



# **Association of Alaska Housing Authorities**

**2011**

## **Federal Legislative Priorities**

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**“Dedicated to Increasing the Supply of  
Quality, Affordable Housing in Alaska”**

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## **Overview of the Association of Alaska Housing Authorities (AAHA)**

The Association of Alaska Housing Authorities (AAHA) is a private, non-profit 501(c) (3) corporation whose current membership consists of 14 regional housing authorities created pursuant to Alaska State statute, plus the Alaska Housing Finance Corporation (AHFC). AAHA is dedicated to increasing the supply of quality, affordable housing in Alaska. In partnership with AHFC and an ever-growing list of other state and federal partners, AAHA members serve residents in every part of Alaska. The regional housing authorities have built or rehabbed over 11,300 housing units in more than 250 rural and urban communities since their inception in 1971. *AAHA members, working with our partners like AHFC, are one of the largest employers in rural Alaska and play a critical role in sustaining many local economies.*

### ***The regional housing authorities:***

- ***Have built over 1,500 housing units in the past ten years with approximately 200 new units constructed annually***
- ***Administer well over \$150 million in federal, state and other funds on an annual basis***

In addition to new construction and rehabilitation of existing units, AAHA members also provide a broad range of other housing and housing related services such as weatherization services, down payment assistance, and construction trades training. AAHA is also a unique forum for private market lenders, housing-related agencies, and other housing partners to share expertise and information with the purpose of developing effective strategies for increasing the supply of affordable housing in Alaska.

**In order to continue our collective efforts, AAHA members respectfully request your support for the 2011 federal priority issues identified below.**

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## **Association of Alaska Housing Authorities FY 2011 Federal Priorities**

The Association of Alaska Housing Authorities (AAHA) is pleased to submit our federal legislative priorities. AAHA members greatly appreciate the ongoing efforts of the Alaska Delegation and staff in supporting affordable housing, job creation and economic development in our state. We look forward to working with you to advance our mutual interest in improving the lives of those we have the privilege of serving.

Detailed below are priority issues for which we are seeking your support, guidance and assistance to successfully advance.

### **AAHA Issue # 1: NAHASDA Funding:**

#### **Request:**

**AAHA requests that our congressional delegation support a FY12 NAHASDA block grant appropriation at *no less than the FY10 appropriation of \$700 million*.** This was a relatively small increase over the FY2009 appropriation, but is still at least \$175 million short of the minimum needed just to keep up with inflation since 1998, and well below an amount which would truly meet the demonstrated need in Alaska and throughout Indian Country nationally.

On a related matter, AAHA continues to request the delegation oppose any legislative efforts to convert from census based data to tribal enrollment based data for the funding allocation methodology. Reliable tribal enrollment data is not available for Alaska (see also AAHA Issue #6).

#### **Status / Background:**

AAHA is appreciative of the congressionally approved increased amount of \$700 million for the FY10 Native American Housing Assistance and Self-Determination Act (NAHASDA) block grant, after the block grant received flat-line funding for the previous five years. However, even with an increase, the block grant continues to be grossly underfunded in terms of meeting demonstrated critical housing needs in Alaska and nationally, and when annual inflation is factored in from the 1998 appropriation forward, the FY10 appropriation necessary merely to maintain flat-funding would have been \$875 million.

In Alaska, AAHA's NAHASDA funded programs are the primary vehicle for meeting Alaska's critical rural housing needs and collectively are a major part of the overall economy of the state, particularly in rural Alaska. In fact, AAHA's members have been good stewards of the NAHASDA funding and Indian Housing funds available prior to the passage of NAHASDA, building and rehabilitating more than 11,300 homes and rentals in more than 250 rural and urban communities (since the

inception of the regional housing authorities in 1971). AAHA members are the primary producers of new housing in rural Alaska, where there is a lack of private housing markets and financial forces. The Alaska Housing Finance Corporation (AHFC) commissioned *2009 Alaska Housing Assessment* documented the need for nearly 13,000 new housing units to meet demand created by overcrowded conditions and houses that are severely substandard.

*When considering your position on NAHASDA funding we urge you to take seriously, and impress the fact on your colleagues that Indian housing is not merely a federal entitlement or "discretionary program," but has its roots in a solemn trust responsibility to Indian nations and peoples.* Housing conditions in Indian country are well documented as being some of the worst of the worst, and Alaska Natives suffer from escalating and above national average rates of overcrowding, inadequate housing, and unemployment, both as to the general U.S. population, and within the Native American population as well.

Finally, notwithstanding our firm belief that cuts to NAHASDA are totally unjustified and will be counterproductive to Congress' independent objective of economic growth and job creation, if cuts are to be made we ask your support to ensure Indian housing programs do not suffer unjustified, disproportionate cuts relative to other programs, as has been proposed in the recent past. We also reiterate our belief that Indian housing programs have a unique legal and equitable justification for discrete consideration apart from actions taken relative to other HUD funded programs.

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### **AAHA Issue # 2: AAHA Member Tax Status Clarification:**

There is current inconsistent treatment of Alaska housing authorities relative to other tribal housing authorities nationally in regards to tax related issues and status. The current situation has a significant negative impact on AAHA members' ability to leverage funding through tax exempt borrowing and our ability to enjoy benefits of similarly situated entities.

**Request:** Lacking any definitive guidance from the IRS on the question of HA tax status, (i.e., whether HAs qualify as "political subdivisions" or some other classification of "governmental unit"), members continue to experience difficulty in terms of lenders refusing to enter into tax-exempt loan transactions, and securing the benefits of the tax exempt bond provisions of IRC sections 103 and 141-150. Members have therefore proceeded to request assistance in the form of legislative action which would remedy the current situation by providing for the following:

***"For purposes of title 26, United States Code, Alaska Regional Housing Authorities created under Alaska Statutes sections 18.55.995 and 18.55.996 shall be treated as political subdivisions of a State."***

### **Status / Background:**

There does not seem to be any logical reason why Alaska regional housing authorities (HA's) should not have the same tax application and advantages as those provided to every other tribal housing authority across the country, keeping in mind that the proposed language is only intended to provide that AK HAs "*be treated as*" political subdivisions for Title 26 tax purposes, not that they be designated political subdivisions as a matter of law, with all its broader meaning. There would not seem to be any disadvantage to such a designation.

Alaska housing authorities (HA's) have a unique history and background. The existing Alaska Regional Native Housing Authorities were created under Alaska statutes 18.55.995-998. The legislative purpose as stated in Section 995 was in part "... to provide a means for certain native associations to form *public corporations* with the power and duties comparable to [the Alaska Housing Finance Corporation]." Each ANCSA regional non-profit was basically given the opportunity to act as an "initiator," by being given the authority to take action through their respective boards to create a HA for their respective service and geographic area. The non-profit was given authority to appoint a 5 member HA Board of Commissioners who would each serve a 3-year staggered term. This structure remains in place today. That is essentially the only legal authority the non-profits have in terms of their relationship with their respective HA's. They do not otherwise participate in or have any influence over the internal affairs of the HA's, and in fact do not have legal authority to even remove appointed members. The internal operations or structure of the HA's are governed strictly by the statutory authority granted under A.S. 18.996(b) and our internal bylaws.

As public bodies "corporate and politic," the HA's are essentially treated as non-profits most of the time and for most purposes. However, this status can be called into question in certain situations or under certain circumstances. For instance, as a rule, HA's are considered tax exempt from both property and sales taxes by municipal governments. (See Op. Att'y Gen, July 24, 1985. "Private leasehold interests of the Regional Native Housing Authorities ... do not appear to be subject to municipal property taxation.") NAHASDA specifically allows for HA's to participate in federal govt. GSA pricing for hotels and airlines and for HA's to participate in the federal government surplus property pools. The State of Alaska however does not provide for similar recognition, although HA's participate in the State PERS retirement system. In short, the current situation is confusing and unpredictable.

At the heart of the problem which motivates our request for assistance is the uncertainty among lending institutions in regards to our status and the direct and negative impact this has on our potential borrowing and financing options. As HA's are continually asked to do more with less and leverage our federal and state funds to the maximum extent possible, entering the bond market for attractive financing options would seem a natural fit. However, in the current environment, our ability to independently operate successfully in this market is open to question. The proposed amendment would settle the issue and allow HA's to proceed with

the unquestioned authority that was originally envisioned under the state statute which established the HA's.

To resolve this long-standing issue, AAHA requests support and assistance in securing a legislative solution. We believe this makes entirely good fiscal and practical sense and will greatly advance our interests as well as those of the government in seeing that our limited and decreasing funds are leveraged to the maximum extent possible. In an era where HA's are facing growing needs, rapidly rising costs and shrinking federal funds, this would appear to be a sound approach in terms of public policy as well as being technically efficient solution.

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**Issue #3: Include IHA's and RHA's as directly eligible applicants for new construction activities under the Indian Community Development Block Grant program (ICDBG) and the Section 202 Supportive Housing for the Elderly program:**

IHA's & RHA's are currently not recognized as Community Based Development Organizations (CBDO's) under the ICDBG program. AAHA strongly supports independent recognition of IHAs and RHAs as CBDOS for purposes of securing ICDBG funds. There is no logical or rational reason for ongoing failure to provide such recognition. In fact, Alaska's RHA's are the most active builders in Alaska's rural areas. With this change, there would be less duplication of building efforts and better opportunities to coordinate community building activities. As noted in the recently released federal agency *Sustainable Rural Communities Report 2010*, RHAs are in fact substantially similar in purpose, function and scope to currently recognized entities. (See *Sustainable Rural Communities Report 2010*, pages 43-44.)

In addition, as noted in the same report, IHA's and RHA's are not considered eligible applicants for HUD's Section 202 Supportive Housing for the Elderly Program and a possible solution to this issue, identified in the report, recommends that the regulations be changed so that IHA's and RHA's are allowed as applicants and are recognized as "consumer cooperatives." Currently, If a housing authority wishes to access these funds for project development, they must set up or utilize a separate 501©(3) corporation for this purpose. As noted in the Report, this is a time consuming, expensive and unnecessary prohibition. AAHA strongly supports the *Sustainable Rural Communities Report 2010 recommendation on the Section 202 Supportive Housing Program*. (See *Sustainable Rural Communities Report 2010*, pages 445-47.)

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**Issue 4: Allow AAHA members to access sanitation funding and, additionally, mandatory processes should be developed and enforced to**

**insure federal and state agency coordination with housing authority new development projects:**

Alaska's regional housing authorities are currently not eligible to access federal and state water and sewer infrastructure funds even though the water and sewer projects are being built in large part to support the housing constructed by the impacted housing authorities. If housing authorities were able to access program funds directly, they could efficiently implement needed water and sewer infrastructure in a timely manner as they build new housing.

As things currently stand, there is no enforceable mechanism if federal or state agencies delay implementation of their part of a development project. Housing authority homes sit vacant waiting for sewer and water hook-ups or use the notorious "honey bucket" system pending VSW and ANTHC project completions. The current system is inefficient, lacks reasonable coordination and clearly is not delivering maximum benefit to intended beneficiaries.

The HA's request your support for implementing some mechanism whereby the HA, with the support and agreement of the local government, would have the opportunity for direct access to water & sewer infrastructure funding. This is not an entirely new or novel idea, as this was an established practice pre-NAHASDA.

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**Issue #5: Designation of a lead federal agency when multiple funding sources are included in project development, and the implementation of a requirement for one environmental review when multiple funders are supporting a project.**

Although AAHA continues to study the concept of having a lead federal agency as to all federal agency matters in general, AAHA strongly supports the specific recommendation in the *Sustainable Rural Communities Report 2010* for the designation of a lead federal agency when multiple funders are contributing to a project. This should include the implementation of a single, project based Environmental Review process. AAHA has been a long-standing advocate for a more coordinated and unified NEPA Environmental Review process. Implementing a "lead federal agency" and "lead federal program" system would be a significant cost saving measure for many RHAs.

**Issue #6: Need for 2010 Census data to accurately reflect Alaskan community demographics so that low-income Alaskans will not be undercounted.**

Data Collection on Income Information

Several components of the Indian Housing Bock Grant (IHBG) allocation formula rely on data that was last obtained through the 2000 U.S. Census. Because the 2000 Census collected data on both race and income for specific households, it was relatively easy to determine which communities included a significant number of low-income Alaska Native and American Indian families, and thus which communities had the greatest need for Indian Housing funds.

However, the 2010 Census Short Form, which was completed by all households, does not gather household income data. Instead the Census Bureau decided to employ the American Community Survey (ACS) to gather income data. In Alaska, the relevant sample section for the ACS is extremely small. For example, in 2006 the relevant ACS sample size for Anchorage was 2,226. The sample size for Fairbanks was 833, and for the Mat-Su area it was 1,486. Further, it is very possible that the ACS is not representative of Alaska's lower income populations, which are often transient or do not have routine access to postal services.

AAHA is concerned that the Census Bureau's decision not to collect household income data during the 2010 Census will impact the NAHASDA allocation formula. Specifically, there appear to be two potential sources of data to drive the NAHASDA formula:

- 1) Outdated household income data from the 2000 Census; or
- 2) ACS data. This option is disconcerting, considering the small sample size for the ACS and the likelihood that low-income households in Alaska may be undercounted because of transiency and lack of routine access to postal services.

If ACS data is to be used to supplant 2000 Census data, HUD must ensure that the data collected accurately reflects community demographics and that low-income Alaskans will not be undercounted.

#### Self-Identification of Tribal Affiliation

The 2010 Census Short Form attempted to gather data on race and included an option to identify oneself and household members as "American Indian or Alaska Native." The individual completing the form was instructed to print the name of the "enrolled or principal tribe" for each household member identified as American Indian or Alaska Native (AI/AN).

It is unclear why the Census Bureau required individuals completing the Short Form to identify their enrolled or principal tribe. If, however, the purpose was to discern whether an individual should be counted as AI/AN based upon their actual membership in a federally-recognized tribe, then there is a risk that the number of AI/AN persons in Alaska communities will be substantially undercounted.

Consider, as an example, an individual of Aleut descent who is a shareholder of Cook Inlet Region, Inc. and Niniilchik Native Association. If that individual

mistakenly writes in "Aleut," then they will not be counted as a member of a federally-recognized tribe. Indeed, neither Cook Inlet Region, Inc. nor Ninilchik Native Association is identified as a federally-recognized tribe for most purposes; the Ninilchik Traditional Council holds that distinction. For the average Alaska Native, it is difficult to determine whether to write in the name of a village council, village corporation, ANCSA regional corporation, ethnic sub-group (e.g. "Yupik" or "Tlingit") or broader ethnic group (e.g. "Eskimo" or "Aleut"). It is therefore imperative that all individuals who identified themselves as "American Indian or Alaska Native" on the 2010 Census Short Form be counted as AI/AN individuals for purposes of allocating federal funding for various programs, including the Indian Housing Block Grant.

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