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MEMORANDUM

March 12, 2021

To: TRIBAL HOUSING CLIENTS

From: Ed Clay Goodman
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Re: *American Rescue Plan – Indian Housing Provisions*

On March 11, 2021, President Biden signed the "American Rescue Plan Act of 2021" (H.R. 1319), which was moved through Congress via the expedited legislative process of "budget reconciliation," which narrows the scope of the package to purely budgetary matters. The bill passed Congress on a strict party line vote, with only one Democrat in the House voting against it. In the Senate there was a 50-50 tie among the Senators voting, with the tie broken by the Senate President, Vice-President Kamala Harris.

General Provisions

The legislation provides approximately \$1.9 trillion in spending overall to address the COVID-19 pandemic and associated economic crisis, including \$31.2 billion for Indian tribes and Native communities. Most notably, it provides \$20 billion in direct funding for Tribal governments through the new Coronavirus State Fiscal Recovery Fund, with more time and broader eligible uses than the Coronavirus Relief Fund monies from the CARES Act.

The Act also appropriates over \$6 billion for the Indian health system; \$1 billion for Native education programs; \$900 million for the Bureau of Indian Affairs; \$500 million for economic infrastructure investments in Native communities; \$250 million in FY 2022 and FY 2023 for Tribal governments, for any governmental purpose; \$100 million for "critical capital projects" for Tribal governments and Native Hawaiians; and \$20 million for Native languages.

For businesses, the Act provides increased funding for the Paycheck Protection Program; the Economic Injury Disaster Loan program; the Shuttered Venues Operators Grants program; and creates a new \$25 billion program to support restaurants, as well as a pilot program at the Small Business Administration to fund "program navigators" to assist businesses. Further, the Act extends the tax credits for employers who choose to provide qualifying paid sick and family leave and extends the Employee Retention Tax Credit.

For individuals, the Act provides an extension of the enhanced unemployment benefits to September 6, 2021; \$1,400 direct stimulus checks to American households; expansion of the child tax credit in 2021 from \$2,000 to \$3,600 for children under 6 years old and \$3,000 for

older children; an expansion of the earned income tax credit; and relief for socially disadvantaged farmers and ranchers.

Indian Housing Specific Provisions

In addition to the above-listed items, the legislation includes \$1.2 billion for Tribal and Native Hawaiian housing programs. These funds are appropriated in addition to and are supplemental to FY 2021 appropriations.

The main provision includes \$750 million in funding, to remain available until September 30, 2025, for programs funded under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA), allocated as follows:

- \$450 million for the Indian Housing Block Grant (IHBG)
- \$5 million for Native Hawaiian Housing Block Grant (NHHBG)
- \$280 million for (non-competitive) Indian Community Development Block Grant (ICDBG) (similar to the Imminent Threat grants issued last summer);
- \$10 million for Technical Training and Assistance
- \$5 million for Administration.

A second provision providing funding for Indian housing programs is a \$500 million set aside for a Homeowner Assistance Program (out of approximately \$9.9 billion nationwide). The Homeowner Assistance Program funding can be used for the following services:

- Mortgage payment assistance
- Financial assistance to allow a homeowner to reinstate a mortgage or to pay other housing related costs related to a period of forbearance, delinquency, or default
- Principal reduction
- Facilitating interest rate reductions
- Payment assistance for utilities, internet, homeowner's insurance, flood insurance, mortgage insurance, homeowner's association fees, condominium association fees or common charges.

While the funding will be allocated to the Department of Treasury for distribution, the Department of Housing and Urban Development has been advising Treasury on how to work with Tribes and Tribal housing programs. The funds will be allocated in the same way that the Emergency Rental Assistance (ERA) Program funds were allocated, using the NAHASDA

Indian Housing Block Grant formula. The program will be operated similarly to the ERA Program, but focused on homeowners in economic distress at risk of losing their homes. However, unlike the ERA Program, the Homeowner Assistance Program does provide for use of the higher of either the local or national area median income ("AMI") when determining income eligibility, and the timeline for expenditure is more flexible (the money must be expended by September 30, 2025).

Finally, the legislation extends the final deadline for expenditures under the ERA Program from December 31, 2021 to September 30, 2022. However, the legislation did not change the deadline for expenditure of 65% of the ERA Program funds (September 30, 2021).

Conclusion

If you have any questions about this memo, please contact Ed Clay Goodman at 503-242-1745 or at egoodman@hobbsstrauss.com.