work began sometime in 2007 after NHA developed a policy that all procurement over \$1 million requires Board approval. NHA policies frequently reference HUD regulations that require a review of proposed procurements to avoid duplications in purchasing and to ensure grants are awarded to responsible sub-grant recipients and contractors.³⁴

We reviewed NHA's procurement manual, titled "Navajo Housing Authority Procurement Standard Operating Procedure (2012)," and found at least one example of NHA apparently not

²⁹ United States Government Accountability Office. *Native American Housing Additional Actions Needed to Better Support Tribal Efforts*. 2014. GAO-14-255. P. 41. www.gao.gov/assets/670/662063.pdf.

³⁰ *Ibid.* P. 50

³¹ Letter from HUD to NHA titled "Final Monitoring Report." October 20, 2016

³² NHA Board Resolution NHA-4164-2011. "Approving the NHA Modernization Program Policy." April 25, 2011.

³³ Letter from HUD to NHA titled "Final Monitoring Report." October 20, 2016.

³⁴ 24 CFR 85.36



following its own policies.³⁵ We learned that NHA’s Grant Management Department was involved in the Bluestone Project even though NHA’s procurement manual names the Procurement Department as the responsible department. Additionally, we reviewed several contracts at NHA’s headquarters in Window Rock that lacked the referenced Scopes of Work or accompanying documentation proving that the Board had approved a contract. While these examples could simply be an error in recordkeeping, we are concerned by the frequency in which these errors were observed.

NHA procurement has long been a concern for HUD. As recently as 2016, HUD expressed misgivings that NHA was relying on only two contracting officers to administer over 200 contracts and purchase orders. HUD noted “that the current staffing levels in both the Procurement Department and Contract Administration Department is insufficient for efficient operations” and “delays are common... and issues with the procurement process have resulted in delays of half of NHA’s sub recipients who were providing new construction services, causing some contractors to ‘walk off the job’.”³⁶ At a minimum, this reflects an apparent lack of priority that NHA has assigned to sound project management practices.

Conclusions

Despite having received \$803 million over the past 10 years and only building 1,110 homes, clearly NHA cannot achieve its stated goal of supplying 34,000 dwellings to the Navajo people. This is not for want of federal funding, as NHA sat on nearly \$500 million in HUD grants for several years while its housing waitlists grew. We disagree with NHA that the fault lies solely with HUD. The problem arises from deficiencies in planning and capacity.

With respect to planning, NHA appears unable to develop and adhere to its development plans. Goals for new home construction are consistently missed. The agency’s rapid investment in modernizing existing units appears to be reactionary to external pressure to spend-down its \$500 million nest egg. In the absence of executable construction plans, NHA housing goals will remain elusive—to the grave detriment of the tribal members of the Navajo Nation.

With respect to capacity, we conclude that NHA receives significant taxpayer assistance, but may not have the means to increase its outlays responsibly. The complex nature of Navajo reservation land ownership is a legitimate challenge that is compounded by NHA’s or its consultants’ inability to foresee or plan for those challenges. We have no reason to doubt the skills and professional ability of NHA executives and staff, but we cannot reconcile NHA’s lack of progress with the fact that the agency

³⁵ Including NHA Board Resolution NHA-4640-2016 that lays out the roles of the Grand Management and Procurement Department (section 3.6 and 3.7 respectively).

³⁶ Letter from HUD to NHA titled “Final Monitoring Report.” October 20, 2016



is supported by 350 employees and spends around 15% of the tribe's annual IHBG allocation on "planning and administration." The poor administration of IHBG funds by NHA has exposed the program to an excessive risk of waste, fraud and abuse.

NHA appears to have made improvements in its internal controls, which averted enforcement action by HUD (outside of what HUD has already initiated). However, based on our observations, we conclude that additional oversight is warranted, particularly in the area of procurement.

Recommendations

- Congress should cap or reduce Navajo Nation's NAHASDA allocation if NHA's unobligated balance continues to grow and new home construction remains stagnant.
- NHA and Navajo Nation must streamline the process for acquiring land and permitting and create some permanency for projects approved at the Chapter House-level.
- The NHA Board of Commissioners should be replaced with professional board members.
- NHA should improve coordination with collaborating tribal agencies (like NTUA and NNLD).
- HUD should increase NHA site visits and more closely monitor and evaluate NHA procurement practices.
- NHA should consider entering a business-mentor relationship with a HUD-supported community development corporation that has a successful record in community-oriented development on Indian reservations.
- NHA and HUD should ensure that Annual Performance Reports provide the public and policy makers with clear, unambiguous data on how many houses have been serviced each year with expenditures categorized to differentiate between house constructed vs. modernized, and rental vs homeownership.
- The Navajo Nation Council should consider the recommendations made by the 2009 JJ Clacs feasibility study to restrict NHA to managing its 1937 Housing Act rental units and designate a new TDHE for new home construction.