

CALIFORNIA TRIBAL HOUSING NEEDS AND OPPORTUNITIES:



A VISION FORWARD

CALIFORNIA COALITION FOR RURAL HOUSING
RURAL COMMUNITY ASSISTANCE CORPORATION



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CALIFORNIA TRIBAL HOUSING NEEDS AND OPPORTUNITIES: A VISION FORWARD

Prepared by
California Coalition for Rural Housing &
Rural Community Assistance Corporation

Top left: Karuk Homes I, Karuk Tribe, Yreka; Bottom left: Wah-Up-Weh-Tu Housing Project, North Fork Rancheria; Top right: Robert Wright Jackson Shingles Residence, Pinoleville Rancheria, date unknown; Bottom right: Bishop Paiute Tribe, Bishop, 30 2-5 bd units



We would like to thank Yocha Dehe Wintun Nation for its generous support of this project.

Foreward

As the Executive Director of Northern Circle Indian Housing Authority for 40 years, I saw many changes in the housing programs and services available to Tribal communities. Some have been beneficial to tribes and some have increased our challenges to support affordable housing and community development. This study is a breakthrough for Tribes in California as it provides data and information about housing issues that affect tribes and tribal communities. Information on tribal housing conditions was included for the very first time in California's Housing Future: Challenges and Opportunities, published in 2018 by the California Department of Housing and Community Development. This is significant because the statewide study will be used to inform housing strategies, programs and services in California over the next decade.

As a result of much advocacy work by tribes, tribal organizations and our partners from the affordable housing community, in concert with staff from the California Department Housing and Community Development and the California Tax Credit Allocation Committee, regulations were adopted that now allow tribes in California to participate in the Low Income Housing Tax Credit and HOME Investment Partnership programs. Having access to these resources is significant and tribes and our communities have benefited and will continue to benefit from the opportunities that are available to us in our efforts to assure all native families have a safe and affordable home.

Thank you to California Coalition for Rural Housing and Rural Communities Assistance Corporation for their commitment and hard work in bringing this study to reality.

Darlene Tooley

Former Executive Director

Northern Circle Indian Housing authority

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Section I

Introduction

This study was conducted by the California Coalition for Rural Housing and Rural Community Assistance Corporation to reveal the current housing and living conditions of California's tribal communities and provide a blueprint for how the state can help to improve these conditions in the coming years. Components of the research and data collection helped inform the Final Statewide Housing Assessment 2025 published in 2018 by the California Department of Housing and Community Development.¹

Much has been written regarding the history of California's American Indian population and state and federal policy impacts on the general welfare of tribal members. To our knowledge, however, there has never been a comprehensive statewide study of tribal housing. The goal of this study, then, is to understand the unique housing environment on tribal trust and fee land and, based on the findings, propose reforms to improve access by tribes to state housing programs. We focus principally on the housing conditions and needs of California tribes that have received federal recognition by the United States government.

The study is organized into eight sections. Section I provides a brief history of the legacy of dispossession that informs the current housing situation and recent efforts by California Indians to reconstitute on tribal trust land. Section II describes the research methodology and Section III defines key terms. Section IV reveals the findings from our analysis of Tribal California's population and housing characteristics based on an examination of primary and secondary data sources. Section V discusses tribal housing needs and organizational capacity from the perspective of tribal housing administrators and leaders. Section VI evaluates the Indian Housing Plans prepared by tribes pursuant to the Native American Housing Assistance and Self-Determination Act (NAHASDA). Section VII identifies statutory and regulatory barriers that prevent tribes from fully accessing state housing programs and makes recommendations to increase tribal access. Finally, Section VIII summarizes and concludes with key findings and policy and program directions.

http://www.hcd.ca.gov/policy-research/plans-reports/docs/SHA_Final_Combined.pdf

A History of Dispossession and Reconstitution

To contextualize this study, and best understand the current status of housing conditions on tribal land in California, it is essential to understand the ways that federal and state policies have historically impacted American Indians and tribal governments' ability to address the needs of their communities. At times, federal policy has informed state actions and, at other times, state actions have influenced federal policy.

Conservative estimates placed the American Indian population in California, pre-European contact, at over 350,000 and as high as 1,000,000². By 1940, 20,000 remained, up from an estimated low of 12,000 during the mid-1800s³. Since then, the American Indian population has grown, although not to previous historic highs.

The decimation of the Indian population, and the particular conditions of tribal California which persist to this day, are a direct result of the historical legacy of past federal and state policies: extermination, the literal killing off of native peoples; termination, the efforts to remove the trust responsibility of the federal government to tribes negotiated in treaties; and dispossession, the taking or forcible removal of tribal members from their historic land base.

2 Sherburne Friend Cook, *Population Trends Among the California Mission Indians* (University of California Press, 1976), 92. Studies on pre-contact and early contact population are inconclusive, but point to a general belief that the California tribal population of the late 1700's represented a decline of 80 percent to 90 percent from pre-contact levels. Genetic studies point to a probable 50 percent reduction in population around the time of contact.

3 "Indian Tribes, after the 1849 Gold Rush and after the 1850 establishment of California Government and authority, suffered great hardships politically, socially and economically and the population decimated by 1900 to less than 25,000 when it had been estimated at 350,000 to more than one million, pre-European contact. The harsh conditions faced by California Indians is described in detail in the September 2002 publication, "Early California Laws and Policies Related to California Indians," Kimberly Johnson-Dodd, editor, California State Library, California Research Bureau, Sacramento, CA, prepared at the Request of the California Senate Pro-Tempore, John L. Burton.

Generally, Indian reservations and rancherias in California were originally intended to be homesteads or "ranches" as opposed to land bases for tribal communities. This designation spawned the term 'rancheria'. Unfortunately, the locations of these communities were often in areas that were not conducive to agricultural activity and sustainable development. So, many of the tribes have struggled to establish a feasible land use plan to balance the many needs of the community. Additionally, the legacy of land fractionation (the process of heirship whereby some parcels could have thousands of owners as the land is divided to heirs during probate over generations), trust land status, and complex issues of jurisdiction have made the implementation of planned land uses difficult and presented many challenges to development.

As federal law evolves, states and tribes are continually striving to address housing needs. Today, there is a growing awareness that tribes can be active players and that the State of California can play a meaningful role in partnership with tribes providing for the needs of the state's many diverse Indian communities. Nonetheless, many barriers still exist, in large part, because of past injustices. We highlight some of these federal and state actions below.

Federal Policy

The foundation of federal Indian law originated with principles based on the Doctrine of Discovery⁴ and opined in *Johnson v. MacIntosh* (1823), that American Indians only had a right to occupancy and not title to their own lands.⁵ This led to the legal principle of the trust doctrine, which affirms that the United States is responsible for provision of the general health and welfare of tribes and their communities. The concept of trust responsibility continues to evolve as tribal communities and federal and state lawmakers attempt to address the needs of the present.

4 Dunbar-Ortiz, Roxanne. "An Indigenous Peoples' History of the United States." 2014, p. 197-201.

5 Newcomb, Steve. "Five Hundred Years of Injustice." *Shaman's Drum*. Fall 1992, p. 18-20.



Robert Jackson Collection, Wright Jackson Shingles Residence, Pinoleville Rancheria, Date Unknown

The Treaty of Guadalupe de Hidalgo of 1848, which effectively ended the U.S.-Mexico War, also authorized Indian land claims, along with other claims by non-Indian California residents. A team of three U.S. negotiators prepared and executed 18 treaties with California tribes during 1851 and 1852 and presented them to the U.S. Senate for ratification in July 1852⁶. The ratification, however, was rejected in a ‘secret’ session of the Senate. The treaties remained in the Senate archives until January 1905, when pressure by President Theodore Roosevelt and California Indian advocacy groups forced public disclosure. Not only the disappearance of the treaties, but the ‘secrecy’ of the Senate deliberations, were exposed and became a public scandal.

In its mission to ‘civilize’ and assimilate Indians into mainstream American culture, the Dawes General Allotment Act/Dawes Severalty Act of 1887 (24 Stat. 388, ch. 119, 25 USCA 331) broke up the communal

landholdings of tribes into individual allotments, which were redistributed among individual tribal members and held in trust by the federal government for a period of 25 years. The intention was to transfer Indian lands out of tribal trust and assimilate the native population. However, it was not until the Indian Citizen Act of 1924 (PL 68-175) that Indians were granted a path to citizenship, although previously there were a few ways an Indian could obtain citizenship, such as through marriage or military service.

The Merriam Report of 1928, officially titled “The Problem of Indian Administration”, was generally critical of the implementation of the Dawes Act and the effect on American Indians. The report found that past policies of land dispossession, disenfranchisement, and assimilation had led to dire conditions amongst the tribal population. It included information and statistics on the deplorable conditions on reservations and Indian boarding schools, which influenced subsequent policies of land allotment,

⁶ Act of May 18, 1928, 45 Stat. 602 (codified at 25 U.S.C. part 651)

education, and health care. The report highlighted the failure of the federal government to maintain its trust responsibility.

Southern California tribes, in particular, had a major influence on federal policy. They established a governing partnership with the federal Office of Indian Affairs. Although tumultuous at times, it caught the notice of Franklin Roosevelt's Indian Commissioner, John Collier, the architect of the Indian Reorganization Act of 1934 (PL 73-383). The Act attempted, and generally succeeded, in reversing the deterioration of tribal land bases. It established a model form of governance for Indian tribes to implement that is still intact today. With passage of the U.S. Housing Act of 1937 (PL 75-172), subsidies were authorized for low-income housing via local housing authorities, but it was not until 1961 that a pathway was provided for Indian entities to apply.

Two decades later, however, "The California Rancheria Termination Act of 1958" (PL 85-671) was passed in response to a Congressional resolution in January of 1954 to terminate Federal Indian supervision in California.⁷ Under the Act and subsequent amendments, the federal government reduced the number of reservations and rancherias in the state from 78 to 17. "The Indian Relocation Act of 1956" (PL-959) authorized relocation of American Indians to urban areas throughout the country, such as Los Angeles and San Francisco. Those who participated in the federal relocation program were usually required to sign agreements that they would not return to their respective reservations to live.

In the late 1950's and throughout the following decades, there were various attempts to provide assistance to improve the social welfare of American Indians, especially in the area of health. Numerous reports were published examining the substandard

7 George W. Abbot, The Solicitor to the Commissioner of Indian Affairs, United States Department of the Interior (personal communication, August 1, 1960).

living conditions of Indians, which concluded that, despite these efforts, there had been little improvement in the lives of American Indians since publication of the 1928 Merriam Report. To address these conditions in the housing arena, Congress passed the "Native American Housing Assistance and Self-Determination Act" (NAHASDA) in 1996, which, for tribes, replaced the U.S. Housing Act of 1937. The Act provided tribes with the flexibility to determine who to serve, what types of products and services to offer, and how to deliver programs and projects.

Today, the dialogue between California tribes and the federal government occurs within the established context of tribal sovereignty and government-to-government relations. The themes of self-governance and self-determination are typically used to describe modern approaches to meeting the needs of tribal communities.

State Policy

During the mid-1800s, it was legal to declare any Indian in California to be vagrant upon the word of a white person and, therefore, could result in being jailed and sold at auction for up to four months with no pay, basically indentured servitude. There was a prohibition preventing Indians from testifying in court against a white person and a general practice of kidnapping, selling, and using Indian children as slaves⁸.

As previously mentioned, between 1851 and 1852, 18 treaties were signed between California tribes and the United States. The treaties reserved 7.5 million acres for the tribes, but were rejected by the U.S.

8 From 1851 to 1859 the California Legislature passed 27 laws that the state Comptroller relied upon in determining the total expenditures related to the 'Expeditions' against the Indians. The total amount of claims submitted to the State of California Comptroller for these Expeditions against the Indians was \$1,293,179.20. (Kimberly Johnston-Dodds, *Early California Laws and Policies Related to California Indians* (California Research Bureau, 2002), 2.

Senate in secret session at the request of the State of California.⁹ The tribes, believing the treaties were valid, relinquished historic territories and moved to reserved acreage. However, once they reached their new locations, they were often turned away. The tribes were not officially notified of the reason for this until 1905, some 55 years later.

A century later, the State of California continued efforts to disenfranchise tribes by sending requests to Congress in 1951 and 1953 to terminate the federal authority over Indians in the state.¹⁰ This culminated in passage of PL 83-280, which ended federal jurisdiction over Indian civil litigation and criminal prosecution and transferred jurisdiction to the state. However, neither the state nor local governments were ready to step in and assist with the social welfare of the Indian population upon termination and cessation of federal authority. California Indians were now unsure where to apply for services and, even when attempting to access services, agencies were unsure how to proceed.

In 1961, the California Legislature established in Senate Bill 1007 the “State Advisory Commission on Indian Affairs.”¹¹ The Commission published reports in 1966 and 1969 commenting on the social conditions of the Indian population in California. These reports resulted in the California Legislature adopting SJR (Senate Joint Resolution) 3 requesting that Congress “provide for the full financial participation by California Indians in all federal programs.” Perhaps as a result of this new proactive stance, and the knowledge obtained via the reports, the state also pushed for inclusion of non-entitled, non-federally recog-

nized tribes under Title I of the federal Housing and Community Development Act of 1974.

One of the main recommendations of the Commission was to create a California Indian Assistance Program (CIAP) to provide technical assistance to help tribes access local, state, and federal housing and community development resources. Initially, CIAP was a pilot project within the Governor’s Office of Planning and Research (OPR) and later it was moved to the California Department of Housing and Community Development.¹² In 1976, OPR published a report titled “A Study of Existing Physical and Social Conditions and the Economic Potential of Selected Indian Rancherias and Reservations in California”, which highlighted the severe housing needs faced by California’s Indian population.

Over more than 30 years of CIAP operations, it leveraged federal HUD, EPA, and USDA and state funds for federally-recognized and non-federally recognized tribes ranging from about \$1.3 million to \$20 million in a given program year. A conservative estimate of the total CIAP financial impact over its duration was \$300 million, with about half of that directed toward housing projects. Much to the disappointment of the tribal community, the program was largely discontinued in 2006 and shuttered in 2008 for lack of internal advocacy and programmatic support.¹³

In a sign of renewed commitment to Tribal California, Governor Brown issued Executive Order B-10-11 in September 2011 to encourage state agencies to increase communication and consultation with tribes. On November 18, 2015, the Business, Consumer

9 W.H. Ellison, “Rejection of California Indian Treaties” (Grizzly Bear, 1925), 4-5.

10 The California Legislature passed Joint Resolution #38 in 1953 calling for an end of federal jurisdiction over California Indians.

11 CIAP was established within the California Department of Housing and Community Development (HCD) in 1974 under an ‘Inter-Agency Agreement.’ CIAP’s functions and role within HCD were codified in the California Health & Safety Code Sections 5040 (h), 50407, 50827 and 50406 (n); also, California Code of Regulations 7062, by the Zenovich-Moscone-Chacon Housing Act of 1977.

12 Personal communications with G. David Singleton, December 23, 2015 and March 6, 2016. Singleton worked for CIAP for four years and was the last full-time senior staff before the program was closed in 2006. Previously, he served in various high-level state offices and as a consultant working closely with CIAP staff and tribes.

13 Personal communications with G. David Singleton, December 23, 2015 and March 6, 2016.

Services and Housing Agency overseeing the Department of Housing and Community Development (HCD) adopted its Tribal Consultation Policy. Shortly thereafter, HCD promulgated its tribal consultation policy, effective January 1, 2015:

This Policy is intended to foster and promote effective consultation and collaboration between HCD and federally-recognized California Indian Tribes and non-federally recognized tribes eligible for HCD's financing programs, regarding development and/or implementation of policies, rules, regulations, programs, projects, plans and activities that may affect tribal communities. HCD's goal is to engage in interactive processes to respectfully seek, discuss and consider Tribes' views in an effort to resolve concerns at the earliest opportunity and in a manner that respects and furthers the interests of Tribes and the State of California.¹⁴

Another significant effort to address American Indian housing conditions in California occurred in 2014 when the California Tax Credit Allocation Committee created a Low-Income Housing Tax Credit (LIHTC) Pilot Program for Indian tribes, the first time in the nearly 30-year history of the program.¹⁵

¹⁴ See <http://www.hcd.ca.gov/news/announcements/hcd-tribal-consultation-policy.pdf>.

¹⁵ Dewey Bandy, *Native Americans and the Low Income Housing Tax Credit Program: Lessons from the California Tribal Pilot Program* (Community Investments, Summer/Fall 2014), 30.

At first, the program was a 'pilot', but later was made permanent. Since then, leveraging of NAHASDA funds with LIHTCs has provided a substantial resource to tribes, funding six tribal rental housing projects as of 2018.

The Tribal Working Group that the Department of Housing and Community Development began hosting in 2015 has been reviewing current policies that affect the ability of American Indian tribes to access a variety of state housing programs. The 2017 release of the Final Statewide Housing Assessment 2025 and this study address current barriers that prevent tribal subscription in current and future state housing programs in order to measurably improve tribal housing and housing-related infrastructure conditions.

More recently, in 2019, Governor Newsom issued Executive Order N-15-19, an official apology for the "historically sanctioned ... depredations and prejudicial policies against California Native Americans", established a Truth and Healing Council, and specified that the work of the Truth and Healing Council "be done respectfully and in collaboration and consultation with Executive Order B-10-11".

Section II

Methodology

In this section, we discuss our methodological approaches and the methodological challenges of enumerating California's Indian population and housing conditions and needs. The data analysis was performed over a six-month period from June to November 2015 by the California Coalition for Rural Housing (CCRH) and Rural Community Assistance Corporation (RCAC) with later contextual updates to 2019.

Our principal focus is on the housing conditions of Tribal California – households living on land controlled by federally-recognized tribes. The most recent list of federally-recognized tribes published in the Federal Register (February, 2019) identified 109 California-based tribes with federal recognition. Land under tribal control is land where tribes have a beneficial interest or legal title; in other words, federal trust land located on and off reservations and rancherias, as well as fee land located within the jurisdiction of California cities and counties. In Section III, we define key terms relevant for understanding the study findings and conclusions.

Data Research Methodologies and Information Sources

The study combines primary research from a questionnaire, windshield survey, and interviews with key informants administered by CCRH and RCAC and secondary research employing existing data from the U.S. Bureau of the Census, U.S. Department of Housing and Urban Development (HUD), U.S. Department of Environmental Protection (EPA), U.S. Department of Health and Human Services (HHS), and internet sources. CCRH and RCAC conducted six different, but related analyses of American Indians and tribes in California, described below.

1. U.S. Census Analysis

The 2010 U.S. Census was used to present information on the total number and locations of American Indians in California compared to the nation and other states. To disaggregate California data on the American Indian population to the tribal level, we employed the American Community Survey (ACS), 2009-2013, which offers a much more granular analysis. Shape files were used to identify federally-recognized tribes with a land base and resident population. These are tribes enumerated by tribal statistical areas – tribal census tracts and block groups unique to and within the boundaries of specific federally-recognized tribes.

Our analysis of the 109 federally-recognized tribes concluded that 10 were landless and 15 had land but no reported population. In addition, we eliminated one tribal statistical area associated with the Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation. Partly located within the City of Palm Springs, it had a resident population four times greater than the next largest tribe, the overwhelming number not American Indians. The result was a study population of 83 tribes.

What was not revealed by the Census were how many of the residents on tribal trust land were trib-

al members, American Indians belonging to other tribes, both California- and non-California-based, or non-American Indians. Based on conversations with tribal housing administrators and leaders, however, we assumed that the great majority of residents were American Indians.

In addition to population counts, we retrieved data from the ACS on tribal population by household type, housing units by structure type, bedroom size, age, and tenure, gross rent as a percent of household income, and tribal poverty rate.

2. Tribal Leader/Housing Administrator Questionnaire

To enrich our Census analysis, and discern housing and related information not included in the Census, we administered an online questionnaire targeted to tribal housing administrators and leaders. The contact list used was the U.S. Department of Housing and Urban Development, Southwest Office of Native American Programs, directory of Tribally-Designated Housing Entities (TDHEs) and tribes for the Southwest states, including California. The questionnaire was pretested with several leaders of the Nevada-California Indian Housing Association. It can be found in Appendix 1.

Respondents from 35 tribes submitted the questionnaire (see Appendix 2). Phone interviews were conducted with tribal representatives who preferred to respond by phone or submitted incomplete responses. In this study population, unlike our Census analysis, we did include the Agua Caliente Indian Reservation because the questionnaire focused only on the housing conditions and needs of tribal members living on the reservation, not the entire tribal statistical area, which as mentioned previously is overwhelmingly populated by non-American Indians. We were also interested in learning about housing owned and administered by tribes outside of tribal statistical areas, since the Census does not distinguish between tribal and non-tribal units on fee land.



Redwood Valley Housing Valley Housing Project, Redwood Valley Little River Band of Pomo Indians, Moriah McGill, 2018

All tribes responding to the questionnaire had land in trust. One tribe, however, did not have a population base living on trust land according to the ACS, 2009-2013, but reported population and units in the questionnaire.¹ We included this tribe in the analysis. If all federally-recognized tribes with a land base are counted (99), the response rate was 35.4 percent. If only land-based tribes with a resident population in the most recent Census are counted (83), the response rate was 40.1 percent.

Tribal housing administrators and leaders were asked a variety of questions about their tribes' housing conditions and needs. This information included number of units located on tribal trust or fee land, selected unit characteristics, such as tenure, overcrowding, and age, the mix of manufactured homes versus stick-built homes, populations with the greatest housing needs, most common physical housing problems, kinds of housing produced in the past decade and needed in the future, challenges to production, and tribal capacity.

¹ Ewiiapaayp Band of Kumeyaav Indians.

3. Windshield Survey of Tribal Housing Conditions

The Rural Community Assistance Corporation (RCAC) Tribal Circuit-Rider Program enabled us to make site visits to selected tribes to observe first-hand existing housing stock conditions and compare and contrast the findings from our Census and questionnaire analyses. The Program, which has been active in Indian Country in California since 1992, provides capacity development training to water and wastewater system operators and decision-makers on an ongoing basis.

Windshield surveys were performed by four tribal circuit-rider staff within RCAC's Environmental Division over a six-week period from August to October 2015. Circuit-riders were able to access 19 tribes representing a wide range of geographies and sizes. The tribes were distributed throughout three regions of the state – Northern, Southern, and Central. They ranged in size from small rancherias, such as Trinidad and Table Bluff in Northern California,



Karuk Homes I, LIHTC Project, Karuk Tribe, <https://travois.com/developments/karuk-homes-1/>

which have less than 100 acres and fewer than 100 people each, to large reservations, such as Quechan Fort Yuma and Los Coyotes in Southern California, which comprise over 25,000 acres and more than 1,000 residents each.

A total of 1,285 houses were surveyed. All participating tribes provided RCAC with permission to drive by the homes accompanied by a tribal member. The survey instrument evaluated each house based on the conditions of six external components: roof, doors/windows, walls/siding, foundation, porch/balcony, and yard/walkways. A scale from 1 to 5 was used, with 1 being an excellent condition and 5 being a poor condition. In addition, each house was rated on its overall condition. Any house, however, that had a 4 or 5 assigned to the condition of its roof or foundation was considered substandard, regardless of its overall conditions. Accompanying tribal members were able to add information about a home's interior. The survey included a comments section to capture additional information about the property.

4. Analysis of Water and Sewer Infrastructure Conditions

The RCAC circuit-riders work closely with the U.S. Environmental Protection Agency (EPA), which is the federal government agency responsible for helping tribal water systems comply with the Safe Drinking Water Act. EPA provides training and technical assistance and operates a grant program to help tribes improve their water infrastructure. The Indian Health Services (IHS), an agency within the U.S. Department of Health and Human Services, is responsible for providing health services to American Indians and Alaska Natives. Through its Division of Sanitation Facilities Construction, IHS provides grants for the construction, operations, and maintenance of water, wastewater, and solid waste facilities on Indian land.

Circuit-riders were able to obtain data on 71 of approximately 80 tribal water systems in California that meet the definition of an active community water system in the EPA Region IX database. They also obtained data for 19 wastewater systems.

Drinking water quality information was retrieved from the EPA Safe Drinking Water Information System (SDWIS), EPA Technical, Managerial, and Financial (TMF) capacity assessments, and EPA Sanitary Surveys, as well as interviews with tribal EPA directors and water system operators. Wastewater systems information, which is more difficult to access, was gleaned from EPA TMFs and Operations and Maintenance Evaluations, as well as interviews with the Senior Environmental Engineer for IHS, California, other IHS engineers, and wastewater systems operators. The systems were distributed through Northern, Southern, and Central California.

5. Analysis of NAHASDA Indian Housing Plans

Under the Native American Housing Assistance and Self Determination Act of 1996 (NAHASDA), as will be described later, federally-recognized tribes are eligible to receive grants annually on a formula basis to perform specified housing activities. To receive funds, tribes must submit to the U.S. Department of Housing and Urban Development (HUD) an Indian Housing Plan/Annual Performance Report that details how they used the funds in the previous year and will deploy funds in the coming year.

In response to a Freedom of Information Act request by CCRH, HUD supplied photocopies of the Indian Housing Plans for all 81 tribal recipients of NAHASDA funds in California in federal Program Year (PY) 2015 (October 2014 to September 2015). We distilled from these plans information on housing needs, program outcomes, proposed program goals, activities, budget allocations, and non-NAHASDA sources of funding leveraged.

6. Review of Selected State of California Housing Programs

Finally, our research team evaluated the current program statutes and regulations governing 15 state housing programs to identify common challenges and barriers, and make recommendations for pro-

gram improvements. Thirteen of the programs are operated by the California Department of Housing and Community Development (HCD) and two by the California Housing Finance Agency. The Affordable Housing and Sustainable Communities Program is a program of the Strategic Growth Council, although it is implemented by HCD.

Methodological Challenges

Any census or survey of American Indians, especially tribal communities, is fraught with methodological challenges resulting from the unique conditions of tribes. Confusion about terms, some legally defined and others not legally defined but used in common parlance, helps to explain why enumerating this population is so complicated. Moreover, shortcomings in traditional data collection methods further confound what we know about California's American Indians and tribal communities. Major enumeration challenges in Indian Country are described in Figure 1 below.

Figure 1: Enumeration Challenges in Indian Country

U.S. Census: The decennial census questionnaire does not distinguish between American Indians and Alaska Natives unless respondents specify a particular tribal name (Section IV, Figure 2). In these cases, it is impossible to know for sure how many individuals counted in the American Indian or Alaska Native population category are American Indians alone or are American Indians in combination with another race or races.

American Community Survey: The ACS provides a more granular, annual analysis of the population and housing characteristics of American Indians than does the decennial census. The unit of enumeration is tribal statistical areas – unique census tracts and blocks within the boundaries of

tribal trust lands located both on and off reservations and rancherias. However, the ACS is based on estimates from small sample populations. It also does not distinguish between American Indian and non-American Indian residents living on tribal trust land. In the case of the Agua Caliente Indian Reservation, the most extreme example, only about 300 households out of the more than 24,000 residents counted in the tribal statistical area in the most recent 5-year ACS were reportedly tribal members.²

Historic Undercounts: With respect to tribal communities, especially, the geographic remoteness, lack of roads, and dispersed populations of many tribes make it very difficult to reach all residents and homes on tribal land. Some tribal members may simply not want to divulge household information for a variety of personal reasons. Historic suspicions and distrust of the U.S. Government and, in some instances, their own tribal government, as well as use of non-Indian census-takers lacking cultural competency, further complicate data collection. Tribal leaders complain that the Census regularly miscounts population and housing and, in some cases, the numbers differ significantly from tribal census counts.

American Indians are Diverse: Adding to the complexity is confusion about who is an American Indian and a plethora of different tribal group names. American Indians are Native Americans, but not all Native Americans are American Indians, e.g., Alaska Natives. Moreover, American Indians consist of hundreds of groups often with different history, culture, and language. And, they are known by a large variety of group names. The U.S. Census uses the terms tribe and tribal

² Phone conversation with Todd Hooks, Planning Director, Agua Caliente Band of Cahuilla Indians, October 5, 2015.

grouping, but American Indians may prefer the term nation and live in tribal subdivisions, such as bands, clans, and extended families.

Federal Status: Furthermore, the question of federal status can be confusing. Some tribes that were once federally-recognized are no longer recognized and many that want federal recognition are uncertain whether and when they will gain it. Some are landless, while others have large land bases but few if any people. Some have relatively large populations and are well-organized, while others are very small and disorganized. And, as sovereign entities, each tribe creates its own requirements that govern who can become a member.

Tribal Name Changes: Another layer of complexity is the result of tribal name changes. For instance, names of some California tribes enumerated in the 2009-2013 ACS differ from the names of the same tribes identified in the Federal Register list of federally-recognized tribes. In some cases, the differences are a few words, but other times the tribal name is entirely different. Even since the most recent Census, some tribes have split into multiple tribes while others have combined into one.

Legacy of Dispossession: Finally, the long history of displacement and disenfranchisement has resulted in ‘fractionation’, a crazy quilt of irregularly shaped, non-contiguous trust lands located both on and off reservations and rancherias, as well as individual allotments to tribal households that are difficult to enumerate. Tribal population and assets are located on tribal trust land as well as fee land owned by tribes, but most tribal members live on land that is not under the jurisdiction and control of their tribe, but rather in cities and counties.

Section III

Key Terms and Definitions

As mentioned in Section II, term confusion is a major source of misunderstanding about American Indians. Who is an American Indian, what is Indian Country, what are the various forms of Indian land ownership, what makes a tribe a tribe, what is a federally-recognized tribe, and what is the difference between a reservation and a rancheria?

A contribution of this study will be to help peel back some of the confusions, explain tribal housing conditions and needs, and propose reforms to improve tribal access to state housing programs. In this section, we describe key terms that are often used in conversation, but which have very specific meanings in law and practice. An understanding of these terms, therefore, is important for understanding the housing landscape in Tribal California.

American Indians and Native Americans

Who is an ‘American Indian’? Generally, the term applies to any of the native or indigenous peoples of the continental United States, not including Alaska Natives. The term ‘Native American,’ sometimes referred to as ‘First Nations,’ is a broader term that typically includes American Indians and Alaska Natives¹. In common usage, however, American Indian and Native American are often mentioned interchangeably and seen by many as equivalent. American Indians are not one homogenous racial or ethnic group, but consist of hundreds of groups often with different history, culture, and language. For purposes of this study, we use the term ‘American Indian.’

Indian Country and Indian Land

The term ‘Indian Country’ has a legal definition in 18 U.S.C. § 1151:

- a. *all land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation;*
- b. *all dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a state; and*
- c. *all Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same.*²

Under the statute establishing the Indian Energy Resource Program of the U.S. Department of the Interior (25 U.S.C. § 3501), there is a legal definition of ‘Indian Land’ that is very similar to the definition of

1 Hawaii Natives, while American citizens, are not considered Native Americans as they are not an aboriginal people of the continental U.S.

2 See <https://www.law.cornell.edu/uscode/text/18/1151>.

Indian Country, although not identical.³ Oftentimes, in common parlance, the two terms are used interchangeably.

Tribes, Tribal Groupings, and Tribal Subdivisions

Historically, ‘tribe’ is the most common division applied to American Indian groups, referring to a group with common language, beliefs, and heritage. In some instances, however, Indians may prefer to call their group by a term other than tribe, such as ‘nation’. The U.S. Census refers to both tribes and tribal groupings, with the latter referring to the combination of individual tribes with a common ethnic identification, such as Apache or Cherokee. American Indians also group into other forms of communal organization and subdivisions, such as bands, clans, and extended families.

Federally-Recognized Tribe and State-Recognized Tribe

According to the Bureau of Indian Affairs, a federally-recognized tribe is “an American Indian or Alaska Native tribal entity that is recognized as having a government-to-government relationship with the United States, with the responsibilities, powers, limitations, and obligations attached to that designation...” Advantages of federal recognition include acknowledgement that tribes have certain inherent rights of self-government and sovereignty and are entitled to specified benefits, services, and protections deriving from their special relationship with the United States.⁴

Some tribes may be state-recognized, which confers certain limited benefits under federal law and protections of autonomy under California law. We focus only on federally-recognized tribes in this study.

3 See [http://uscode.house.gov/view.xhtml?req=\(title:25%20section:3501%20edition:prelim\)](http://uscode.house.gov/view.xhtml?req=(title:25%20section:3501%20edition:prelim)).

4 See <http://www.bia.gov/FAQs/>.



Wah-Up-Weh-Tu Housing Project, North Fork Rancheria of Mono Indians, Paul Irwin, 2017

Tribal Land and Individually-Owned Indian Land

The U.S. Department of the Interior defines tribal land as “any land or interests in land owned by a tribe or tribes, title to which is held in trust by the United States government or subject to a restriction against alienation under the laws of the United States.”⁵

There are three forms of tribal land tenure:

- Trust Land – Land held in trust by the United States government for the use of a tribe, usually referred to as tribal trust land or federal trust land. This land may be located within or outside of the boundaries of a reservation or rancheria.
- Fee Land Purchased by Tribes – Land acquired and owned by a tribe outside the boundaries of a reservation or rancheria and, generally, not subject to legal restrictions against alienation or

encumbrance. In a few instances, fee land may be located within the boundaries of a reservation or rancheria.

- Restricted Fee Land – Land owned by a tribe but with legal restrictions against alienation and encumbrance. Most fee land owned by tribes in California is not so restricted.

Indian Country also consists of individually-owned Indian lands that are not owned by tribes. This form of Indian land tenure, called an ‘allotment’ or ‘allotted trust land’, typically refers to reservation land the federal government distributed to individual Indians, generally, in smaller parcels than reservations and rancherias. As in the case of tribal trust land, the United States government owns the land, but the individual Indian has a beneficial interest. Individual Indians may also live on restricted fee land they own outright, however, with legal restrictions against alienation or encumbrance. This study looks only at housing on tribal land.

⁵ See <http://teeic.indianaffairs.gov/triballand/>.

Reservations and Rancherias

Tribal California consists of two main land areas – reservations and rancherias. A reservation is land held in trust by the United States government through treaty, congressional legislation, or executive order and reserved for use by a federally-recognized tribe or tribal subdivision. Some reservations include vestiges of a tribe’s original land base, while others were created to resettle tribal members who were forcibly relocated from their ancestral homeland. Generally, they are exempt from state and local government jurisdiction.⁶

⁶ See <http://www.bia.gov/FAQs/>.

In California, rancherias were created in the early 1900s to resettle tribal members, primarily adults who were homeless and landless due to the legacy of forcible removal from homelands to temporary reservations decades earlier.⁷ These small parcels of land or ranches, splintered into small tribes and bands, were not originally intended to be reservations for separate tribal governments and, in 1958, were terminated under the California Rancheria Termination Act. Over time, with subsequent legislation and federal recognition, tribes have begun to reconstitute themselves in both reservations and rancherias. Generally, California rancherias are smaller in population size and land area than California reservations.

⁷ See http://www.aaanativearts.com/california_rancherias.htm.

Section IV

Analysis of Tribal Population, Housing and Water-Wastewater Characteristics

In this section, we explore the major findings from our analyses of recent Census data. Census data alone, however, for reasons explained in Section II, do not provide a complete picture of housing conditions on tribal trust land, nor on fee land controlled by tribes. The Census does not achieve the data granularity and qualitative depth that is needed to fully understand the tribal environment. Therefore, CCRH and RCAC supplemented the Census by querying tribal housing administrators and leaders familiar with housing conditions and needs. This section also includes the findings from a windshield survey of the physical conditions of homes located on a representative sample of reservations and rancherias, as well as an assessment of individual tribal water and wastewater systems.

California's American Indian Population

California has the largest American Indian population in the nation. As can be seen in Figure 2, the 2010 U.S. Census questionnaire did not distinguish between American Indians or Alaska Natives unless respondents wrote in their tribal affiliation. In 2010, nearly 216,000 Californians identified as American Indian alone (Figure 3), 10.9 percent of the national total.¹ Nearly 144,500 individuals identified as American Indian or Alaska Native, but did not indicate a tribal affiliation. Assuming that the vast majority of these individuals in California were American Indian, the total American Indian population in the state (including individuals identifying as both American Indian and Alaska Native) was 360,472 or 12.7 percent of the national total of over 2.83 million.²

The number of people in California identifying as American Indian doubles when including American Indians of mixed race. Nearly 360,500 individuals reported they are American Indian or Alaska Native in combination with one or more other race. Again, the Census does not distinguish between the two, but the assumption is that the vast majority in California have American Indian ancestry, not Alaska Native. The total of 721,624 American Indian/mixed-race residents in California accounted for 14.1 percent of the national total.³ Compare that with Oklahoma, the state with the second largest American Indian population (321,302), which accounted for 6.3 percent of all American Indians alone or of mixed race, nationwide.

1 2010 Census Summary File 1. American FactFinder.

2 These totals do not include individuals identifying as Alaska Native alone.

3 These totals also do not include individuals identifying as Alaska Native alone.

In terms of population growth, California's American Indian population alone and in combination with other races increased from 2000 to 2010 by 15.2 percent. However, this increase lagged well behind the U.S. and other states. The American Indian growth rate in the U.S. was 26.7 percent. The growth rate of California's American Indian population ranked 48th among all states.⁴

Within California, American Indians constitute less than 1 percent of the state's population, 2 percent when including mixed-race individuals. They are geographically scattered throughout the state in urban, suburban, and rural jurisdictions, as well as in more than 100 small reservations and Rancherias, most in remote rural locations. The overwhelming majority, however, lives in non-tribal jurisdictions in cities and unincorporated areas of metropolitan counties.

As one might expect, California's most populous jurisdictions have the greatest numbers of American Indians. In 2010, Los Angeles County had the largest American Indian-alone population of any county in the U.S. with 72,554 residents and accounted for one-fifth (20.1 percent) of American Indians alone, statewide. Three remote rural counties with low populations had the highest percentages of American Indian-alone residents, Alpine (20.4 percent), Inyo (11.4 percent), and Del Norte (7.8 percent). Among cities, Los Angeles had the third largest American Indian-alone population of any city in the U.S. with 28,113 residents and accounted for 7.8 percent of the state's total.

4 *The American Indian and Alaska Native Population: 2010 Census Briefs*, 2010 U.S. Census, p. 7.

Figure 2. Race Question from 2010 U.S. Census Questionnaire

6. What is this person's race? Mark one or more boxes.

White

Black, African Am., or Negro

American Indian or Alaska Native — *Print name of enrolled or principal tribe.* ↴

Asian Indian Japanese Native Hawaiian

Chinese Korean Guamanian or Chamorro

Filipino Vietnamese Samoan

Other Asian — *Print race, for example, Hmong, Laotian, Thai, Pakistani, Cambodian, and so on.* ↴

Other Pacific Islander — *Print race, for example, Fijian, Tongan, and so on.* ↴

Some other race — *Print race.* ↴

Figure 3. American Indian Population in California and U.S.

	California	%	U.S.	%
1. Total Population	37,253,956		308,745,538	
2. American Indian or Alaska Native alone (Total of Lines 3-6)	362,801	1.0	2,932,248	0.9
3. American Indian alone, specified	215,932	0.6	1,985,245	0.6
4. Alaska Native alone, specified	2,329	0.0	100,522	0.0
5. Both American Indian or Alaska Native, specified	75	0.0	869	0.0
6. American Indian or Alaska Native, not specified	144,465	0.4	845,612	0.3
7. American Indian or Alaska Native in Combination with One or More Other Race	360,424	1.0	2,288,331	0.7
8. American Indian or Alaska Native Alone and American Indian and Alaska Native in Combination with One or More Other Race (Total of Lines 2 and 7)	723,225	1.9	5,220,579	1.7

Sources: U.S. Census 2010, American FactFinder, United States Census Bureau; The American Indian and Alaska Native Population: 2010, United States Census Bureau. See table: Race and Hispanic or Latino Origin: 2010, 2010 Census Summary File 1

California's Tribal Population

As of February 2019, there were 573 federally recognized tribes in the U.S.⁵ According to the Federal Register, California currently has 109 recognized tribes, almost a fifth (19 percent) of all recognized tribes, nationwide.⁶ Four of these tribes cross state boundaries. San Diego County has the highest concentration of recognized tribes in the state (19 or 17.7 percent). Another 67 tribal entities in California currently have active petitions for federal recognition.⁷

Amount of Land in Tribal Trust

Despite having the nation's largest American Indian population, the land base of California tribes currently held in trust by the United States Government is a tiny percentage of the state's total land area.⁸ According to a report by the Bureau of Indian Affairs in 1990, the most recent we could find, only 0.6 percent of the State's land acreage was tribal trust land (Figure 4).⁹ Compare that with nearby Arizona where nearly 30 percent of the land area was in tribal trust. The total acreage of tribal fee land is unknown.

Number of Tribal Members Living on Tribal Trust and Fee Land

How many American Indians in California live on tribal land? That is a question of some uncertainty. According to the National Indian Child Welfare Association, using 2000 U.S. Census data, only 3 percent lived on reservations and rancherias.¹⁰ The total included American Indian or Alaska Natives alone

and in combination with one or more other races. It is unclear whether American Indian residents living on off-reservation or off-rancheria trust land were included in that study. American Indians of mixed-race were less likely to live on Indian land.¹¹

Our analysis of the American Community Survey, 2009-2013, focused on tribes with shape files, in other words, tribes enumerated by tribal census tracts and block groups that are unique to and within the boundaries of specific federally-recognized tribes. As mentioned in Section II, this analysis enabled us to eliminate 15 tribes that either had no land base or a land base but no resident population, as well as one anomalous tribal tract, the Agua Caliente Band of Cahuilla Indians which has a large non-Native population. This resulted in a study population of 83 tribes. Figure 5 summarizes our distillation of the study population. Appendix 3 lists all California federally-recognized tribes and shows the tribes we selected and did not select because they did not have a populated land base or a land base wholly within California.

Within these geographically distinct tribal statistical areas, we found 33,193¹² individuals living on tribal trust land. This total includes residents of trust land located both on and off reservations and rancherias. It does not include individuals living on fee land.

What is not known is how many of these trust-land residents were tribal members, American Indians belonging to other tribes, or non-American Indians. If one assumes, however, that the great majority were American Indians regardless of tribal affiliation and whether or not they were California-based, 9.2 percent of the state's American Indians lived on tribal

5 Federal Register, February 2019, see: <https://www.govinfo.gov/content/pkg/FR-2019-02-01/pdf/2019-00897.pdf>

6 Federal Register, Vol. 80, No. 9, January 14, 2015, p. 1943-1946.

7 Bureau of Indian Affairs.

8 See http://www.waterplan.water.ca.gov/tribal2/docs/GW_Basins_and_Tribal_Trust_Lands_map.pdf

9 *Appendix D: Indian Nations, The American Indian Digest*, Table D.2, U.S. Forest Service, from Bureau of Indian Affairs, *Acreages of Indian Lands by State, 1990*.

10 National Indian Child Welfare Association, *American Indian/Alaska Native Fact Sheet for the State of California* (2005), www.nicwa.org/States/California.pdf.

11 *The American Indian and Alaska Native Population: 2010, 2010 Census Briefs*, pp. 12-13.

12 This count may be low as we found a vacancy rate of only 1.6 percent in our windshield survey of selected tribes compared to the very high vacancy rate of 21.1 percent revealed in the ACS. Tribal leaders question the high percentage of unoccupied units reported by the ACS on tribal land.

Figure 4: Percent of State Land Area in Tribal Trust

State	Tribal	Individual	Government ^a	Percent Total Land
Alaska	44,086,773	884,100 ^b	010.7	10.7
Arizona	19,775,958	311,579	90,697	27.7
New Mexico	7,252,326	630,293	270,276	10.5
Montana	2,671,416	2,868,124	11,803	5.9
South Dakota	2,399,531	2,121,188	1,606	9.2
Washington	2,097,842	467,785	3,164	5.6
Utah	2,286,448	32,838	87	4.3
Nebraska	2,141,996	43,208	7	4.4
Wyoming	2,908,095	101,537	1,296	3.2
Nevada	1,147,088	78,529	4,946	1.7
Oklahoma	96,839	1,000,165	2,298	2.5
Idaho	609,622	327,301	32,532	1.3
North Dakota	214,006	627,289	624	1.9
Minnesota	779,138	50,338	103	1.5
Oregon	660,367	135,052	378	1.3
Colorado	795,211	2,805	32	1.2
California	520,049	66,769	808	0.6
Florida	153,874	0	333	0.4
Maine	163,570	0	0	0.7
New York	118,199	0	0	0.3

^aLand within a reservation which has been reserved by the Federal Government for schools, agency buildings, and so forth.

^bThis includes the 44 million acres distributed under the Alaska Native Claims Settlement Act (ANCSA) and owned in fee by Alaska Natives

Source: Bureau of Indian Affairs Acreages of Indian Lands by State, 1990.

Figure 5: Summary of Selection Criteria for Census Analysis

Total Federally-Recognized Tribes	109
Total Landless Tribes	10
Total with No Population/Units or Data Reported	15
Total Anomalous (Agua Caliente)*	1
Total Tribes with Population and Housing	83

* The Agua Caliente Indian Reservation was deleted from the study population. It includes large land holdings within the City of Palm Springs. According to the 2009-2013 ACS, it had a population of 24,521, by the far the largest of any tribal statistical area in the state. Reportedly, only about 300 tribal households lived on the reservation; the overwhelming majority were not American Indians.

trust land. The percentage decreases to 4.4 percent when including American Indians of mixed-race, reflecting the lower propensity of this group to live on Indian land. Tribal statistical areas ranged from less than 10 individuals to fewer than 5,000. Their average size was about 400 residents. Over 90 percent, had populations under 1,000 (Chart 1).

To get some perspective on how many tribal members actually lived on land controlled by their tribe and how many lived on trust versus fee land, we asked tribal housing administrators and leaders to provide numbers of enrolled members and members living on tribal land. A total of 32,492 enrolled members were reported by the 35 tribes responding, an average of 928 per tribe. Chart 2 shows the distribution of tribes by size of enrollment. The great majority had fewer than 2,000 members. Over two-thirds (68.6 percent) had fewer than 1,000 members and nearly one-half (48.6 percent) had fewer than 500.¹³

While respondents were generally able to supply information about total members on tribal rolls, it was much more challenging for them to identify the actual numbers living on tribal trust land, fee land, or other land not within the tribe's jurisdiction or control. Only 16.8 percent of members were reported to be living on trust land, while 27.1 percent were on fee land (Chart 3). The residential locations of the majority were on non-tribal land, unknown, or not reported. This finding corroborates what is popularly thought—that most tribal members live off the reservation or rancheria in California cities and counties, thus, recent tribal efforts to provide housing and other opportunities to reconstitute their members on ancestral and tribal lands.

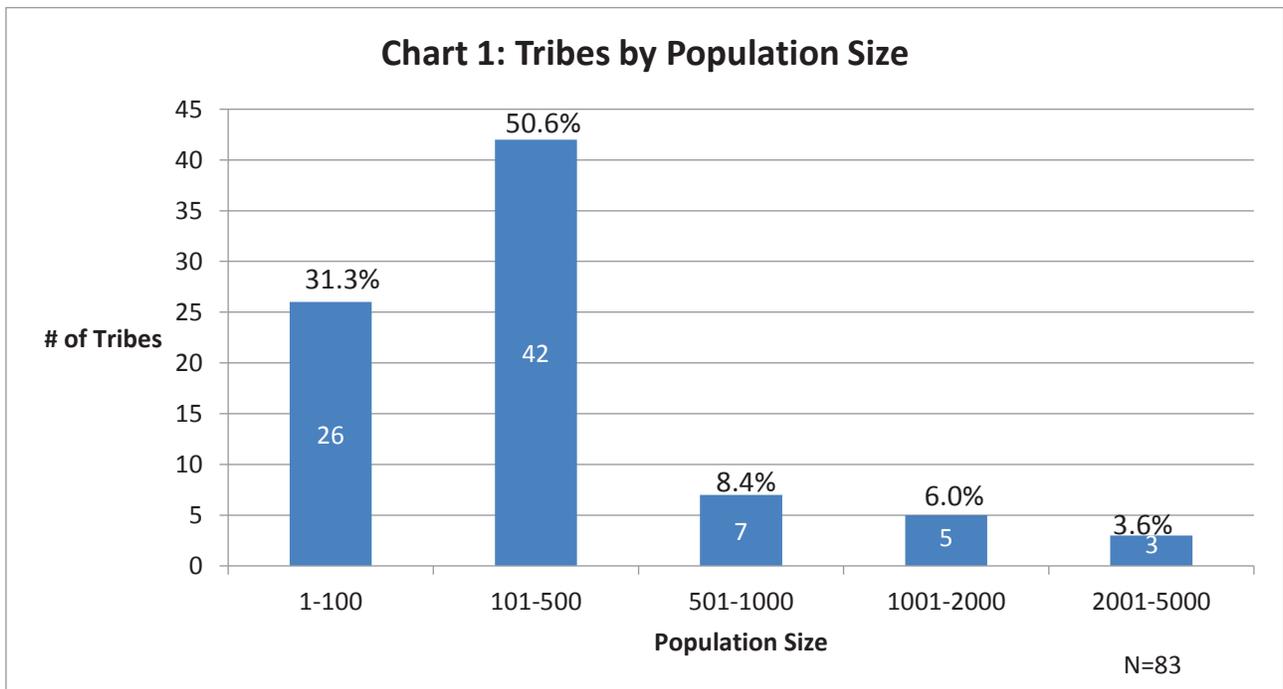
¹³ Enrollment criteria are typically established in tribal constitutions, articles of incorporation, or ordinances and are based on shared customs, traditions, language, and tribal blood. Individuals wishing to enroll must proactively contact the tribe and apply for membership, often having to prove lineal descent to someone on the tribe's base roll or a current member descended from someone on the base roll.

Tribal Population by Household Type and Composition

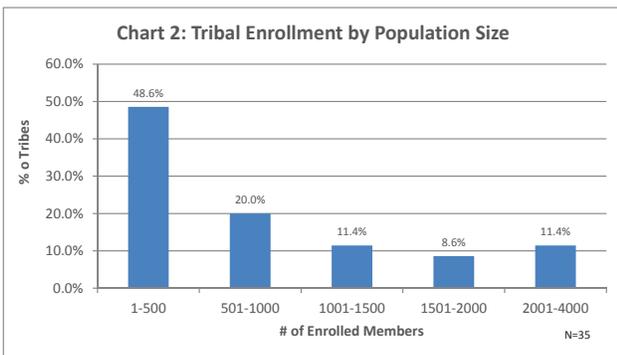
Residents on tribal land are more likely to live in family households than non-family households compared to all households in California. Nearly three-quarters (72.4 percent) of households in tribal statistical areas were family units and over one-fourth (27.6 percent) were non-family units, typically single-person households or households with two or more unrelated adults (Chart 4). In contrast, 68.7 percent of California households were family units and 31.3 percent were non-family units according to the 2010 Census. In that sense, Tribal households are more likely to resemble rural households than urban and suburban households in the state. Over one-fifth (22.7 percent) of tribal households included an older adult of 65 years of age or older.

Distribution of Housing Units on Tribal Trust versus Fee Land

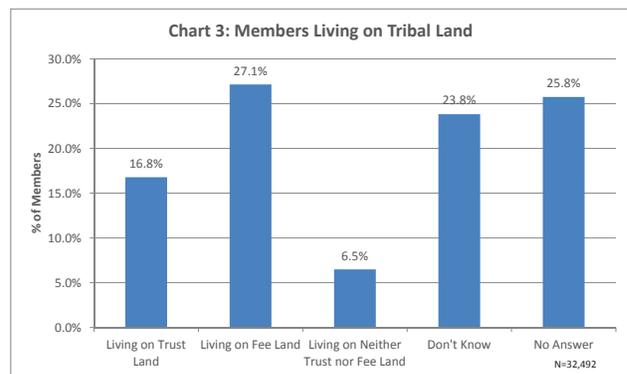
Whereas the great majority of tribal members live in non-tribal jurisdictions, the great majority of homes under the jurisdiction or control of tribes are located on trust land. Chart 5 reveals that for the 32 tribes providing unit counts, the overwhelming number of homes, more than four of every five (82.3 percent), was on trust land compared to fee land. Some tribes are actively seeking to expand tribal housing supplies on fee land for various reasons, including the greater availability of developable land with water and sewer infrastructure and access to jobs and services. However, the great majority of tribal housing stocks is still located on reservations and rancherias.



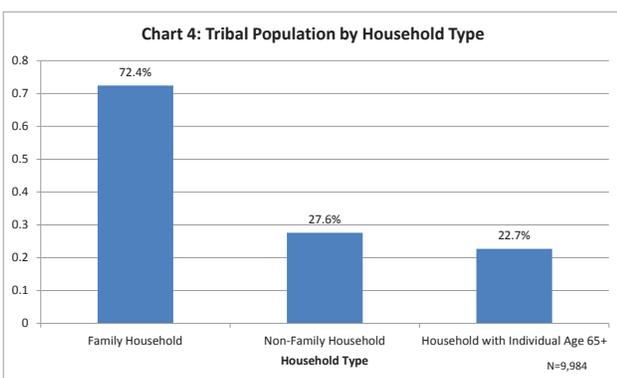
Source: American Community Survey, Five-Year Estimate, 2009-2013, U.S. Census



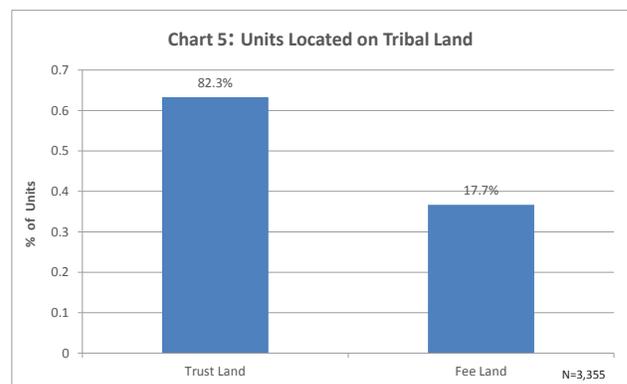
Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015



Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015



Source: American Community Survey, Five-Year Estimate, 2009-2013, U.S. Census



Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015

Selected Housing Unit Characteristics

Using the 2009-2013 American Community Survey (ACS), supplemented by information from tribal housing administrators and leaders and a windshield survey, we were able to identify a variety of housing unit characteristics, such as housing structure type, bedroom mix, age, overcrowding, and tenure. The tribal housing administrator/leader questionnaire asked respondents to report the characteristics of housing within their jurisdiction on both trust and fee land, unlike the ACS analysis which only enumerated data on trust land. However, with a few notable exceptions discussed later, the findings from the questionnaire and windshield survey tracked relatively closely with the ACS.

Structure Type

According to the ACS, the 83 tribal statistical areas contained nearly 12,800 housing units, about 152 units per tribe. As can be seen in Chart 6, the overwhelming percentage of tribal households – 94 percent – resided in just two housing types. Three in five (59.3 percent) lived in single-family detached homes and just over one-third (34 percent) in mobile-homes. Attached units accounted for less than 7 percent. Seven of every 10 (70.7 percent) dwelling units had two to three bedrooms (Chart 7).

Unit Age

Data on the age of housing units show an aging stock with relatively limited new development (Chart 8). Over 60 percent of units were built prior to 1989 and were at least 20 years of age. More than 40 percent were at least 30 years old. Tribal housing administrators and leaders reported, similarly, that 39.3 percent of the units within their jurisdiction were 30 years of age and older. About a fifth (19.5 percent) was built within the last 10 years or so. The period from 1970 to 1989 accounted for the greatest number of units, nearly 43 percent.

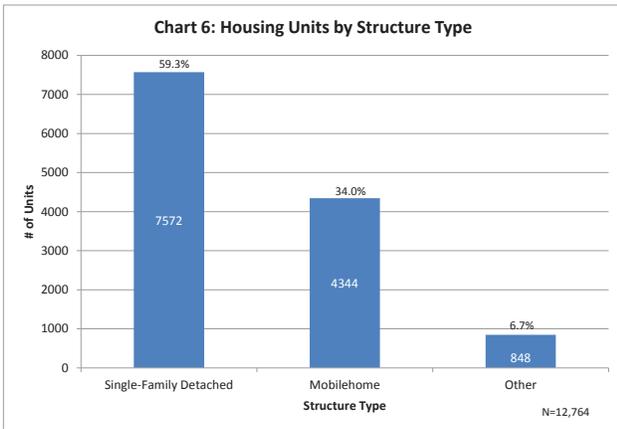
Although only one in five units on tribal land was built since 2000, about two-thirds (68.6 percent) of tribes reported they had built or installed new homes within the last 10 years (Chart 9). Chart 10 shows the percentages of units by structure type and tenure. Seventy percent (70 percent) were for purchase. Surprisingly, however, the majority of units produced were multi-family dwellings (58.4 percent). This finding, if accurately reported by respondents, defies the conventional wisdom that most new development on tribal land is single-family detached homes on single lots.

Overcrowding

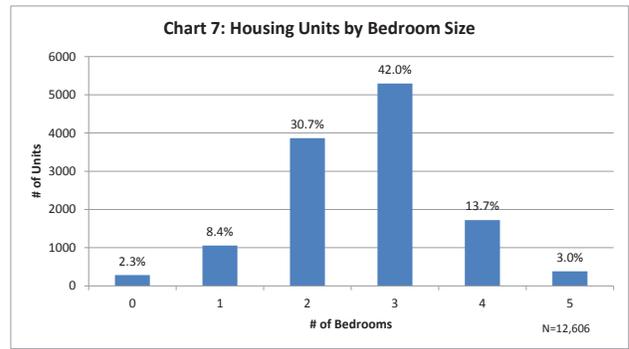
Based on a tribal population of 33,193 individuals and 9,978 occupied units, the average household size per occupied unit was 3.3 persons. In comparison, the average household size in California in 2010 was 2.9 persons per household. Tribal housing administrators and leaders reported that just over a third (35.5 percent) of households lived in overcrowded conditions (more than one person per room).

Vacancy Rates

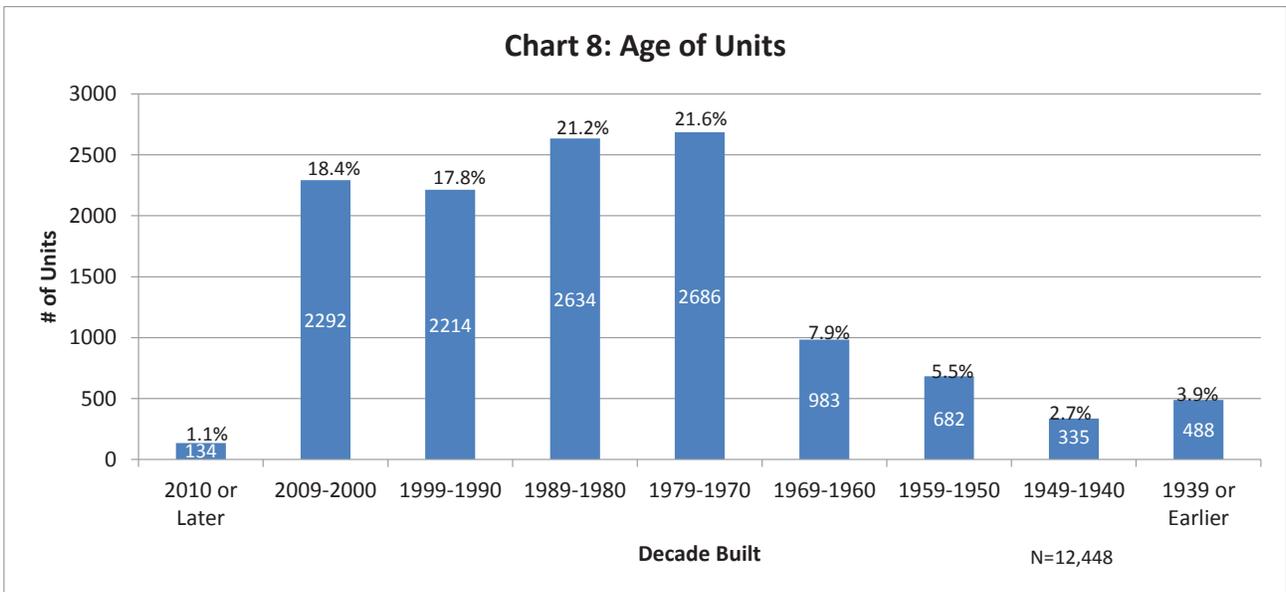
Vacancy rates were an area where the Census data diverged greatly from popular perception and our field research. Surprisingly, despite overcrowding higher than the statewide rate, the ACS revealed that over one-fifth (21.1 percent) of the units in the 83 tribal statistical areas were vacant. Tribal leaders and housing staff dispute this vacancy rate based on a widespread belief that the U.S. Census seriously undercounts tribal population and housing. Indeed, our windshield survey of over 1,285 units in 19 tribal communities found a nominal vacancy rate of 1.6 percent. The highest vacancy rate found was 6.5 percent on the Cold Springs reservation in Central California. The overwhelming majority of tribes reported no or few vacancies.



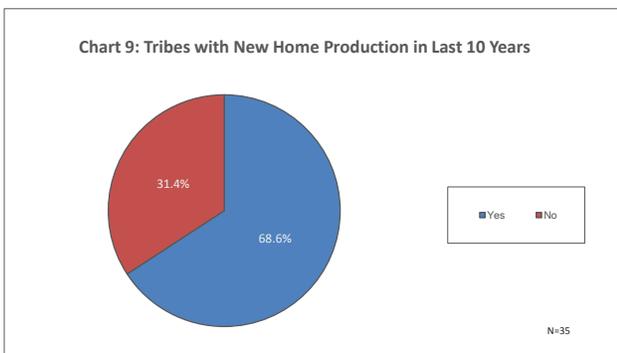
Source: American Community Survey, Five-Year Estimate, 2009-2013, U.S. Census



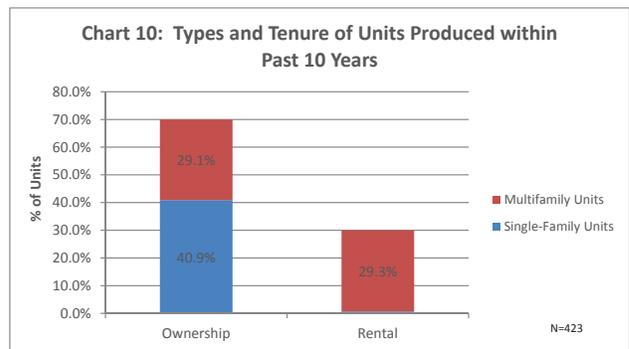
Source: American Community Survey, Five-Year Estimate, 2009-2013, U.S. Census



Source: American Community Survey, Five-Year Estimate, 2009-2013, U.S. Census



Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015



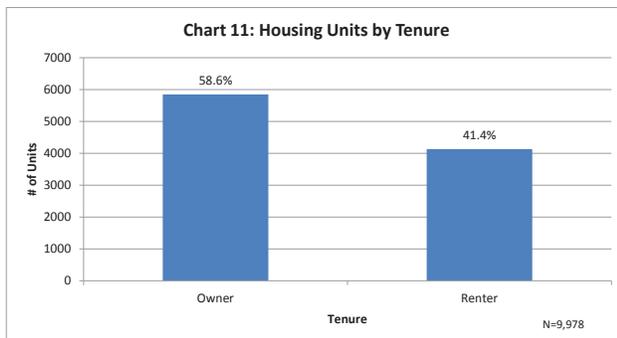
Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015

Unit Tenure

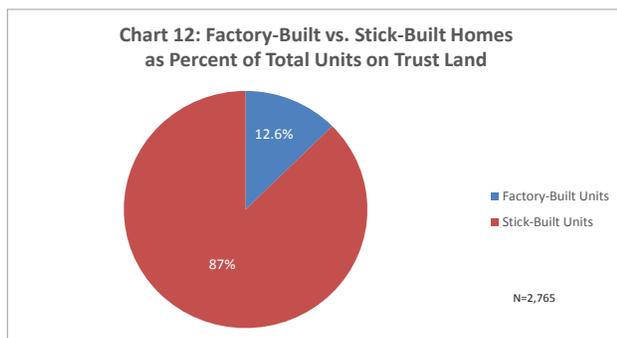
With respect to units owned or rented, the ACS, 2009-2013, reveals that nearly three-fifths (58.6 percent) of residents on tribal trust land owned their units (Chart 11). The homeownership rate reported by tribal housing administrators and leaders was somewhat less, 55.5 percent. The concept of ownership in Indian Country, however, is different than the standard fee simple ownership on non-trust land. On trust land, homeowners may own the housing units, but the land is held in trust by the U.S. government and the homeowner has a long-term land lease. While the homeownership rate of tribal members was higher than the statewide rate of 54.4 percent¹⁴, it was lower than the homeownership rate of 62.6 percent in the rest of Rural California.¹⁵

14 <http://journal.firsttuesday.us/californias-rate-of-homeownership-2/30161/>

15 *Homeownership in Rural America*, HAC Rural Research Brief, July 2012, Housing Assistance Council, Washington, D.C., p. 9.



Source: American Community Survey, Five-Year Estimate, 2009-2013, U.S. Census



Source: Windshield Survey, Rural Community Assistance Corporation, August-October 2015

Prevalence of Mobilehomes versus Site-Built Homes

There is no question that mobilehomes have been and will continue to be an important housing resource in Indian Country. If the ACS is accurate, about a third (34 percent) of households on reservations and rancherias occupied mobilehomes. Given that, one would expect that a similar percentage of housing units would be mobilehomes. Yet, our windshield survey found that only one in 10 (9 percent) units was a mobilehome. In four of the tribal communities we surveyed, mobilehomes did account for a significant share of all units – 14.6 percent to 25.1 percent of the overall housing stock. However, eight had no mobilehomes.

According to tribal housing administrators and leaders, 14.9 percent of the housing stock within their jurisdictions was factory-built, meaning were manufactured homes, mobilehomes and trailers, or homes made from modular components (Chart 12). There was a substantial differential between this percentage and the percentage reported as mobilehomes in the Census. The questionnaire results more closely align with the results from our windshield survey.

The discrepancies may be due to a number of factors. Tribal administrators and leaders, as well as Rural Community Assistance Corporation's circuit-riders, may have had a different understanding of what constitutes factory-built construction compared to stick-built construction than respondents in the Census. There may have been Census miscounts or, conversely, anomalies in the tribal communities we studied that don't reflect the total tribal population. It is possible that the Census count could have been skewed by a relatively small number of tribes with large numbers of mobilehomes.

Household Income

Tribal members' household incomes are relatively low compared to incomes for other Californians. According to the ACS, median household income was \$40,209 for the previous 12-month period preceding the survey. In comparison, California median household income for the same period was \$60,094, 50 percent higher. About one-third of tribes (34.7 percent) had median incomes in the \$20,000 to \$40,000 range and another third in the \$40,000 to \$60,000 range (Chart 14).

A third (32.5 percent) of tribal residents lived below the federal poverty rate, split nearly in half by those with incomes less than half of the poverty level and those between 50 percent and 99.9 percent of the poverty level. Chart 14 shows tribal per capita poverty relative to California. The rate of tribal poverty was more than twice the rest of the state. Individuals living on Indian land were more than twice as likely to have incomes less than half the federal poverty level and nearly twice as likely to have incomes between 50 percent and 99.9 percent of the poverty level.

It is important to note, here, that the high poverty rate of Tribal California dispels the notion that tribes have experienced huge financial windfalls in recent decades from casino operations that have eliminated or greatly mitigated poverty. According to the California Gaming Control Commission, 58 of the 109 federally-recognized tribes in California currently operate 68 'casinos' in California.¹⁶ A tribal casino can be anything from a large casino-resort property to a small number of machines in a tribal travel plaza. In fact, 16 of the casinos operate fewer than 350 gaming devices (slot machines) and 24 operate fewer than 1000 gaming devices.

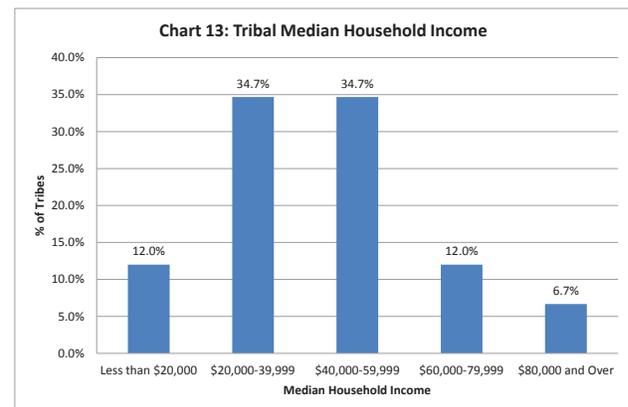
Many of the tribal casinos are located in rural areas

16 "Ratified Tribal-State Gaming Compacts (New and Amended)." *California Gambling Control Commission*. State of California, 2016. Web. 1, June 2016.

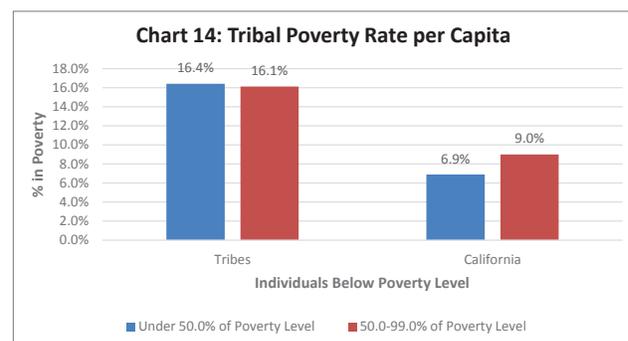
and function more as employment centers than large revenue-generating facilities. A study conducted by the California Nations Indian Gaming Association found that tribal casino jobs often pay more than comparable positions in other industries and have better benefits.¹⁷ Nonetheless, while casino operations can have significant impacts on tribes with large casinos or with very few members, these operations have had little impact on the overall tribal population. The California tribal poverty rate of 32.5 percent in the ACS, 2009-2013, was less than the 34.1 percent poverty rate reported in the 1990 Census at the time of passage of the federal Indian Gaming Regulatory Act of 1988.¹⁸ However, there is little evidence that gaming income played a direct role in this modest decrease.

17 Thornburg, C., Levine, J., Shepard, A., and Meux, E. "Economic Impact Study: Measuring the Economic Impact of Indian Gaming on California". Beacon Economics, 2012, page 6.

18 See UCLA study at <http://www.aisc.ucla.edu/ca/Tribes12.htm>



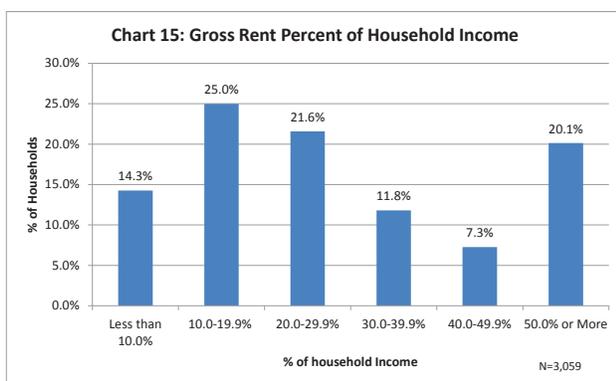
Source: American Community Survey, Five-Year Estimate, 2009-2013, U.S. Census



Source: American Community Survey, Five-Year Estimate, 2009-2013, U.S. Census

Housing Affordability

As the result of low incomes and high poverty, many tribal members have a serious housing affordability problem. Chart 15 indicates that nearly two of every 5 households (39.2 percent) were rent-overburdened, in other words, paid more than 30 percent of gross household income before taxes. Nineteen percent was moderately burdened (paid more than 30 percent and less than 50 percent of income) and 20 percent was extremely burdened (paid over half of household income).



Source: American Community Survey, Five-Year Estimate, 2009-2013, U.S. Census

Physical Conditions of Tribal Housing Stocks

The poor quality of housing on tribal land in the U.S. and California is well known among tribes and the governmental and non-governmental organizations that work in Indian Country. Episodically, government agencies and academic institutions have studied these conditions. The California Department of Housing and Community Development, California Indian Assistance Program, last reported on the physical conditions of selected tribes in 1976. Graphic photos were taken by the researchers of tribal members living in the most rudimentary of accommodations with no toilets and electricity. The report

included recommendations to improve housing conditions and related infrastructure.¹⁹

The American Community Survey tracks selected physical housing conditions of occupied units on tribal land. According to the 2009-2013 ACS, 8.8 percent of units on California reservations and rancherias lacked complete plumbing and 6.5 percent lacked complete kitchens (Chart 16). To put this in perspective, only a half percent of all occupied units in California lacked complete plumbing and 1.2 percent lacked complete kitchens.

To supplement data on the physical conditions of tribal housing from the ACS, Rural Community Assistance Corporation circuit-riders, as previously mentioned, observed 1,285 homes located throughout the state. The 19 tribal locations ranged from the northernmost counties near the Oregon border to the southern counties along the border with Mexico. Tribe sizes ranged from small rancherias with fewer than 100 people to large reservations with other 25,000 acres.

The windshield survey used a scale from 1 to 5 with 1 being an excellent condition and 5 being a poor condition. Each house was evaluated based on the conditions of six external components: roof, walls/siding, doors/windows, porch/balcony, foundation, and yard/walkways. The overall results are included in Appendix 4. The key findings were:

- Almost 17 percent of the homes surveyed were rated substandard, meaning they had some external condition that represented an urgent health and safety problem needing immediate attention. These ranged from homes that needed to be demolished to homes with severe problems with their roofs and/or foundations. In addition, many

¹⁹ "A Study of Existing Physical and Social Conditions and the Economic Potential of Selected Indian Rancherias and Reservations in California", State of California Office of Planning and Research, State of California Department of Housing and Community Development, and California Indian Assistance Program, June 1976, supplemented by personal communication with G. David Singleton, former CIAP senior staff, June 6, 2016.

of these homes had missing doors, missing siding, broken windows or sagging porches.

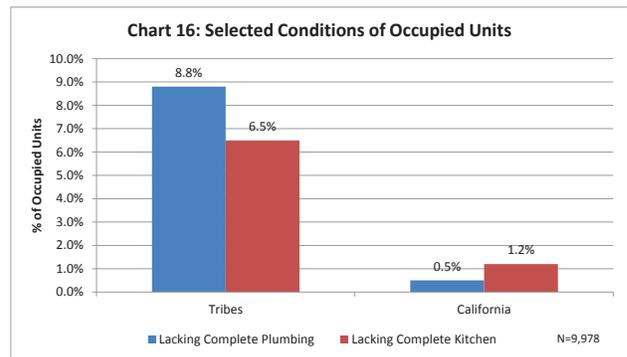
- About one-quarter (26.1 percent) of the homes had at least one exterior condition that was considered deficient. This figure includes homes with an exterior condition that was not considered an imminent health or safety concern, such as broken windows, lack of walkway access, poor ADA (Americans with Disabilities Act) access, sagging doors, overgrown yards, and compromised balconies and porches
- On many reservations and rancherias, the mobilehome housing stock represented a disproportionately large share of substandard homes. This confirmed the conventional wisdom that many of the mobilehomes on tribal land are older models that were built or installed under lower quality building standards.

Six of the 19 reservations and rancherias had substandard housing that exceeded 23 percent of its stock. The highest levels of substandard housing were found in Cold Springs (50 percent) and Smith River (45.8 percent). In the Big Sandy Rancheria, almost all of the housing (97.9 percent) had at least one substandard condition. Most of these were related to a lack of ADA access and lack of walkways, although there were also high incidences of poor foundations and roofs. Big Sandy Rancheria also had overgrown yards that present a fire hazard.

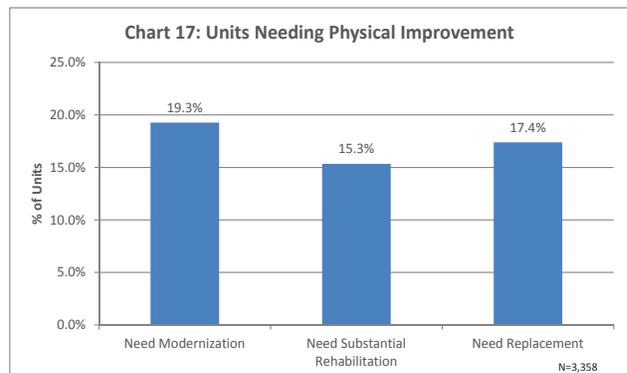
Over 26 percent or 336 of the homes observed had at least one substandard condition. Overall, there were 921 total substandard conditions observed, indicating that, in many cases, a single home had multiple substandard conditions. Many of the mobilehomes with poor foundations also had roofs in poor condition. Further, many homes with poor roofs also had poor siding, overgrown yards, or missing doors.

According to tribal housing administrators and leaders, illustrated in Chart 17, between 15-20 percent of homes on tribal land need major physical

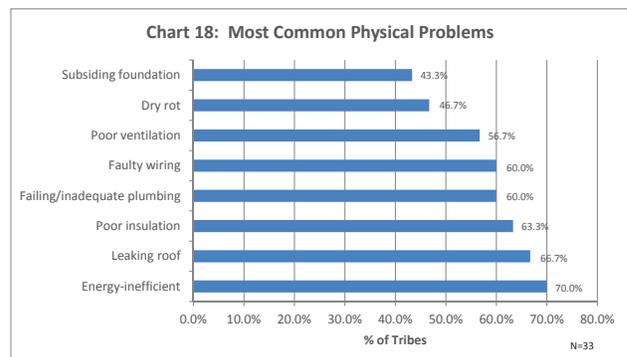
improvements, either via modernization, substantial rehabilitation, or complete replacement, similar to the percentage of substandard units observed via our windshield surveys. Energy-inefficiency was the problem cited most frequently by tribes, three-quarters (75.9 percent) as can be seen in Chart 18. Other problems noted by the majority of tribes, in the order of magnitude, were leaking roofs (72.4 percent), failing or inadequate plumbing (65.5 percent), faulty wiring (55.2 percent), and poor insulation (55.2 percent). Just under half cited poor ventilation, subsid-



Source: American Community Survey, Five-Year Estimate, 2009-2013, U.S. Census



Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015



Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015

ing foundations, and dry rot. Other problems were mold, mildew, and termites and the need to replace old roofs, siding, and HVAC systems.

Adequacy of Existing Water and Wastewater Infrastructure

Any discussion of tribal housing conditions would not be complete without addressing the serious drinking water and wastewater issues that put at risk the residents of existing homes and limit future housing development.

In California cities and counties, new housing development can often access water and wastewater service simply by paying hook-up fees and building connections to the local water/sewer system. In some cases, new development is required to fund the cost of extending mains, installing a lift station, or upsizing the pipes. While the costs may be significant, the process may be relatively easy and fit within standard development timelines.

In Tribal California, accessing water and wastewater services for housing development is more complex. Most tribes are served either by tribally-owned community water and wastewater systems or by individual systems. Few are connected to city or county public systems. Since these are small systems, most have limitations on capacity due to the limited resources available to fund them. Almost all the wastewater systems on tribal trust lands are septic systems, which are not easily expandable and limit the capacity for new service.

According to the Indian Health Service (IHS)²⁰, the agency within the U.S. Department of Health and Human Services with principal responsibility for public health on tribal land, the adequacy of existing water and sewer infrastructure is a major barrier to the development of new homes in Tribal California.

²⁰ Interview with Commander Luke Schulte, Senior Environmental Engineer for the Indian Health Service, California Area, October 2015.

The IHS has two means to improve housing-related infrastructure on tribal land. The first is through the Scattered-Sites Program for either existing homes or new home sites that are not part of a community water and sewer system. IHS will perform a feasibility analysis to determine whether there is power nearby, acceptable groundwater to drill a well, and appropriate soil to support an onsite disposal system. The second means is through funding a community water and wastewater project where there are sufficient homes to justify it.

Incidents of insufficient drinking water on tribal land are treated on a case-by-case basis and, generally, stem from inadequate supply or poor water quality. While both of these deficits exist throughout Tribal California, neither presents a pervasive limiting factor on housing development. For many reservations and rancherias, steepness of terrain, parcel size, and soils conditions are the environmental factors most likely to impact the ability to develop water, wastewater, storm drain, and infrastructure services to support new housing.

Steep slopes are widespread on tribal land throughout California. Development on steep slopes is expensive. Initial expenditures, such as road and utilities improvements, may drive up construction costs to the point of being prohibitive. Septic systems may not operate properly on steep slopes. The degree of the slope may cause effluent to travel too quickly to the lower end of the drainfield, which increases the possibility of untreated wastewater emerging to the surface. Similarly, lots that are too small may not be sufficient to support a septic system.

Soil conditions also vary widely. In cases of poor drainage, plots of up to 2½ acres may be required for a single septic system. Developing an individual well and a septic system for one house, generally, requires at least one acre of land, and on reservations and rancherias the acreage needed is often significantly higher due to the conditions cited above.

Tribal Water Systems

In addition to systemic analysis of how tribal water and sewer infrastructure impacts housing development on tribal land, we attempted to evaluate individual drinking water and wastewater systems to derive a deeper understanding of existing capacity and quality. Data for individual tribes, however, can be difficult to access because of issues of privacy and sovereignty and the limitations of existing data sources. Our analysis aggregates the information we found for three regions of the state: Northern California, Southern California, and Central California.

Specific information was obtained for 71 of the 80 tribal drinking water systems in California that meet the definition of an active community water system in the U.S. Environmental Protection Agency (EPA) Region IX database. Figure 6 summarizes the status of these systems.

The number of systems and service connections was obtained through the Safe Drinking Water Information System (SDWIS), EPA's national database that tracks compliance data. These data were supplemented with counts of the number of systems with problems meeting primary standards and systems at different levels of capacity. This information was gleaned from the following sources: interviews with tribal EPA directors; interviews with water system operators; recent Technical, Managerial, and Financial (TMF) capacity assessments performed by RCAC; Sanitary Surveys of performance, sanitary deficiencies, and system health commissioned by EPA; and the knowledge of RCAC circuit-riders deployed to specific reservations and rancherias.

Tribal Wastewater Systems

For wastewater systems, information on the number of service connections and capacity levels of these

Figure 6. Status of Tribal Drinking Water Systems by California Region

	Northern	Southern	Central	Total
# Systems	34	25	12	71
# Service Connections	1,850	3,173	1,454	6,477
# Systems w/Problems Meeting Primary Standards	2	0	1	3
# Systems at Capacity	5	13	0	18
# Systems Beyond Capacity	1	3	0	4
# Systems Not Yet at Capacity	27	9	5	41
# Systems Where Capacity Unknown	1	0	7	8

Figure 7. Status of Tribal Wastewater Systems by California Region

	Northern	Southern	Central	Total
# Systems	14	3	2	19
# Service Connections	550	1,000	25	1,575
# Systems at Capacity	2	2	0	4
# Systems Beyond Capacity	0	0	0	0
# Systems Not Yet at Capacity	12	1	2	15
# Systems Where Capacity Unknown	0	0	0	0

systems was obtained for 19 tribal wastewater systems in California. These data are displayed in Figure 7.

It is more difficult to obtain data on wastewater than drinking water systems. The EPA SDWIS database only appraises drinking water systems and there is no equivalent wastewater system database. As a result, our wastewater system data do not necessarily align with any particular drinking water system. Information was obtained through RCAC TMF analyses and Operations and Maintenance Evaluations performed by RCAC at the request of EPA, interviews with system operators, and interviews with Indian Health Service engineers responsible for tribal health.

Operations and Maintenance Evaluations provide an in-depth analysis of wastewater systems. RCAC circuit-riders, accompanied by EPA officials, make site visits, take pictures, perform initial analyses, and produce detailed reports.

Key Tribal Water/Wastewater System Findings

The major findings from our water and wastewater analyses were:

- In Northern California, 17.7 percent of drinking water systems and 14.3 percent of wastewater systems were at or beyond capacity. Two drinking water systems reported problems meeting Primary Drinking Water Standards, one with arsenic problems and the other with difficulty complying with the Surface Water Treatment Rule.
- In Southern California, 64 percent of the drinking water systems studied were at or beyond capacity and 66.7 percent of the wastewater systems lacked additional capacity. None of the systems reported problems meeting Primary Drinking Water Standards.
- In Central California, the information was less complete. We were not able to identify any drinking water or wastewater systems at capacity or beyond. One water system was reported to have problems meeting Primary Drinking Water Standards with the primary contaminant being arsenic.
- The majority of tribal members in all three regions were not connected to tribal wastewater systems, but were on individual septic systems.
- Lack of adequate water and sewer capacity is a major inhibiting factor to residential development on tribal land. Any new development in areas with systems lacking capacity cannot simply hook up more homes without expansion or development of new water and wastewater systems. It is common that new housing development must also include such infrastructure, adding years to the project timeline, greatly increasing the complexity of the project, and necessitating greater funding than typically required for affordable housing development in cities and urbanized areas of counties.
- The major factor limiting infrastructure improvement on tribal land is not topography, parcel size, or soils, but lack of funding for water and wastewater system installation, expansion, or upgrades. IHS funds alone are insufficient to cover the full infrastructure costs of new housing. Tribes will need to leverage additional resources, which may include Indian Community Development Block Grants, Low-Income Housing Tax Credits, and other federal and state funds.

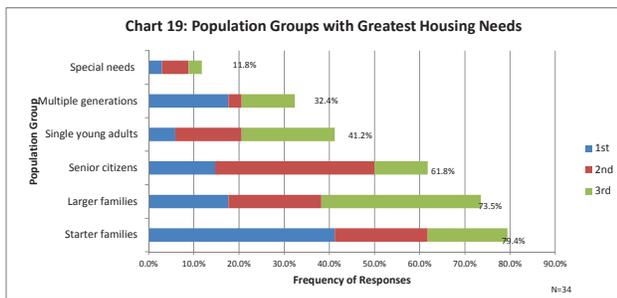
Section V

Tribal Capacity and Resources to Meet Housing Needs

In the previous section, we identified key population, housing and infrastructural characteristics of federally-recognized tribes in California. In Section V, based on the revelations of tribal housing administrators and leaders, we explore the capacity and resource challenges tribes and tribal housing organizations face in attempting to address their members' housing and related needs. This will lead to an analysis in Section VI of the most critical resource for housing program and project development and administrative support for tribal housing staff – the Native American Housing Assistance and Self-Determination Act (NAHASDA).

Populations with the Greatest Housing Needs

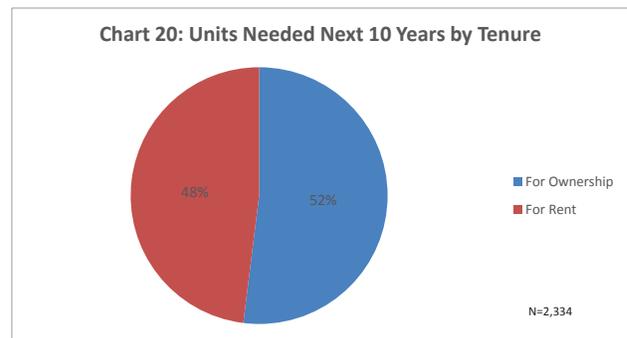
Tribes were asked to list in rank order the population groups with the greatest needs for homes. Starter families (e.g., young, childless couples or single-child couples) had the greatest needs (Chart 19). Two of five (41.2 percent) respondents felt homes for this group were the most important need. Four of five (79.4 percent) ranked starter families as one of the three neediest groups. Larger families were also among the neediest groups, the top three choice of three-quarters (73.5 percent), followed by senior citizens, the choice of 61.8 percent. Homes for single young adults, multiple generations, and special-needs populations ranked lowest overall.



Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015

Future Housing Production Needs and Demand

Within the next 10 years, tribes will need to increase the number of units to accommodate existing unmet needs, as well as expectations for new population growth and household formation, especially among starter families and larger families. Twenty-five tribes reported that they will need 2,334 new units in the coming decade, 1,213 homes for purchase (about 50 units per tribe) and 1,121 homes for rent (about 45 units per tribe). Chart 20 indicates that 52 percent of future need will be homes for purchase and 48 percent will be homes for rent.



Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015

Given the relatively high percentage of mobilehomes on tribal trust land, from 10-34 percent depending on the source, tribes were asked to rate the importance of factory-built homes in meeting the future housing needs of their members. Chart 21 shows the great majority (84.8 percent) of tribes indicating that factory-built homes will be important; about one-fifth (21.2 percent) felt they would be very important. Interestingly, the highest percentage, two of every five tribes (42.4 percent), suggested that factory-built homes would be important, but preferred stick-built homes.

To further demonstrate future need and demand, we asked tribal housing administrators and leaders to divulge the total number of people on their waiting lists for housing, particularly existing rental housing they own and operate. In the case of smaller tribes whose inventories are managed by an Indian Housing Authority (IHA), the IHA responded in their behalf.

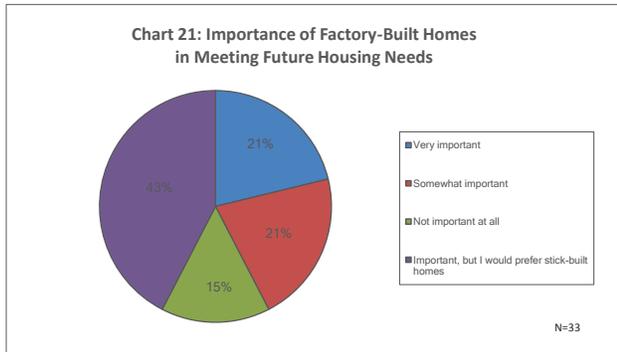
Nearly all tribes (91.2 percent) reported members waiting for homes on tribal trust or fee land, whether or not they keep formal waiting lists (Chart 22). Among those tribes keeping count, the average number of households waiting for homes was 71. In Chart 23, it can be seen that nearly three-quarters (72.3 percent) of tribes estimated waits for housing of at least 3 years; about one-quarter (24.1 percent) estimated more than 10 years. By any measure, these are long waits, emblematic of the lack of existing housing options and the low rate of new production.

Obstacles to Housing Production

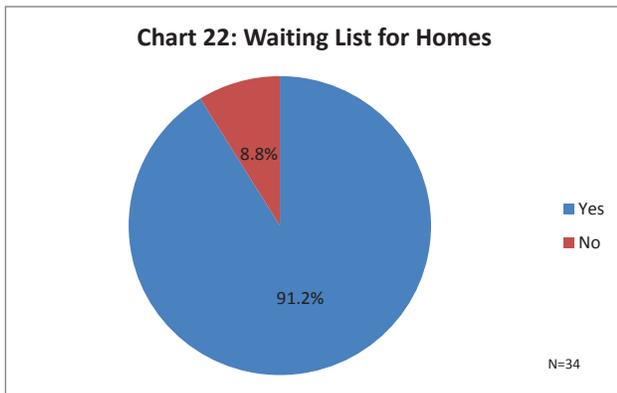
The greatest obstacle to provision of new housing was funding (Chart 24), the choice of all tribes. Nearly two-thirds also stated that lack of developable land (65.6 percent) was a significant impediment to residential development. It should be noted that lack of developable land may be a function of a variety of factors, such as topography, location, and inadequate sewer and water systems. Lack of adequate drinking water and wastewater systems, as discussed in our assessment of these systems in Section IV, is a major impediment to new development. Half (50 percent) said sewer capacity and more than one-third (37.5 percent) said water capacity were major problems. For a quarter of respondents (25 percent), lack of staff capacity was also a significant problem. As we explain later, many tribes are short-handed and have limited access to skilled personnel and training due to geographic remoteness and other factors.

Given that lack of developable land was the second greatest barrier to development after funding, tribes were asked to estimate the total acreage of their land and how much of that acreage was potentially developable and appropriate for new housing. Twenty-eight tribes identified more than 78,330 acres in trust, an average of about 2,800 acres per tribe. Of this acreage, an estimated 8,415 acres were suited for housing development, an average of about 300 acres per tribe or approximately 10.7 percent of the land.

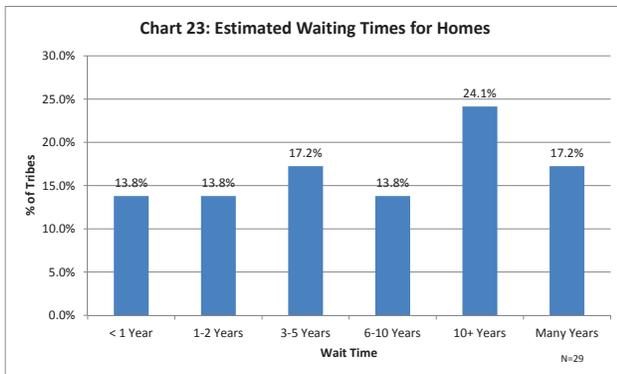
Chart 25 shows acreages in trust and suitable for housing. About two-thirds of tribes (65.4 percent) had total acreage in the 1-500-acre range; one-third (34.6 percent) had 100 acres or less. Four of five tribes (81.5 percent) had land from one to 100 acres in size that could accommodate housing, ample to build from five to 500 units at five units to the acre.



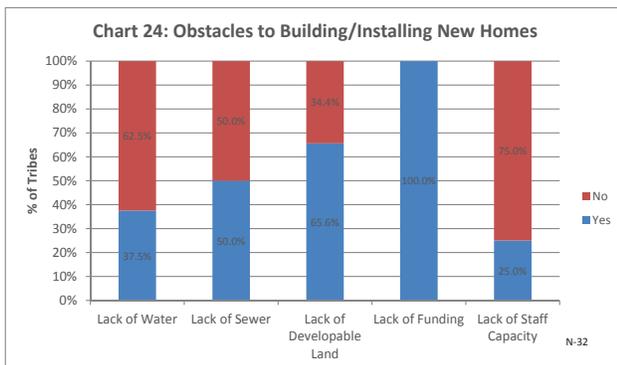
Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015



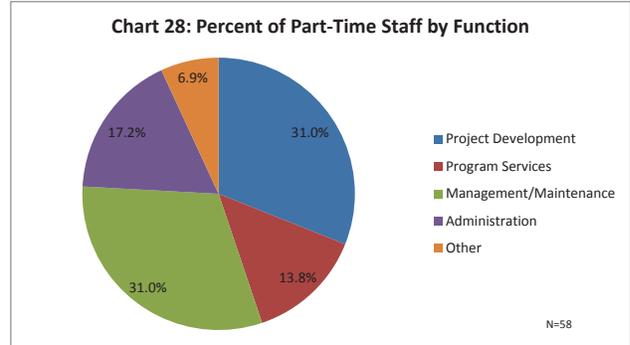
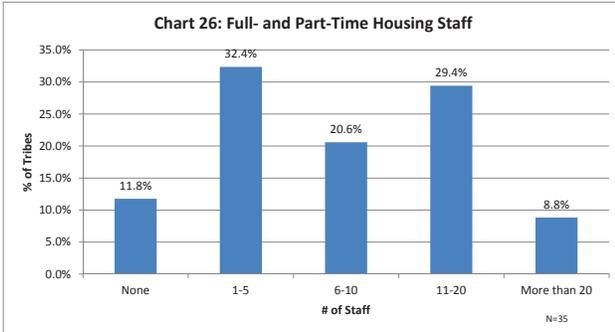
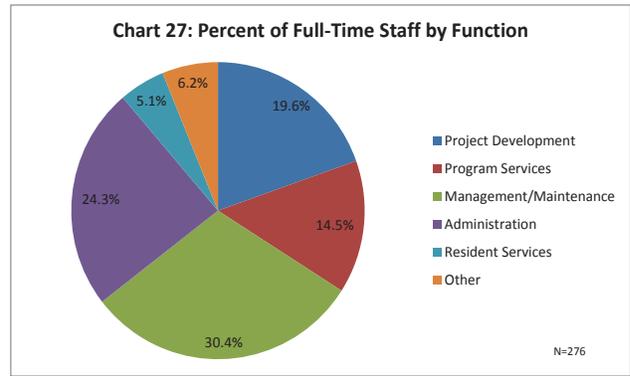
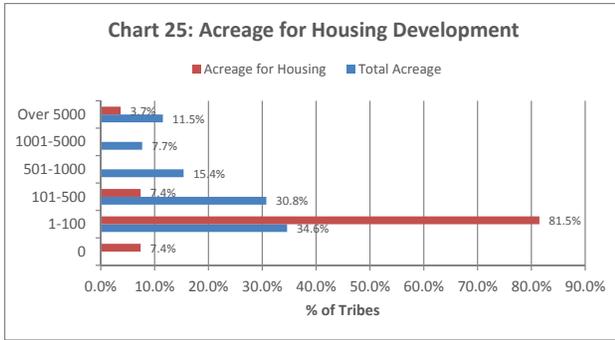
Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015



Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015



Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015



Source (Charts 25–28): Indian Housing Survey, California Coalition for Rural Housing, Summer 2015

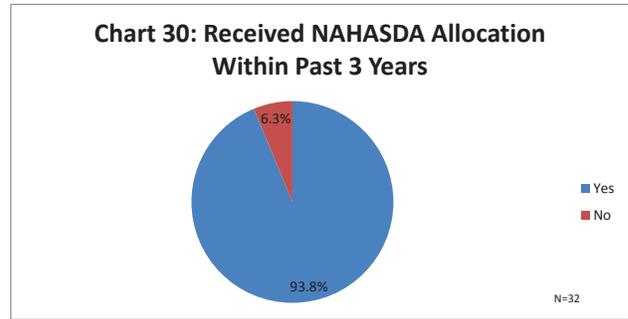
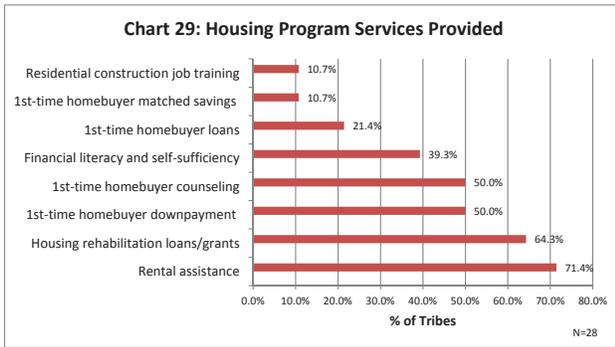
Staffing for Housing and Housing-Related Activities

In addition to the aforementioned development obstacles, the ability of tribes to address the housing needs of tribal members is greatly limited by the difficulty of attracting, supporting and retaining professional housing staff given available funding. Tribes were asked whether they have dedicated housing staff, which staff functions were performed in-house, the number and employment status (full-time or part-time) of these staff, the kinds of housing program functions they performed, and which functions were out-sourced to outside parties.

Nearly nine of ten (88.6 percent) tribes reported they had at least one in-house staff person dedicated to housing (Chart 26). About one-third (32.4 percent) had up to five staff and just over one-half (53 percent) had up to 10 employees. Less than a tenth (8.8 percent) had more than 20 staff, most likely tribes that operate Indian Housing Authorities. Full-time per-

sonnel accounted for four of five (82.6 percent) staff; tribes averaged nine full-time and two part-time employees.

Thirty-one tribes provided information for 276 full-time and 58 part-time staff by function. Charts 27 and 28 reveal that the largest function by numbers of full- and part-time employees was property management and maintenance, which accounts for almost one-third (30.5 percent) of all housing staff. This is understandable as Indian Housing Authorities and other Tribally-Designated Housing Entities are responsible for the upkeep of properties they control even when other activities are underfunded or unfunded. Moreover, annual NAHASDA grants received by California tribes, typically small (in the \$50,000 range), are often used to support management and maintenance activities. The next largest staff functions were administration (23.1 percent) and project development (21.6 percent). Program services personnel for activities such as running housing rehabilitation and first-time homebuyer programs accounted for 14.4 percent, while resident services only accounted for 4.2 percent of total staff reported.



Source (Charts 29 & 30): Indian Housing Survey, California Coalition for Rural Housing, Summer 2015

Housing Program Services Provided In-House and Outsourced

In addition to production and operation of housing projects, tribes were asked to name the kinds of housing program services they provided (Chart 29). Despite scarcity of administrative funds, tribes reported a wide variety of services to members. Seven in 10 (71.4 percent) provided rental assistance. The second most common activity was making housing rehabilitation loans and/or grants (64.3 percent), followed by first-time homebuyer downpayment assistance and housing counseling, each of which was offered by half of tribes. Some ran programs that made home purchase loans to first-time homebuyers and offered financial literacy and self-sufficiency education. A handful ran programs for residential construction job training, matched savings accounts, lease-to-own, move-in assistance, elder rental assistance, student housing assistance, and emergency housing assistance for homeless tribal members.

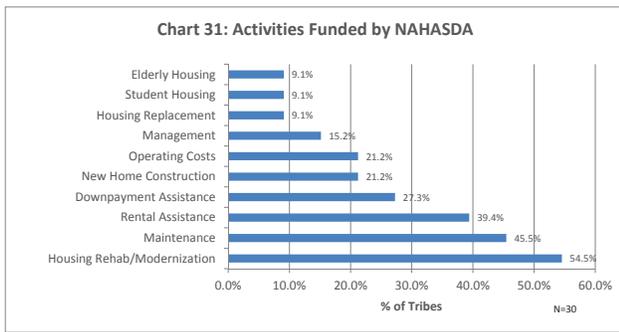
Some organizational and program responsibilities were out-sourced to other entities. Half of respondents reported contracting out functions. Smaller tribes may contract with an established Indian Housing Authority to perform and deliver core housing project and program functions. The services of non-tribal parties were also procured. The most common functions out-sourced were property management

and routine maintenance, including procurement of licensed building inspectors and plumbing, heating, air, electrical, and roofing professionals. Tribes also contracted out for housing construction and rehabilitation tasks including subcontractors like architects, and engineers. Lawyers, financial consultants, and grantwriters were also hired to assist with project and program development and implementation.

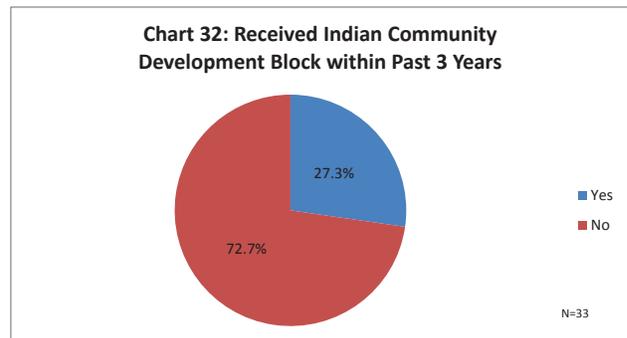
The Role of NAHASDA and ICDBG in Funding Housing Projects and Programs

Many of the functions performed in-house or outsourced to outside parties are paid from funds received through the Native American Housing Assistance and Self-Determination Act (NAHASDA). As described in greater detail in Section VI, NAHASDA funds critical housing functions on an annual basis, but the relatively small size of California tribes means that the size of grants is nominal and, in many cases, often best suited to cover the costs of routine maintenance and program services rather than developing new projects. All but two of the 32 respondents received NAHASDA funds within the last three years (Chart 30).

Tribes listed nearly 20 different housing-related activities paid for under NAHASDA. Chart 31 shows the most common ones starting with housing rehabilitation and modernization, performed by over half



Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015



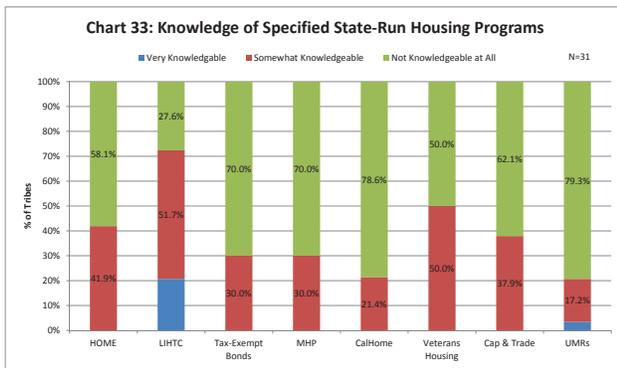
Source: Indian Housing Survey, California Coalition for Rural Housing, Summer 2015

(54.6 percent). Maintenance (45.5 percent) and rental assistance (39.4 percent) were performed by two of every five. Downpayment assistance (27.3 percent), new home construction (21.2 percent), and the operating costs of rental properties (21.2 percent) were the next most significant. Other activities conducted were housing management, housing replacement, support for student and elderly housing, tenant services, housing and land acquisition, emergency housing, energy-efficiency retrofits, housing counseling, and security.

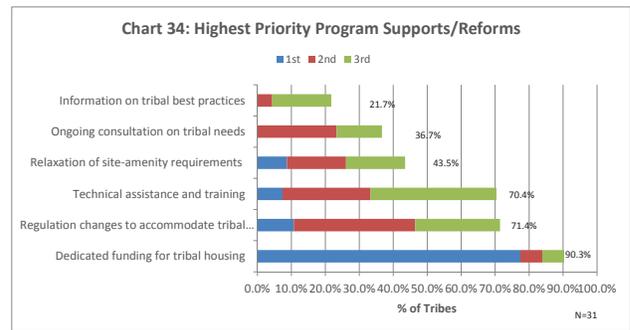
Unlike NAHASDA, only approximately a quarter (27.3 percent) of tribes had received an Indian Community Development Block Grant (ICDBG) award within the previous three years (Chart 32). Whereas NAHASDA is an entitlement program allocated annually on a formula basis, ICDBG is a highly competitive program. Tribes can go relatively long periods between grant awards, if ever awarded. Activities performed with ICDBG funds include new home construction, housing rehabilitation, downpayment assistance, homebuyer counseling, construction of community facilities, such as an educational building, community clinic, or gymnasium, roadway improvements, and replacement and addition of new water/wastewater mains.

State Housing Program Involvement and Priorities

With respect to state-administered housing programs, it is clear the great majority of tribes have little to no experience. According to Chart 33, significant majorities of respondents had no knowledge at all of the state's mainstay single- and multifamily housing programs, CalHome (78.6 percent) and the Multifamily Housing Program (70 percent), as well as the use of state tax-exempt bonds for rental housing (70 percent). About three of every five (62.1 percent) had no knowledge of the new Cap and Trade-funded Affordable Housing and Sustainable Communities Program (62.1 percent) and state-run federal HOME Program (58.1 percent). Half (50 percent) were unfamiliar with the Veterans Housing Program. Interestingly, nearly three-quarters (72.4 percent) were either very knowledgeable or had some knowledge of the Low-Income Housing Tax Credit Program, in large part due to the creation in 2014 of a tribal apportionment within the rural set-aside. All said they were interested in receiving program training; eight of 10 (80.0 percent) were very interested.



LIHTC=Low-Income Housing Tax Credit; MHP=Multifamily Housing Program; AHSC=Affordable Housing and Sustainable Communities; UMRs=Uniform Multifamily Regulations



Source Charts (33 & 34): Indian Housing Survey, California Coalition for Rural Housing, Summer 2015

In addition, tribes were asked about the state’s Uniform Multifamily Regulations (UMRs), which establish uniform underwriting, subordination, and other program requirements. Nearly all (96.5 percent) were completely uninformed or only somewhat informed about how UMRs govern state housing programs and affect multifamily housing development.

To ascertain the extent to which collaboration occurs between tribes and neighboring jurisdictions with regard to local planning for housing, tribes were queried about whether they had had any involvement in city or county Housing Elements required by the state and HUD-required Consolidated Plans. Most (71 percent) had never been involved in Housing Element preparation by a nearby jurisdiction and none had ever participated in a Consolidated Plan. With the exception of Mendocino County, tribes stated they had had very little, if any, contact with cities and counties during these planning processes, indicating how issues of tribal sovereignty, jurisdictional silos, and other factors separate and isolate tribes.

Finally, tribes were asked to identify the highest priorities for state program support to address their most critical housing needs (Chart 34). As might be expected, dedicated funding was by far the greatest priority, the first choice of over three-fourths (77.4 percent) and the first, second, or third choice of nine of ten (90.3 percent). Regulation changes in existing state housing programs to accommodate tribal property law, such as recognizing the inalienability of tribal trust land, was the highest priority of 71.4 percent of tribes, followed closely by technical assistance and training (70.4 percent). Other important priorities were relaxation of site-amenity thresholds and point preferences in existing state housing and community development programs that do not fit tribal locational and infrastructural assets (43.5 percent), ongoing consultations with tribes on housing needs and solutions (36.7 percent), and development and promulgation of information on tribal housing best practices (21.7 percent).

Section VI

Tribal Housing Activity under NAHASDA

The Native American Housing Assistance and Self-Determination Act (NAHASDA) of 1996 created the Indian Housing Block Grant (IHBG) Program, which provides annual, needs-based funding for affordable housing activities contemplated by tribes.¹ The IHBG Program is administered by the U.S. Department of Housing and Urban Development (HUD). IHBG is analogous to the federal HOME Investment Partnerships Program and is distinct from the Indian Community Development Block Grant (ICDBG) Program, which is a set-aside within the federal Community Development Block Grant Program and awarded on a competitive basis.

It is important to understand the strengths and shortcomings of NAHASDA in order to comprehend how state housing programs may work in tandem with and supplement the funding provided through NAHASDA. The first part of this section describes the objectives of NAHASDA and the IHBG Program. The second part examines key data distilled from an analysis of the individual Indian Housing Plans (IHPs) submitted to HUD by each tribe participating in the IHBG program for Program Year (PY) 2015.²

1 NAHASDA also authorized and amended other funding programs besides IHBG. It created the Title VI Loan Guarantee Program, which provides HUD loan guarantees to Indian tribes for private market loans to develop affordable housing. Via this program, NAHASDA recipients may leverage additional funds to finance affordable housing development by pledging future IHBG funds and program income as security in exchange for a HUD loan guarantee on a conventional private loan. No California tribes participated in Title VI in PY 2015 and, historically, the program has been rarely used as it would require grantees to forward-commit and lock up future funding streams, which they show no inclination to do. NAHASDA also amended the Section 184 Loan Guarantee Program to enable individual tribal members to access private credit. Later amendments to NAHASDA extended similar housing assistance to Native Hawaiians. Neither of these are a focus of this study.

2 The information was received via a Freedom of Information Act request to the U.S. Department of Housing and Urban Development Southwest Office of Native American Programs (SWONAP), which administers the program for the California-based tribes. The HUD Form 52737 IHP/APR is available at: http://portal.hud.gov/hudportal/HUD?src=/program_offices/public_indian_housing/ih/codetalk/onap/guidance.

NAHASDA and IHBGs

NAHASDA is a legacy of the United States Housing act of 1937. It reorganized and combined a variety of HUD-administered funding sources provided directly to tribes for affordable housing and other related activities; thus, the idea of a block grant similar to the Community Development Block Grant and HOME Investment Partnerships Programs. It was enacted in the 1990s during a time when federal policy toward tribes was shifting to the mode of ‘self-determination.’ The major objectives of the Act are to:

- Create a safe and healthy environment on Indian reservations and in other Indian areas for occupancy by low-income families.
- Ensure better access to private mortgage markets for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members.
- Coordinate activities to provide housing for Indian tribes and their members and to promote self-sufficiency of Indian tribes and their members.
- Plan for and integrate infrastructure resources for Indian tribes with housing development for Indian tribes.
- Promote the development of private capital markets in Indian country and to allow such markets to operate and grow, thereby benefiting Indian communities.

The primary focus of NAHASDA funding is the Indian Housing Block Grant Program. The IHBG Program is formula-driven so as to allocate an equitable share of annual appropriations made by Congress to eligible Indian tribes. To receive funds, tribes must be federally-recognized and submit an annual Indian Housing Plan (IHP), a ‘sources-and-uses’ document that delineates how a recipient is going to use its allocation for the coming program year. Tribes are

allowed to self-identify program goals and outcomes based on their priorities and to self-monitor performance. Plans may be submitted by the tribal government or via an Indian Housing Authority (IHA) or Tribally Designated Housing Entity (TDHE) selected by an individual tribe or consortium of tribes.

An Indian Housing Authority is an entity established by a tribe to engage in low-income housing activities established under the United States Housing Act of 1937. An IHA may operate independently of or under state law. A TDHE is an IHA, a department within the tribe, or a nonprofit organization designated by one or more tribes to operate their affordable housing programs under NAHASDA.¹ For example, in California, Northern Circle Indian Housing Authority in Ukiah is the TDHE designated to administer the IHBG funds of seven Northern California tribes.

Findings from California Grantee Indian Housing Plans

During Program Year (PY) 2015, 81 of the 109 federally-recognized tribes in California submitted IHPs for the Indian Housing Block Grant Program.²

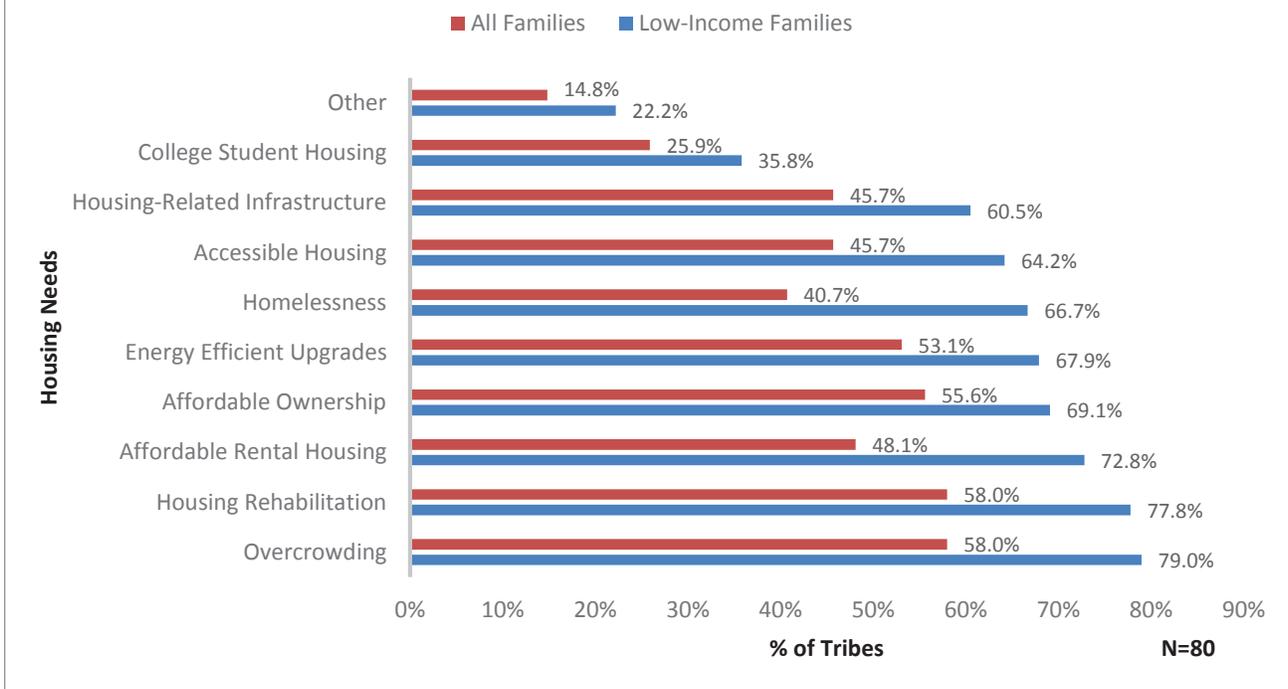
Housing Needs Reported

Pursuant to NAHASDA, applicants are required to submit a statement of the housing needs of the Indian families residing within the jurisdiction of the tribe. The top three self-identified needs for *low-income* Indian families, listed in Chart 35, were overcrowding (79 percent), substandard units needing

1 Tribes authorize TDHEs to consolidate their NAHASDA funding in order to realize possible efficiencies that may not be possible if they were to operate under their individual allocation. For example, a consortium of tribes may combine their annual award to operate a program that they would not otherwise be able to implement on their own, especially in the case of tribes receiving the minimum grant award of \$50,282, an amount that would barely cover the cost of grant administration.

2 As noted in Sections III and IV, we identified 83 federally-recognized tribes in the American Community Survey with a populated land base held in trust and located either on reservations and rancherias or off reservations and rancherias. 20 of the 81 tribes authorized three TDHEs to operate their affordable housing programs.

CHART 35: HOUSING NEEDS OF NAHASDA GRANTEES



Source: NAHASDA Indian Housing Plans, California Coalition for Rural Housing, October-December 2015

rehabilitation (77.8 percent), and households needing affordable rental units (72.8 percent). The top three needs for *all* Indian families, notwithstanding income, were overcrowding and substandard units needing rehabilitation (tied at 58 percent) and affordable homes for purchase by renters (55.6 percent).

Surprisingly, two-thirds (66.7 percent) of tribes cited homelessness as a critical need among low-income families and 40.7 percent as a critical need among all families. While physical homelessness is rare on reservations and rancherias, tribal housing administrators may be counting tribal members who are not currently living on trust or fee land, in transient situations, and on waiting lists for housing assistance.³

³ We double-checked with several tribal housing administrators who confirmed that ‘homelessness’ is defined by the number of families wanting housing, in other words, on tribal housing waiting lists.

Planned Program Activities and Outcomes

IHBG grantees proposed 23 distinct program activities for PY 2015. Figure 8 reveals that ‘Other Housing Services’ followed by ‘Housing Rehabilitation for Existing Homeowners’ were, by far, the activities most frequently planned by applicants, 86.4 percent and 75.3 percent, respectively. ‘Other Housing Services’ frequently performed by tribes, and not listed in the form, are homebuyer and homeownership counseling, emergency housing assistance, and asset management.

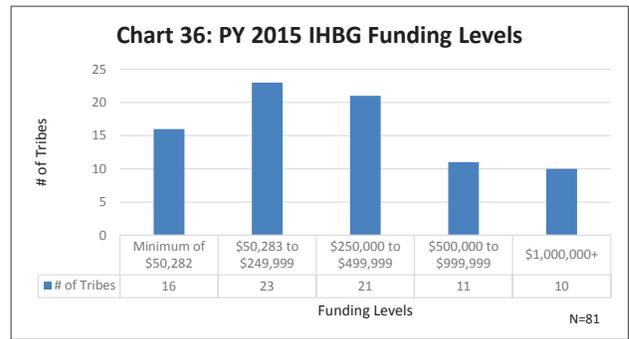
Each planned program activity has a specified outcome. The top outcomes planned for PY 2015 were to improve the ‘Quality of Substandard Housing’ (20.8 percent), ‘Provide Assisted Affordable Housing for Low-Income Households’ (15.1 percent), and ‘Other’ (13.3 percent). Of the planned activities paired with ‘Other’ outcomes, the majority were to provide various kinds of counseling services and emergency housing.

Figure 8. Program Activities Planned with PY 2015 IHBG Funds

Program Name	Count	Program Name	Count
1. Modernization of 1937 Act Housing	24	15. Other Homebuyer Assistance Activities	8
2. Operation of 1937 Act Housing	33	16. Rehabilitation Assistance to Homeowners	61
3. Acquisition of Rental Housing	10	17. Tenant Based Rental Assistance	30
4. Construction of Rental Housing	18	18. Other Housing Services	70
5. Rehabilitation of Rental Housing	12	19. Housing Management Services	25
6. Acquisition of Land for Rental Housing	5	20. Operation and Maintenance of Assisted Units	18
7. Development of Emergency Shelters	1	21. Crime Prevention and Safety	21
8. Conversion of Other Structures	1	22. Model Activities	15
9. Other Rental Housing Development	3	23. Self Determination Programs	-
10. Acquisition of Land for Homebuyer	10	Acquisition	-
11. New Construction of Homebuyer Units	15	Construction	-
12. Acquisition of Homebuyer Units	8	Rehabilitation	-
13. Down Payment/Closing Cost Assistance	28	Infrastructure	-
14. Lending Subsidies for Homebuyers	4	24. Infrastructure to Support Housing	13
		25. Reserve Accounts	-

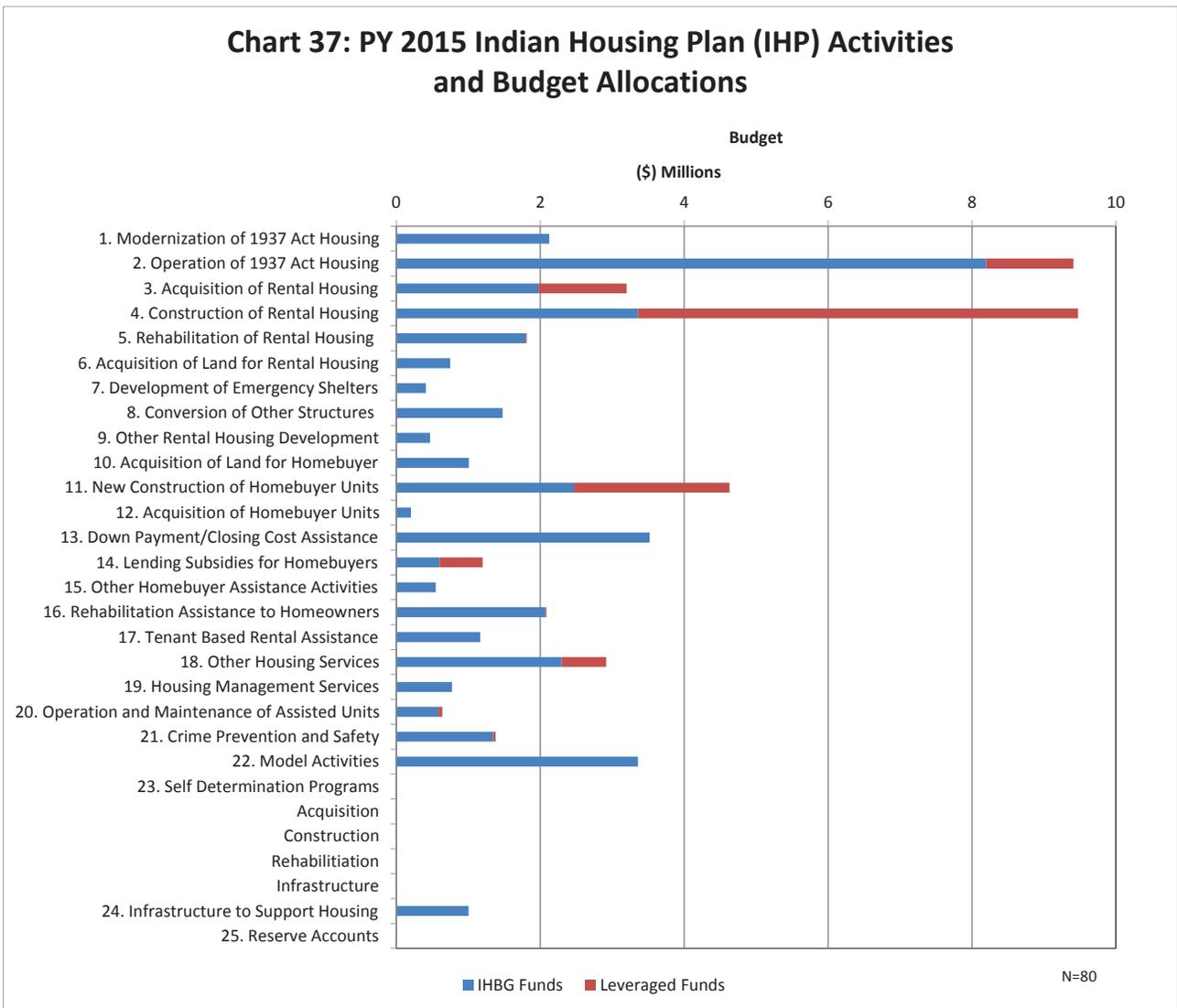
Grant Amounts

As indicated in Figure 7, the total amount of IHBG funding awarded to California tribes for the 2015 program year was \$29,636,502, an average of \$365,883 per tribe. In Chart 36, however, it can be seen that 16 tribes received the minimum grant of \$50,282 and 23 received less than \$250,000.⁴ Ten tribes received over \$1,000,000 with the largest grant amount \$4,033,249.



Source: NAHASDA Indian Housing Plans, California Coalition for Rural Housing, October-December 2015

4 It should be noted that 30 tribes were allocated the minimum, but 14 decided that they were unable to administer the program effectively or efficiently at that funding level and declined to submit an IHP.



Source: NAHASDA Indian Housing Plans, California Coalition for Rural Housing, October-December 2015

Budget Allocations by Program Goal

In Chart 37, we have illustrated the budget allocations associated with each of the 25 listed program activities in the IHP. Grantees budgeted for 23 of these activities. The top budget allocations are a strong indicator of the highest-priority activities. The largest three allocations by dollar value, including both IHBG and leveraged funds, were for ‘Operation of 1937 Act Housing’ at \$9,879,893, ‘Construction of Rental Housing’ at \$9,672,360, and ‘New Construction of Homebuyer Units’ at \$4,629,075. The largest three leveraged activities by dollar value were ‘Construction of Rental Housing’ at \$6,112,976, ‘New Construction of Homebuyer Units’ at \$2,159,219 and ‘Operation of 1937 Act Housing’ at \$1,230,000.

Even within the limits of a single program year snapshot, an interesting trend is apparent. Many of the budget allocation dollars were devoted to maintenance of existing housing stock. With the introduction of Low-Income Housing Tax Credits, the ability of tribes to conduct new construction has dramatically improved. However, as tribal housing stocks increase, so does the need to earmark IHBG funds for stock maintenance, leaving less for new construction

Analysis of IHP Budget Sources

Chart 38 shows the percentage breakdowns of funds by source for NAHASDA-related housing activities anticipated in Program Year 2015. Figure 9 consolidates the combined budgets of the 81 tribes that submitted IHPs for PY 2015. The estimated total of all

Figure 9. Summary of PY 2015 Budgets for California Indian Tribes

SOURCE	IHP				
	(A) Estimated amount on hand at beginning of program year	(B) Estimated amount to be received during 12-month program year	(C) Estimated total sources of funds (A+B)	(D) Estimated funds to be expended during 12-month program year	(E) Estimated unexpended funds remaining at end of program year (C-D)
1. IHBG Funds	\$28,359,564	\$29,636,502	\$ 57,996,066	\$ 44,529,631	\$13,466,435
2. IHBG Program Income	\$ 600,000	\$ 1,471,101	\$ 2,071,101	\$ 1,339,449	\$ 731,652
3. Title VI	\$ -	\$ -	\$ -	\$ -	\$ -
4. Title VI Program Income	\$ -	\$ -	\$ -	\$ -	\$ -
5. 1937 Act Operating Reserves	\$ -		\$ -	\$ -	\$ -
6. Carry Over 1937 Act Funds	\$ -		\$ -	\$ -	\$ -
LEVERAGED FUNDS					
7. ICDBG Funds	\$ -	\$ 3,630,000	\$ 3,630,000	\$ 3,045,000	\$ 585,000
8. Other Federal Funds		\$ 2,596,614	\$ 2,596,614	\$ 2,596,614	\$ -
9. LIHTC		\$ 8,112,976	\$ 8,112,976	\$ 6,112,976	\$ 2,000,000
10. Non-Federal Funds		\$ 48,000	\$ 48,000	\$ 48,000	\$ -
TOTAL	\$28,959,564	\$45,495,193	\$ 74,454,757	\$ 57,671,670	\$16,783,087
TOTAL Columns C & H, 2 through 10			\$ 16,458,691		

sources of funds for planned housing activities was \$74,454,757, of which \$45,495,193 was new funding anticipated during the program year and \$28,959,564 was carryover from previous years (Columns A, B, and C). Below we discuss the largest contributors to PY 2015 budgets from the IHBG Program and various leveraged sources.

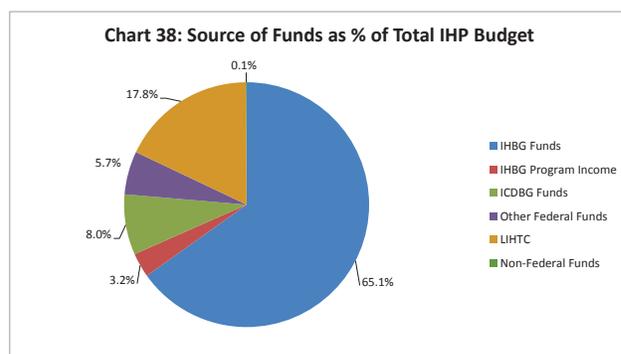
IHBG Program Funds and Income

In Chart 38, it can be seen that IHBG funds, including program income, made up about two of every three (65.1 percent) dollars budgeted. This was by far the largest contribution to grantee combined budgets and the primary source of funding for most tribal affordable housing activities.

As illustrated in Figure 9, all direct (non-leveraged) funds anticipated in PY 2015 for NAHASDA-related activities were from IHBG Program allocations and income. Of the total IHBG contribution of \$57,996,056, nearly half was carryover funds grantees planned to have on hand at the beginning of the program year. Grantees estimated carryover funds ranging from \$17,000 to over \$7,000,000. They anticipated having \$13,466,435 of unexpended IHBG funds remaining at the end of the program year.

Large carryovers reflect the fact that tribes receive IHBG allocations, essentially, on an annual entitlement basis notwithstanding the amount of unexpended funds from previous years, unlike the Indian Community Development Block Grant Program, for example, which is awarded on a highly competitive basis and is not cumulative. Unexpended funds may result from a number of factors, including the fact that it can take years for small tribes with small allocations to accumulate sufficient dollars to effectively implement projects and programs. Other factors may include program savings, staff turnover and vacancies, delays in construction, rehabilitation, and land purchase, and delays in internal and external processes.

Under NAHASDA, tribes may generate income that can be reinvested into their housing projects and programs. Grantees forecasted that \$1,471,101 would be available from program income for use in PY 2015, representing about 3 percent of the funds available. Eight tribes listed IHBG program income as a revenue source. Program Income is primarily from rental units that are managed by the tribal housing entity and will be contributed to the proposed housing activities.



Source: NAHASDA Indian Housing Plans, California Coalition for Rural Housing, October-December 2015

Leveraged Funds

IHBG grantees are encouraged to leverage funds from tribal, federal, state, and other sources in order to provide additional financial resources to their housing programs and projects. In Chart 38, these leveraged funds represented about a third (34.9 percent) of the tribal housing budgets presented in the tribes' PY 2015 IHPs. Only nine of the 81 tribes submitting PY 2015 IHPs reported leveraged federal funds and more than half (56.6 percent) of the federal funds were attributable to just two tribes with large Low-Income Housing Tax Credit (LIHTC) awards.

As mentioned previously, federal LIHTCs made up the largest contribution to the portion of leveraged funds reported in the tribes' IHPs. These funds equated to about 18 percent, or nearly \$7,000,000, of



Wah-Up-Weh-Tu Housing Project home interior, North Fork Rancheria of Mono Indians, Paul Irwin, 2017

total IHP budgets.⁵ Tax credits are highly competitive and only two tribes utilized previously secured allocations for PY 2015. The use of these tax credits was a recent development within California in PY 2015 and demonstrates the remarkable difference a change in policy at the state level can make on individual tribal housing budgets. To date, LIHTCs have been used primarily by tribes for new construction of rental units with one allocation being a mix of new construction and rehabilitation.

The most frequently used source of leveraged federal funds was Indian Community Development Block Grants (ICDBG), albeit by only six tribes in California. ICDBG funds made up 8 percent of the cumulative IHP budget for tribes in the state. Tribes may use

⁵ The LIHTC projects are highly leveraged. For example, tribe number one leveraged \$141,428 with \$3,000,000 in LIHTC and tribe number two leveraged \$856,000 with \$3,968,976 in LIHTC. With only two tribes participating in the LIHTC program at the time of our analysis of IHPs for PY 2015, the addition of LIHTC made the construction of rental housing the highest leveraged program goal. Since PY 2015, eight LIHTC projects have been funded.

the grant funds for housing, community facilities, and economic development. A total of \$3,630,000 (\$605,000 maximum award per tribe) in ICDBG funds were identified in tribes' PY 2015 IHPs.

Three tribes reported 'Other Sources' of federal funds totaling \$2,596,614 or 6 percent of the budget allocation. These sources were not specified. The program descriptions for these projects included new single-family housing construction, new multifamily housing construction, and planning and administration.⁶ 'Non-Federal Funds', a total of \$48,000, made up just one tenth of one percent of the total IHP budgets for PY 2015. Although the sources of these funds were not identified, they would have likely included tribal general fund contributions, and local, state, and private grants and contributions. The tiny

⁶ Note: Following up with the tribes that listed 'Other Sources of Federal Funds', it was revealed that one of the tribes was actually utilizing unexpended IHBG funds for their planning and administration. For the purposes of this section of the report, we have used the data that was supplied by the Indian tribes IHP.

percentage indicates how insignificant non-federal other sources, including state of California funds, are in funding tribal housing activities. In the following section, Section VII, we describe limitations and barriers in state housing and community development programs authorized by the legislature and California voters.

Conclusions

An analysis of Indian Housing Plans (IHPs) submitted by California tribes pursuant to NAHASDA and the Indian Housing Block Grant (IHBG) Program illuminates much about tribal housing needs and goals and the financial resources available to ameliorate poor housing conditions:

- 81 tribes submitted IHPs in Program Year (PY) 2015. 20 small tribes authorized Tribally Designated Housing Entities (TDHEs), primarily Indian Housing Authorities, to administer their IHBG funds.
- The three most cited housing needs for low-income tribal families were overcrowding (79 percent), substandard units needing rehabilitation (77.8 percent), and households needing affordable rental units. Overcrowding and substandard units needing rehabilitation were the greatest needs when considering all tribal families regardless of income, along with affordable homes for purchase by renters.
- The most commonly planned activities were homebuyer and homeownership counseling, emergency housing assistance, and asset management (84.4 percent), and housing rehabilitation for existing owners (75.3 percent).
- Grants averaged \$365,883 per tribe. However, one out of five tribes (19.8 percent) received the minimum grant of \$50,282 and nearly half (48.1 percent) received less than \$250,000.
- IHBGs are a critically important financial resource for tribes, accounting for two-thirds (68.3 percent) of program dollars for NAHASDA-related housing activities. About half (48.9 percent) the IHBG funds available in PY 2015 were carry-over funds from past program years.
- The presence of sizable carryover funds can be explained in various ways, but one of the main reasons is that small tribes must accumulate funds over multiple years to be able to effectively implement housing programs and projects, especially new construction projects.
- The largest share of non-IHBG, leveraged funds for housing programs in PY 2015 came from one source – the federal Low-Income Housing Tax Credit (LIHTC). As of PY 2015, two tribes had received LIHTC awards. The most frequently used federal program was the Indian Community Development Block Grant.
- The impacts of creation of a tribal housing apportionment within the LIHTC Program are immediately evident. While only a few tribes benefited initially, tax credit dollars represented a high percentage of non-IHBG dollars leveraged by all IHBG awardees and should increase in the future as more tribes become engaged in pursuing this funding source.
- The total amount of non-federal, leveraged funds for PY 2015 was only \$48,000, about one-tenth of one percent, indicating how insignificant non-federal sources, including State of California funds, are in funding tribal housing activities.

Section VII

State Housing Program Barriers

As revealed in previous sections, state housing loan and grant programs have played almost no role in tribal housing projects and programs over many years. In this section, we discuss barriers that limit or prevent tribal access to key state housing and community development programs and make recommendations to overcome these barriers and increase tribal participation.¹ These barriers include:

- Tribes are not listed as eligible applicants in specific programs or the terms used to reference tribes as eligible applicants differ from program to program and are confusing.
- In general, state single-family and multifamily loan and grant programs establish ownership, site control, underwriting, financial feasibility, and other requirements that are inconsistent with the real estate structures in practice on tribal lands.
- State program requirements are misaligned with the federal programs commonly used by tribes under NAHASDA (Native American Housing Assistance and Self-Determination Act), especially the Indian Housing Block Grant (IHBG) Program and the HUD Section 184 Indian Home Loan Guarantee Program.
- Tribes are disadvantaged in competitive programs with other applicants because of threshold, rating and ranking, and other factors that favor nontribal applicants. With the exception of the Federal and State Low-Income Housing Tax Credit Programs operated by the California Tax Credit Allocation Committee (TCAC), no program creates a tribal apportionment or set-aside, nor provides scoring preferences or offsets for tribes as a disadvantaged and underserved population.
- Programs that provide assistance to cities and counties do not reward or incentivize partnerships with tribes and tribal members residing within their jurisdiction and, as a result, the needs of tribes and their members are not addressed.
- One of the greatest barriers is lack of tribal capacity and expertise. Unlike the period from the 1970s to mid-2000s when the California Department of Housing and Community Development's California Indian Assistance Program (CIAP) built the capacity of tribes and helped them access state and federal housing and community development programs, the state no longer provides such assistance.

¹ Many of the recommended changes will likely require action by the California Legislature before state agencies can develop or amend regulations and administrative rules to increase tribal access. Further analysis is needed to discern what combinations of statutory, regulatory, and administrative reforms will be required to deconstruct barriers in each individual program.

We reviewed 15 programs (Figure 10). Three are U.S. Department of Housing and Urban Development (HUD) programs administered by the state – Community Development Block Grant Program (CDBG), HOME Investment Partnerships Program (HOME), and National Housing Trust Fund (NHTF). The other 12 are non-federal state programs. Three state agencies are responsible for implementation of these programs:

- California Department of Housing and Community Development (HCD)
- California Housing Finance Agency (CalHFA)
- Strategic Growth Council (SGC)

Some state housing programs were not evaluated because they are dedicated solely to dense, urban

environments and large projects and could not be fitted to the tribal environment without wholesale changes in intent and design. For example, we did not evaluate HCD’s Transit-Oriented Development (TOD) Housing Program for the obvious reason that tribes do not have transit systems that meet the TOD definition. Nor did we evaluate the bond program operated by the California Debt Limit Allocation Committee since bond projects are usually large-scale projects with high rents, which is uncommon in Indian Country. The Low-Income Housing Tax Credit (LIHTC) Program was not evaluated because it already provides access. In 2014, the California Tax Credit Allocation Committee led the way by creating a first-ever tribal apportionment, which enables tax credits to work on tribal trust land and has funded six rental housing projects to date.

Figure 10. List of State Housing Programs Evaluated for Barriers and Opportunities

California Department of Housing and Community Development

- Building Homes and Jobs Act (Senate Bill (SB) 2)
- CalHome Program (including California Self-Help Housing Program)
- Community Development Block Grant Program
- HOME Investment Partnerships Program
- Infill Infrastructure Grant Program
- Joe Serna Jr. Farmworker Housing Grant Program
- Local Housing Trust Fund Program
- Multifamily Housing Program
- Mobilehome Park Rehabilitation and Resident Ownership Program
- National Housing Trust Fund Program
- No Place Like Home Program
- Predevelopment Loan Fund Program

California Housing Finance Agency

- Home Mortgage Products
- Multifamily Rental Housing Loans

Strategic Growth Council

- Affordable Housing and Sustainable Communities Program ²

² The AHSC Program is administered by the Strategic Growth Council and implemented by HCD.

Tribal Ineligibility and Confusing Terminology

One of the key barriers to tribal access to some state housing and community development programs is that tribes are not explicitly enumerated as eligible applicants and, thus, presumed ineligible. Other programs identify tribes or tribal entities, but the terminology differs from program to program, causing some confusion.

Figure 11, below, lists programs for which tribes are currently eligible and the language used to refer to them. Figure 12 lists selected state programs that do not name tribes as eligible applicants and identifies where the statutory or regulatory gaps exist. Note that the HOME Investment Partnerships Program is shown in both charts because HOME-funded projects were made eligible by HCD for the first time in 2016, but HOME-funded programs are not currently eligible. The Department is working on regulatory changes that could make tribal programs eligible for HOME in a future funding cycle.

Figure 11: State Programs in which Tribes are Eligible Applicants

Program	Authority	Language
Affordable Housing and Sustainable Communities Program	Section 105 (A)(1)(c) of AHSC Round 4 2017-2018 Program Guidelines, Appendix A(v).	“Federally recognized Indian tribe”, defined as Indian native tribe, band, nation, pueblo, village or community that the Secretary of the Interior acknowledges to exist as an Indian tribe, pursuant to the Federally Recognized Indian Tribe List Act of 1994, 25 U.S.C. 479a.
HOME Investment Partnerships Program (Projects)	Health and Safety Code Sections 50896.2(d) and 50074; California Code of Regulations, Title 25, Division 1, Chapter 7, Subchapter 17, Article 2, Section 8204(a)(3) (C)	“Housing Sponsor”, which includes the duly constituted governing body of an Indian reservation or rancheria or tribally designated housing entity; Developers of projects on Native American lands must be a Native American Entity (NAE) or co-owner with an NAE.
Joe Serna, Jr., Farmworker Housing Grant Program	Health and Safety Code Section 50517.5(g)(2); California Code of Regulations, Title 25, Division 1, Chapter 7, Subchapter 3, Article 1, Sections 7202(u) and 7205(a)	“Grantee”, which includes a local public entity defined as the governing body or housing authority of a federally recognized Indian tribe.
Mobilehome Park Rehabilitation and Resident Ownership Program	Health and Safety Code Sections 50780(b) and 50079	“Local public entity”, which includes the duly constituted governing body of a federally recognized Indian reservation or rancheria.
Multifamily Housing Program	Health and Safety Code Sections 50675.2(g) and 50669(c); California Code of Regulations, Title 25, Division 1, Chapter 7, Subchapter 4, Article 2, Section 7303(a)	“Sponsor”, which includes the duly constituted governing body of a federally recognized Indian reservation or rancheria.

Figure 11 (continued): State Programs in which Tribes are Eligible Applicants

Program	Authority	Language
National Housing Trust Fund Program	NHTF Program Notice of Funding Availability, June 2018, Section IIA, and California NHTF Allocation Plan	“Developers”, including Native American Entities (NAE)
Predevelopment Loan Program	<i>Health and Safety Code Section 50530.5(e); California Code of Regulations, Title 25, Chapter 7, Subchapter 1, Section 7002</i>	“Eligible sponsor”, including a local governmental agency defined as the duly constituted governing body of an Indian reservation or rancheria.

As can be seen in Figure 11, some programs operated by HCD explicitly list tribes or tribal entities as eligible applicants. However, due to the complexity of state and federal law requirements, the variety of ways that tribes and tribal entities are identified can be bewildering – *federally-recognized Indian tribe, Indian reservation or Rancheria, duly constituted governing body of an Indian reservation or Rancheria, Native American Entity, Tribally Designated Housing Entity.*

Two programs, the Predevelopment Loan Program (PDLP) and Mobilehome Park Rehabilitation and Resident Ownership Program (MPRRP), subsume tribes and tribal entities under the definition of a “local governmental agency” (PDLP) or “local public

entity” (MPRRP). On the other hand, the term “local public agency” in the CalHome Program does not include tribes or tribal entities. It is unclear why the definition of a local public agency would preclude tribes, while the definitions of a local government agency and local public entity (which sound like the same things) include them. It is unclear if this distinction is intentional or a drafting error in state law.³

³ It is the nature of state programs that they evolve over time with statutory changes and regulatory interpretations of statute that can create inconsistencies within programs and from program to program. That creates challenges for all applicants as well as program administrators, especially in the case of tribes.

Figure 12: Selected State Programs Not Targeted to Tribes or Tribal Members

Program	Comment
Building Homes and Jobs Act (SB 2)	Dire tribal housing conditions cited in statute, but tribes not eligible to receive direct allocation nor apply for competitive funding.
CalHome Program	Health and Safety Code Section 50650.4(a) states that “local public agencies” are eligible for loans and grants, but regulatory definition does not include tribes.
Community Development Block Grant Program	Federally-recognized tribes may not apply as they are eligible for Indian Community Development Grants under NAHASDA, which is a highly competitive national competition. The State CDBG Program sets aside 1.25% of its total allocation for non-federally recognized California tribes, but has been rarely used.
HOME Investment Partnerships Program (Programs)	California Department of Housing and Community Development plans to make tribes eligible for programs in calendar year 2020.
Infill Incentive Grant Program	Health and Safety Code Section 53545.12 states that cities, counties, public housing authorities, and redevelopment agencies are eligible, but not tribes.
Local Housing Trust Fund	Health and Safety Code Section 50843(b) states that cities, counties, and nonprofit organizations are eligible, but not tribes.
No Place Like Home	In Welfare and Institutions Code Sections 5849.1-5849.15, only counties can be direct applicants, but the duly constituted governing body of an Indian reservation or rancheria may participate as a “development sponsor” as defined in Health and Safety Code Sections 50675.2(g) and 50669(c).
No Place Like Home Program	Grants to counties for acquisition, design, construction, rehabilitation, or preservation of permanent supportive housing for persons experiencing homelessness, chronic homelessness or who are at risk of chronic homelessness, and who are in need of mental health services. A <i>duly constituted governing body of an Indian reservation or rancheria</i> may participate as a “Development Sponsor” or “Sponsor” as defined in Section 50675.2 of the Health and Safety Code and subdivision (c) of Section 50669 of the Health and Safety Code.

Some of the programs listed in Figure 11, such as the Affordable Housing and Sustainable Communities Program, Mobilehome Park Rehabilitation and Resident Ownership Program, Multifamily Housing Program, and Joe Serna, Jr., Farmworker Housing Grant Program are not a strong fit for tribal housing projects as currently designed. Even though tribes are eligible, they would need substantive program changes to be workable in Indian Country.

Some programs listed in Figure 12, such as the Infill Infrastructure Grant Program, CalHome Program, and Local Housing Trust Fund Program, target rural areas but omit tribes as eligible applicants. With substantive program changes, however, these funding sources could be made to fit within the tribal context. Other programs in Figure 12, like the Community Development Block Grant, No Place Like Home (NPLH), and funds that will become available through SB 2, the Building Homes and Jobs Act, are targeted exclusively or mostly to cities and counties and, in the case of NPLH, only to counties. Later, we discuss how these programs could be fitted to benefit tribes and tribal entities.

Recommendations

1. The Tribal Housing Task Force of the California Department of Housing and Community Development (HCD) should convene tribal stakeholders to agree upon and propose a common terminology to refer to tribes and tribal entities that will apply to all relevant programs of HCD and the California Housing Finance Agency (CalHFA).
2. Using a common terminology, the Tribal Housing Task Force should work with HCD and CalHFA to review each program and evaluate opportunities to make tribes eligible via legislative, regulatory and administrative changes, as needed and possible.

3. For state programs limited exclusively or primarily to cities and/or counties, like No Place Like Home and the Building Homes and Jobs Act (SB 2), tribal governments should be treated on par with the governing bodies of cities and counties; in other words, as a unit of government eligible to directly apply for and receive funding.

Inconsistencies with Tribal Real Estate Structures and Practices

Before examining the program-specific barriers to tribal access to funding under each of the major state housing programs, it is critical to understand and examine the Uniform Multifamily Regulations (UMRs) that undergird almost all HCD-funded programs. This analysis is based upon the UMRs that were last updated and republished by HCD in November 2017. Even if we extend eligibility to tribes in each program, failure to comply with the UMRs will make certain that no tribe or Tribally Designated Housing Entity (TDHE) will ever gain access to this funding.⁴

From an overall perspective, the UMRs are designed for projects that are operated by private nonprofit, for-profit, and public agencies within California. Federally-designated tribes operate as sovereign bodies and are not generally subject to California law except when operating under a limited waiver of sovereign immunity. Further, some federal laws, particularly those related to fair housing, do not apply to developments on tribal trust lands.

In order for tribes and TDHEs to access state funds, reasonable accommodations are needed within the UMRs that recognize the unique nature of sovereign rights on tribal trust land. Other states, most notably New Mexico, have developed some best practices

⁴ The UMRs reflect the fundamental framework embodied in statutes passed by the California Legislature. Therefore, HCD may not be able to unilaterally remove program barriers in the UMRs without additional legislative authority.

that have been shown to work well on land held in trust.⁵ Best practices that have been developed by other states and municipalities can be adopted to meet the California-specific needs of projects and programs in Indian Country.

The most recent UMRs acknowledge the uniqueness of real estate on tribal lands with respect to requirements governing tenant selection (Section 8305(c)) and rental agreements and grievance procedures (Section 8307(e)). The language in Section 8305(c), which is virtually the same as the language in Section 8307(e), says the following: “The Department may approve exceptions to the requirements of this section for Projects located on Native American Lands, based on the unique legal requirements applicable to Native American Lands.”

The new language in the UMRs is positive as it grants HCD the discretion to waive requirements that may be inconsistent with tribal practices. However, it is silent on specific requirements that may be waived and which tribal practices will be allowable in lieu of meeting the requirements governing all other housing sponsors. A thorough analysis of technical fixes should be developed with the assistance of attorneys who are knowledgeable about tribal law. Below, we summarize four key categories of barriers: (1) real estate issues; (2) tenant selection and rental agreements; (3) underwriting standards; and (4) Article XXXIV compliance.

1. Real Estate Issues

California tribes face some unique challenges regarding the real estate on their tribal trust land. Many of these tribes have small populations and land bases. It can be difficult for them to develop ordinances allowing for leasehold mortgages or encumbrances since they can be complicated, time-consuming, and

relatively expensive for small tribes. Further, some tribes have no or limited experience assuming debt.

On the other hand, tribes and TDHEs that administer NAHASDA funds have extensive experience working with HUD regarding compliance and reporting on their use of federal funds. They are knowledgeable about income qualifications, tenant certification, and auditing requirements.

Tribes that develop Low-Income Housing Tax Credit (LIHTC) projects will provide a limited waiver of sovereign immunity. As a result, these projects will be adjudicated through state courts, not tribal courts. But, even in the case where tribes provide a limited waiver of sovereign immunity, there will remain real estate issues that are unique to tribal trust lands and fee land owned by tribes.

With respect to security on real estate, state programs require that any site acquisition funding must be secured by the real estate. In most cases, there will be a requirement that the real estate be secured with an affordability covenant attached to a deed of trust. For predevelopment loans that do not pay for site purchase or option, tribes are required to enter into a Promissory Note and, in some cases, an Assignment of Professional Services, both of which are pledges that the tribe must agree to as a condition of accepting the funds. Tribes need to be comfortable entering into these agreements if they want to borrow funds.

For homeownership programs, tribes that have adopted a mortgage code providing for leasing, mortgage foreclosure, and eviction processes can access financing or guarantees for homeownership loans on trust land through the USDA Rural Development, the Veteran’s Administration, the Federal Housing Administration, and the U.S. Department of Housing and Urban Development. As an example, Section 184 is a HUD loan guarantee that can cover up to 100 percent of the cost of financing single-family homes on tribal trust lands and fee land in defined Indian areas, including the entire State of California.

⁵ The New Mexico Housing Finance Agency, for example, accepts as security for loans the mortgage interest on tribal leaseholds for tribes that have a HUD-approved mortgage code. For tribes that do not have a mortgage code or do not want to pledge the

Generally, these mortgage codes will apply to any type of lending on tribal trust lands, and if they are acceptable to banks and other private mortgage lenders, they should also be acceptable in state housing programs.

2. Tenant Selection and Rental Agreements

NAHASDA states that Title VI of the Civil Rights Act of 1964 and the Fair Housing Act of 1968 do not apply to tribal trust lands and to a variety of other projects where NAHASDA funding is part of the project financing structure. Tribes can limit occupancy to Native Americans on tribal trust lands and in projects that are fully funded through NAHASDA. However, they cannot limit occupancy to a specific tribe. In addition, tribes can develop and adopt their own rental agreements and grievance policies that may not comply with federal and state fair housing laws.

The issues related to limitations on occupancy become more complex when applied to tribal projects on fee land. Here, state and local laws apply to the property. HUD has issued guidance in the case of projects that feature a mix of NAHASDA funding with other funding on fee land. Tribes may limit housing on fee land to Native Americans in accordance with the NAHASDA share of overall project funding when NAHASDA is used with other federal or non-federal funds that do not have program-specific nondiscrimination requirements. For a simple example, if a TDHE was developing a 30-unit project on fee simple land, and 50 percent of the funding came from NAHASDA sources, such as Indian Housing Block Grants, then 15 of the units could be designated strictly for occupancy by Native Americans.

3. Underwriting Standards

Project underwriting standards and assumptions in tribal communities are very different than those used in the state's housing and community development programs. Many of the state's standards are culturally

foreign to tribes. For one, most tribes adopt a maximum rent policy that is much lower than the allowable rents that apply to most federal and state funding sources. These maximum rents apply regardless of family income. Rents typically range from \$100 to \$400 per unit, with the higher rents charged for units with more bedrooms.

Secondly, both historically, and with the advent of NAHASDA in 1996, HUD programs in Indian Country have been designed so that households pay no more than 30 percent of income for housing. In practice, tribes and TDHEs often set the percentage to be spent on housing at even lower levels, such as 25 percent, 20 percent, or even 15 percent of income, unlike most other federal and state programs where unit rents are budget- or formula-based and tenants may pay more than 30 percent without additional rental subsidy. In this sense, NAHASDA works more like public housing or Section 8 where tenant contributions to rent are capped at no more than 30 percent of adjusted household income.

In some ways, tribal housing departments and TDHEs operate similar to public housing authorities. They own and manage a whole stock of rental housing, rather than viewing that stock as many distinct projects each with its own operating pro forma and set of books. Instead of thinking of operating shortfalls as a formal rental assistance contract, shortfalls are just absorbed into the overall operations and maintenance budget of the TDHE. Thus, unlike HUD- or RD-funded rental assistance projects, there has typically been no formal contract to provide the assistance. Instead, the tribe or TDHE just absorbs the operating costs as part of its overall housing operations from their annual IHBG allocation. Debt has seldom been used to finance rental housing, so debt service coverage ratios are largely unfamiliar.

In many cases, the tenant-paid rents are lower than the cost to operate and manage the units. The limited cash flow will not generate enough cash to cover a

first mortgage of any size and, therefore, will require rental assistance for most, if not all, of the tenants just to cover operations. To make up the shortfall, tribes will often use their Indian Housing Block Grant (IHBG) funds to backfill the difference. The IHBG funds act as an operating or rental subsidy, although it is based upon the cost to operate, similar to a Project Rental Assistance Contract (PRAC) that is attached to many HUD Section 202 and Section 811 projects. So even if rents were set higher, the tribe or TDHE may still have to provide operating support to break even.

Further, tribal leases are limited to a 50-year term by the U.S. Bureau of Indian Affairs. As a result, all tribal projects need to be limited to a 50-year compliance period to match the lease term. For projects on land with existing leases, the compliance period should be the lesser of the remaining term on the lease or 50 years.

4. Article XXXIV Compliance

Article XXXIV is a California constitutional requirement that does not apply to sovereign tribal land. For projects with NAHASDA funds on fee land, one could argue that they should not be subject to Article XXXIV either, since NAHASDA funding is not for the general public.

For projects that will serve a mix of American Indians and non-Indian households, there is some question about how these projects can comply with Article XXXIV. Tribes should ask their attorneys to examine this issue to determine how to properly comply with this requirement for projects located outside of tribal trust land on fee land owned by the tribe.

Recommendations

1. State housing and community development agencies should accept evidence of site control currently acceptable to the California Tax Credit

Allocation Committee for all rental projects.

2. For projects developed with Low-Income Housing Tax Credits, the security and subordination requirements acceptable to TCAC should be acceptable in other programs leveraged with tax credits. These documents are designed to acknowledge the unique nature of the real estate provisions in tribal trust lands, while still being acceptable to lenders and investors.
3. For projects not funded with LIHTCs, funding agencies should accept provisions in tribally-adopted mortgage codes. Generally, these mortgage codes will apply to any type of lending on tribal trust lands, whether a mortgage interest on a tribal leasehold for a single-family home or a multifamily housing development. If they are acceptable to banks and other private mortgage lenders, they should also be acceptable in state housing programs. state agencies and tribes should work together so each can mutually agree on documentation of security for loans and individual tribal members can be comfortable entering into these agreements.
4. In the case of rental housing on fee land that has a mixture of NAHASDA and state funding, state agencies should accept HUD's guidance, which allows tribes to develop and adopt their own rental agreements and grievance policies and limit unit occupancy only to Native Americans for that share of the units represented by the NAHASDA share of overall project funding.
5. In the case of rental housing on trust land that has a mixture of NAHASDA and state funding, state agencies should also accept HUD's guidance allowing tribes to develop and adopt their own rental agreements and grievance policies. However, the state should permit tribes to limit unit occupancy only to Native Americans for all the units in the project as to do otherwise would run counter to tribal efforts to restore tribal com-

munities on trust land and redress earlier state actions that led to dislocation and displacement of tribal members from ancestral lands.

6. Following precedent set in the 2016 HOME Program regulations for HOME-funded tribal rental projects, all state multifamily housing finance programs should be consistent with U.S. Bureau of Indian Affairs rules limiting the compliance period to 50 years, rather than 55 years, to match lease terms on tribal trust land. For projects on land with existing leases, the compliance period should be the lesser of the remaining lease term or 50 years.
7. The UMRs feature separate underwriting requirements for HUD 811 and 202 projects. HCD should include tribal rental projects in this category because of the similarities in their pro-forma operations. Unless tribal projects are underwritten similar to these HUD projects, they may not meet feasibility under the current UMRs

Misalignment of State Program Requirements with Federal Indian Programs

In many cases, state housing and community development program rules conflict with the rules governing the major federal housing funding programs used by tribes, such as the housing programs authorized by the Native American Housing Assistance and Self-Determination Act, especially the Indian Housing Block Grant (IHBG) and the HUD Section 184 Indian Home Loan Guarantee Program. IHBG is described in greater detail in Section VI. The conflicts arise in areas of rent-setting, environmental clearances, labor standards, and securitization of mortgages on single-family homes:

1. Tenant Rents

The HOME Program is one example of how the rents stipulated under a state program are at odds with the

rent limits set under NAHASDA. The regulations require HOME loans to rental projects to bear simple interest at 3 percent, although exceptions are allowed for tax credit projects under certain circumstances. Rental housing developed by tribes and TDHES is likely to also have NAHASDA funding, where tenants are prohibited from paying more than 30 percent of income for housing. This may result in a property having operating losses that must be made up by ongoing infusions of NAHASDA funds. Having to repay a loan at 3 percent interest will simply add to the amount of NAHASDA funds that must be used to pay off a loan of HOME funds.

Similar issues are faced in the Multifamily Housing Program, also known as MHP, which has clear language specifying that tribes are eligible, but where no tribe has received MHP funding since the program was created in the early 2000s. There are multiple reasons for this and why rural projects, in general, have had difficulty accessing these funds. The principle reason is that 9 percent tax credit projects are not eligible for MHP general program funding. This means that most of the general pool goes to provide financing for 4 percent LIHTC tax-exempt bond deals that usually are not feasible in rural areas, especially on tribal trust lands or fee land owned by tribes due to the small size and low rents that characterize most tribal developments. This is compounded by the issue of maximum rents capped at 30 percent of tenant income in projects also using NAHASDA funds.

2. CEQA Clearances

Compliance with the California Environmental Quality Act (CEQA) in the Multifamily Housing Program, Joe Serna, Jr., Farmworker Housing Grant Program, and other state programs is also a challenge. One example is in MHP's readiness scoring category, which requires that a project have both NEPA (National Environmental Policy Act) and CEQA (California Environmental Quality Act) clear-

ances. Tribes are generally familiar with NEPA and are required to meet these requirements for their NAHASDA projects. But, tribes have strongly felt that California law should not apply to tribal trust lands, including CEQA clearances.

3. State Prevailing Wages

Developers of MHP-funded projects are explicitly required by statute to pay state prevailing wages. Other state programs also explicitly require prevailing wages or are subject to California Labor Code requirements specifying that any housing project using state funds is a public work and, therefore, must abide by the state's prevailing wage rules. Most tribes, however, are permitted to pay either Davis-Bacon or their own wage rates for projects, so this requirement is in direct conflict with tribal policies, at least to the extent that the project is located on tribal trust land or fee land controlled by the tribe.

4. Securitization of Single-Family Loans

The HUD Section 184 Indian Home Loan Guarantee Program has been the largest mortgage program on tribal trust land. Tribes are used to accessing this program and it has been successfully applied for many years. In order for the CalHome Program, as well as CalHFA's home mortgage products, to work in Indian Country, the tribe will need to adopt a mortgage code and HCD and CalHFA will need to accept measures to securitize their debts that meet both the state's needs as well as the needs of the tribe. Since Section 184 documentation has been developed by HUD to work in Indian Country, these documents could be applied to HCD and CalHFA for purposes of lending on tribal property.

Recommendations

1. To align tribal practices with regards to maximum rents and NAHASDA limitations on tenant rents with state multifamily housing programs, especially HCD's omnibus Multifamily Housing Program (MHP), and make these projects finan-

cially feasible, tribes should be granted an exception in legislation to the prohibition on use of 9 percent tax credits with MHP.

2. Alternatively, increasing the loan amount per unit could enable tribes to access the 4 percent tax credit/tax-exempt bond market and make MHP feasible for tribes, provided they include the provisions for capitalizing the annual payment amounts as allowed for supportive housing and homeless prevention deals.
3. For tribal applications on tribal trust land, state agencies should be authorized to accept federal NEPA clearances in lieu of CEQA since tribes strongly feel that California environmental laws do not apply on sovereign tribal lands and meeting CEQA requirements, on top of NEPA, is a cumbersome and unnecessary burden.
4. Similarly, under federal law, most tribes are permitted to pay either Davis-Bacon or their own wage rates for projects. Payment of state prevailing wage is in direct conflict with tribal policies. Through legislation, the state should accede to this practice on tribal trust land.
5. To conform state requirements to the HUD Section 184 Indian Home Loan Guarantee Program, the largest mortgage program on tribal trust land, tribes and state agencies should come to terms on measures to securitize debts that meet the needs of both parties. One way to do that would be for HCD and CalHFA to adapt the documentation used by the Section 184 Program for lending on tribal property.

Competitive Disadvantages Absent Set-Asides and Preferential Scoring

Even if tribes and tribal entities were made eligible, with clear and unambiguous terminology, to apply directly to every state housing and community de-

velopment program, there would still be structural barriers in some programs that limit their competitiveness against other applicants. These barriers mostly stem from program design, threshold, and point scoring criteria, such as experience, readiness, site amenities, and other requirements that eliminate tribes from the outset or disadvantage them in terms of compliance.

This is why the California Tax Credit Allocation Committee's decision in 2014 to create a tribal apportionment to allow tribes proposing projects on tribal or fee land to compete against each other, rather than with other development sponsors, was so important to opening the door to tribal communities. For 30 years prior to that, tribes were shut out of the Low-Income Housing Tax Credit Program. Since then, six tribal projects sponsored by six different tribes with 180 rental units have been funded. This demonstrates how an intentional effort to target tribes and create a level playing field where tribes compete against each other can result in viable projects that would never have been awarded funds under existing program rules and scoring schemes.

Below, we discuss 10 impediments that would have to be rectified to enable tribes to access state housing and community development programs on a level playing field: 1) program design characteristics that do not fit rural and tribal conditions; 2) the absence of good-quality data; 3) the fact that many tribes do not have zoning codes; 4) the inapplicability of Housing Element law to tribes; 5) the difficulty of providing services-enriched housing; 6) the paucity of off-site and on-site amenities; 7) incompatible rent and income-targeting restrictions; 8) lack of comparables; 9) difficulty meeting matching and leveraging requirements; and 10) unfamiliarity with debt-financing.

1. Program Design

Many state housing and community development programs were simply not designed with the unique conditions and needs of rural communities and tribes in mind. One can argue that it is appropriate that some state programs be designed primarily to benefit dense urban places and others for rural communities. The conditions and solutions are different. However, some programs have statutory and regulatory requirements to serve rural communities but are still unsuited to serve most rural and tribal communities. Below, we give examples of three such programs that are currently ill-designed for the tribal environment, but through legislative, regulatory, and administrative changes could be redesigned and customized to include tribes and tribal entities.⁶

Infill Infrastructure Grant Program. The Infill Infrastructure Grant Program administered by HCD assists in the new construction and rehabilitation of infrastructure that supports higher-density affordable and mixed-income housing in infill locations. Tribes and tribal entities are not explicitly eligible for the program but, even if they were, there are at least three design impediments that would be difficult, if not impossible, to meet in the smaller reservations and rancherias common in California:

1. The broadly applied definition of “infill”, that at least 75 percent of the surrounding contiguous area be already developed, would preclude the majority of tribes. In the tribal context, many new housing developments will be seen by tribes as infill developments as they fill out and connect open spaces to existing development, but they may not be able to demonstrate that three-quarters of the perimeter of the site is surrounded by urban uses in the conventional sense.

⁶ Other programs that could be redesigned with statutory, regulatory, and/or administrative changes to fit the tribal environment include the Multifamily Housing Program, Joe Serna, Jr., Farmworker Housing Grant Program, Predevelopment Loan Program, Local Housing Trust Fund Program, and CalHome Program.

2. Projects must meet minimum density requirements ranging from 10 to 30 units per acre depending on the county where the project is located. These are densities that are much higher than the typical development pattern found on reservations and rancherias.
3. The minimum grant amounts available for different project types in rural and non-rural areas contemplate projects that are larger than what would typically be developed on tribal land.

Affordable Housing and Sustainable Communities.

Similar issues have arisen with the Strategic Growth Council's (SGC) Affordable Housing and Sustainable Communities Program (AHSC), administered by HCD. AHSC makes grants and/or loans for affordable housing, land use, transportation, and land preservation projects that support infill and compact development and reduce greenhouse gas (GHG) emissions by reducing vehicle miles travelled (VMT). At least 50 percent of the funds must benefit disadvantaged or low-income communities as defined by the CalEnviroScreen and AB 1550.⁷ It is funded by the Greenhouse Gas Reduction Fund, which is capitalized by sale of pollution credits to large corporations exceeding state-mandated GHG emission goals.

Tribes are currently eligible for AHSC, but several program design elements make it difficult, if not impossible, for tribes to participate in GHG-reducing housing projects:

- a. AHSC will fund affordable housing in three different project areas – Transit-Oriented Development Project (TOD) Areas, Integrated Connectivity Project (ICP) Areas, and Rural Innovation Project Areas (RIPA). Due to requirements for high unit densities, proximity to transit stations with frequent service, and other conditions more likely to exist in larger cities, only the RIPA prototype is a possible fit for the overwhelming majority of tribes to develop on tribal land.

- b. However, even a RIPA affordable housing project is required to have a minimum density of 15 units per acre, which far exceeds the typical densities found on tribal land. Furthermore, the calculation of density does not account for rural-specific infrastructure and favors development of small studios and not the larger family units most frequently developed in tribal communities.
- c. AHSC requires that RIPA projects must be near "Qualifying Transit" with at least two departures during peak hours and include substantial Sustainable Transportation Infrastructure (STI) components to encourage mode shift of residents from single-occupancy vehicles to public transit, walking, and bicycling. The remote locations of tribal land, combined with the small land base of many tribes, have historically discouraged transit services in Indian Country. Coordination of regional vanpool services may be the most attainable mode shift.
- d. In addition, the requirement for a minimum investment of \$1 million in either STI or affordable housing infrastructure improvements means that projects must reach a scale that is not appropriate and sustainable in smaller reservations and rancherias. Furthermore, AHSC requires extensive leveraging of other funding sources and these other funds must be in hand at the time of application.
- e. While AHSC rewards projects that reduce GHG through alternative transportation measures, it does not currently give sufficient credit for developers proposing to reduce GHG via other measures. These other measures could include improved energy-efficiency by replacing existing, outdated housing stock with new affordable housing built to Build It Green or like standards. These projects certainly will reduce GHG consumption and could be easily developed on tribal land.

⁷ See https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1550

Mobilehome Park Rehabilitation and Resident

Ownership Program. The purpose of MPRROP is to finance the acquisition and rehabilitation of affordable mobilehome parks and conversion to ownership or control by resident organizations, nonprofit housing sponsors, or local public agencies. It may also be used to directly assist low-income homeowners to repair or replace their mobilehomes in an MPRROP-purchased park and to fund the construction costs of a replacement park for residents of a park destroyed in a natural disaster.

Although the duly constituted governing body of an Indian reservation or rancheria is an eligible applicant as a “local public entity”, and high percentages of tribal housing stocks are in the form of substandard manufactured homes and trailers in need of assistance, not a single tribe or tribal entity that we know of has used MPRROP. This is due to several program design issues that do not fit tribal conditions:

- a. Most tribal manufactured housing is designed as permanent affordable housing for tribal members on tribally-owned land. Generally, with some exceptions, tribes do not own and operate mobilehomes as a park, per se.
- b. Since MPRROP loans for park acquisition and rehabilitation are currently capped at \$5 million, most MPRROP projects leverage additional financing in order to achieve feasibility, funds that are often not available to smaller and poorer tribes.
- c. Existing rehabilitation and repair programs typically target mobilehomes built after 1980 and on a permanent foundation, but in Indian Country in California thousands of mobilehomes are older models with no permanent foundation. MPRROP can be used for mobilehome acquisition, rehabilitation, or replacement.

2. Lack of Data

As this study has demonstrated, there is a paucity of good quality and up-to-date data available from the conventional sources that most cities and counties use. Census tracts in rural California encompass large land areas and often do not accurately capture rural variations and the specific conditions of tribes. Tribal census tracts specifically designed by the U.S. Bureau of the Census to create statistical divisions of American Indian areas are notorious in Indian Country for seriously undercounting population numbers and demographic characteristics, as well as housing and other community attributes. Census Blocks provide a more granular focus but offer fewer data points. Data for nearby cities and counties will likely be inaccurate for tribal communities. More organized and higher-capacity tribes perform their own censuses, which are recognized in federal housing and community development programs.

The lack of reliable data, more times than not, results in under-estimates or gaps in information about tribal conditions that may disadvantage tribes in state programs where demonstration of community need using conventional data sources is required to justify or be competitive for assistance.

3. Zoning and Land Use Designations

Most tribal communities do not have zoning and cannot comply with requirements in programs that applicants demonstrate the proposed project is consistent with local land use designations and purposes. HCD’s HOME Program, for example, has a required “Verification of Zoning” form, which calls for a local official to certify that “the project is zoned for the intended use”. Absent a well-developed zoning code, the state should allow tribes to certify that the project complies with whatever land use or community plans the tribe may have adopted. This self-certification process is currently acceptable for 9 percent tax credit tribal applications.

4. Housing Element Compliance

Some state housing and community development programs require that applicants have an HCD-approved Housing Element in substantive compliance with state law. The intent is to encourage cities and counties to make a good-faith effort to adopt and implement Housing Elements if they wish to access these funds. However, California Housing Element law does not apply to tribes. Consequently, to accommodate tribes and tribal entities, this requirement needs to be waived or, as in the case of the HOME Program, tribes and tribal entities need to be awarded full points for Housing Element compliance in order to equalize or level the playing field.

5. Services-Enriched Housing

A positive trend in affordable housing policy for several decades now has been encouragement and, indeed, preferential scoring for developments that offer tenants wrap-around services both on- and off-site. Affordable housing has become the platform not only for stabilizing low-income households in decent and affordable homes, but for helping the elderly, disabled, and homeless, working-age adults, and children to improve their learning, their skills, their quality of life. It is doubtful, however, that some tribes, particularly the many small tribes on reservations and rancherias, will be able to marshal the variety, quality, and frequency of services that other developers can demonstrate.

6. Proximity to Amenities

Most state housing and community development programs now try to achieve other state social, environmental, and economic goals in addition to meeting the immediate shelter needs of lower-income households. These goals include siting new housing in locations near full-service grocery stores to achieve better nutrition, near schools and health facilities to achieve better education and health outcomes, and near high-quality transit to achieve better

air quality and traffic remediation. Furthermore, development proposals that provide on-site amenities, such as better energy-efficiency from installation of solar and other energy-saving retrofits, are advantaged. Creating eligibility thresholds and weighting scoring criteria to favor these amenities are the main ways that state housing and community development programs incentivize developers to acquire sites and develop housing that meet statewide goals.

The AHSC rating and ranking system, for instance, favors projects where the affordable housing is densely developed, located near employment centers, and located near public transit. None of these criteria apply to housing in Indian Country. Tribal trust land is, generally, relegated to remote locations with little or no public transportation and no employment centers within miles of the site.

7. Low Rents and Income-Targeting

As mentioned earlier, tribal housing operators are obligated by NAHASDA to limit tenant-paid rents to no more than 30 percent of tenant income, similar to the income-based rents charged in conventional public housing and in the Section 8 Program. The budget- and formula-based rents that other developers have used for years to pay operating costs, and to predicate their development budget pro formas, are a new phenomenon in Indian Country. Increasing use of debt-financing, and the need to service debt and pay for other operating costs, absent significant additional subsidy, will force tribes to either (a) eschew the use of their Indian Housing Block Grant (IHBG) funds as development capital and seek other capital funds that may not exist, or (b) use their IHBG funds in project development and have no choice but to commit these funds each subsequent year to subsidize operating costs not covered by tenant rents.

8. Lack of Comparables

One of the challenges in rural areas of California, and in Indian Country in particular, is the absence of comparables or similar properties for benchmarking the value of a proposed housing development relative to existing housing. The Multifamily Housing Program, for instance, requires applicants to provide operating comparables with both market- and non-market-rate rental properties. Tribal rental projects are often not multifamily developments, but consist of groups of single-family, detached homes for rent. This makes it difficult to determine comparable operating costs.

Similar challenges arise in single-family home programs like CalHome and CalHFA's single-family home mortgage products. The low-density development that is typical of tribal communities and rural areas, in general, means that housing is scattered over large geographic areas and real property that has comparable physical characteristics may be located quite far away and in a different market with different values. The problem is also the lack of sales transactions in Indian Country for all tenure types making appraisals using the sales method difficult.

Furthermore, due to the unique land ownership, site control, and underwriting challenges in Indian Country, appraisers will often be unfamiliar with how to value and compare properties on tribal land with properties on non-tribal land. First, the norm on tribal land, unlike nontribal land, is tribal ownership and control over the pricing, use, and disposition of the housing upon sale or transfer. Second, there can be great variations in the types and terms of land leases and homesite leases from reservation/rancheria to reservation/rancheria. Therefore, two properties of similar size, age, amenities, and quality may have very different use rights, including transfer rights, as well as multiple owners from fractionation, that make application of adjustments to value very complicated.

9. Matching and Leveraging Requirements

All state housing and community development programs require leveraging of additional sources as either threshold or scoring criteria or both. Some require at least a dollar-for-dollar match or more.

To cite one example, the Joe Serna, Jr., Farmworker Housing Grant Program administered by HCD requires a 100 percent match or better for all projects requesting over \$500,000. This requirement may be difficult to reach for smaller tribes with modest NAHASDA allocations, except in the case of projects using Low-Income Housing Tax Credits.

Another example is the Local Housing Trust Fund Program. Eligible applicants are cities and counties with adopted Housing Elements that HCD has determined comply with Housing Element law, and charitable nonprofit organizations. Tribes and tribal entities are not explicitly listed as eligible applicants, although a TDHE could potentially access these funds. If tribal governments were made an eligible applicant like city and county governments, allowed to use federal housing funds as match, subject to a smaller match requirement, and held harmless from the Housing Element requirement, they could commit their Indian Housing Block Grant (IHBG) funds as a recurring revenue source to capitalize a housing trust fund. For smaller tribes, the annual IHBG grant is small. However, over time, tribes are allowed to cobble together grants from multiple years and use these dollars for larger investments.

Gaming tribes executing compacts with the state of California and obligating to spend a portion of their gaming receipts annually for charitable purposes, including housing, represent a potentially significant new source of revenue for housing. Compact dollars could be dedicated as matching funds to leverage state funds.

10. Unfamiliarity with Debt-Financing

Finally, as previously discussed, tribes have not traditionally used debt-financing from nontribal sources that has to be paid back, whether for home ownership programs, which tribes are most familiar with, or financing rental housing development. This will discourage some tribes from participating in state housing and community development programs and disadvantage others if funders deem that repayment is questionable.

The HOME Program regulations, for example, require that HOME loan principal must be repaid by first-time homebuyers and most homeowners whose homes are rehabilitated, although payments are deferred for the term of the note and some or all of the accrued interest may be forgiven. For homeowners who remain in the house for the period of affordability and term of the HOME note, repaying the principle may mean the homeowner will need to take on additional bank financing to pay off the note, relegating the borrower to many more years of debt payments. This requirement for principal repayment is likely to make HOME loans unpalatable on some reservations and rancherias.

Moreover, on trust lands, resale of homes is less common, meaning that an opportunity to recapture the loan principal upon sale to a new household is limited. What is more common is that borrowers stay in their home until death and the home is passed on to family members as inheritance. HCD does not require immediate repayment of HOME loans upon death of the borrower if the inheritor is income-qualified, will occupy the home as the primary residence, and complies with all terms of the existing note. However, the note would still be due upon the original maturity date and repayment will be required if the inheritor is not income-qualified.

Recommendations

1. Some state housing and community development programs make tribes and tribal entities eligible to directly apply for and receive funding but have never worked in Indian Country. Other programs target rural areas, and could be fitted to Indian Country, but do not permit tribes to apply and receive funding on their own. State agencies should undertake a wholesale review of program design in all housing and community development programs to identify barriers to tribal access, such as those identified in this section, and the legislative, regulatory, and administrative changes that will remove these barriers and increase access.
2. In lieu of high-quality and accurate Census data in Indian Country, information from tribal censuses, which is recognized in federal housing and community development programs, should be accepted in state programs.
3. Absent a well-developed zoning code, programs that require evidence of zoning approval and compatibility should allow tribes to certify that the project complies with whatever land use or community plans the tribe may have adopted.
4. Given that tribes are not subject to the state mandate that all cities and counties have an HCD-approved Housing Element to their General Plan, state housing and community development programs that establish Housing Element compliance as a threshold requirement should exempt tribes and programs that award points for compliance should grant tribes full points in order to level the playing field, similar to the strategy adopted in the 2016 HOME Program regulations.
5. Programs that weight project-based services provided onsite and off-site to rental housing tenants need to reconcile the fact that tribal projects

will not have access to the rich array of pro-bono public and community services that will be available in denser urban communities nor the in-house staff to deliver these services.

6. Similarly, close proximity to such amenities as high-quality transit, full-service grocery stores, health care facilities, schools, and employment centers will not be possible in many areas where smaller and more geographically remote tribes are located. Tribal projects will need to be evaluated separately from other projects, awarded full points, or provided other point offsets that equalize their chances of competing.
7. To reduce the competitive disadvantages from financial feasibility challenges that tribes will face when combining their IHBG funds with state debt-financing, programs should allow alternative loan terms for rental housing developed by tribes or TDHEs. When such housing includes IHBG funds and does not utilize Low-Income Housing Tax Credits, the interest rate should be 0 percent with the principal forgiven upon completion of the period of affordability.
8. State housing and community development agencies should explore how HUD and USDA address the issues of lack of comparables for purposes of appraising and underwriting trust land and real property on reservations and rancherias, as well as on fee land owned by tribes.
9. Match and leverage requirements will disadvantage many tribes, especially smaller ones, that do not have access to, nor familiarity with, the federal, state, local government, and non-governmental funding sources regularly marshaled by nontribal developers. However, allowing tribes to use their unobligated Indian Housing Block Grant funds as match, both accrued from previous years and anticipated in subsequent years, will help. Moreover, Indian compact funds operated by gaming tribes offer a potentially large

source of capital that could be leveraged by tribes with state housing and community development program financing.

10. In programs that finance homeownership, such as CalHome and the HOME Investment Partnerships Program, state agencies should consider amending program regulations to allow forgiveness of loan principal and interest upon completion of the period of affordability for homes on trust land or restricted Indian land. This should apply to both first-time homebuyers and homeowners whose homes are rehabilitated. Alternatively, a pro rata reduction of principal over the final several years of the period of affordability would allow tribal borrowers to owe little or nothing upon premature termination or expiration of the covenant.
11. Affordability covenants for owner-occupied rehabilitation loans on trust and restricted lands should be terminated upon death of the borrower when the home is inherited by an immediate family member as does the New Mexico Housing Finance Agency.
12. Finally, whether through legislation, regulation, or administrative rule changes, state agencies should create tribal apportionments, set-asides, and/or targets in housing and community development programs that have excluded tribes for many years because they are unworkable in Indian Country or have omitted tribes as eligible applicants. The HOME Investment Partnerships Program has created a target of at least one tribal housing project annually. The Multifamily Housing Program and CalHome Program are two major HCD funding programs where creating apportionments or set-asides with separate application processes with customized tribal threshold and rating and ranking criteria would ensure that at least one tribal project or program could be funded each year.

Lack of Incentives for Rural Cities and Counties to Partner with Tribes

As previously mentioned, several major state housing and community development programs, with some exceptions, are limited to cities and counties or only counties and do not directly fund tribal governments.

Below, we discuss three state programs that provide direct funding only or primarily to cities and counties, but which could be incentivized to encourage cities and counties to partner with tribes absent statutory changes making tribes eligible for direct funding: the state-administered Community Development Block Grant (CDBG), No Place Like Home (NPLH), and SB 2, the Building Homes and Jobs Act.

Community Development Block Grant. CDBG is a federal program administered by HUD that supports community development, including eligible housing, infrastructure, and economic development activities that meet a CDBG national objective. The California Department of Housing and Community Development (HCD) serves as the administrator of state CDBG funds available to non-entitlement areas of California. The term ‘non-entitlement area’ means “an area that is not a metropolitan city or part of an urban county and does not include Indian tribes” (42 USC 5302(a)(7)). The U.S. Code requires that states only fund cities, counties, and other general-purpose political subdivisions of the state.

Although HCD is generally prohibited by statute from awarding CDBG funds directly to federally-recognized tribes,⁸ state CDBG funds awarded to cities and counties may be used on trust land and/

⁸ The exception is special congressional allocations that often come with additional restrictions and requirements depending on the federally-declared disaster. An example is the 2010 congressional CDBG appropriation where eligible applicants were the 14 counties and two federally-recognized tribes that were affected by the 2008 wildfires. HCD awarded \$4,119,520 to the Hoopa Valley Tribe and \$737,168 to the Yurok Tribe out of a total of \$29.5 million awarded.

or for members of federally-recognized tribes when that use is part of a city/county-wide program, for example, a county-wide owner-occupied rehabilitation program. In other words, they may not be used exclusively for federally-recognized tribes, such as rehabilitating homes on trust land only. State CDBG funding may also be used for housing-related activities for non-federally-recognized tribes within non-entitlement areas. In fact, California law sets aside 1.25 percent of the state’s annual CDBG allocation for grants to cities and counties that apply on behalf of non-federally recognized tribes. Applications for the set-aside are exempt from HCD limits on total funding per applicant and are scored separately, and thus do not come at the expense of any other CDBG activity a city/county wishes to pursue. In practice, however, the set-aside has seldom been used and most years no applications are received.⁹

Absent incentives, the federal prohibition on eligible applicants presents a significant barrier to tribal participation:

- a. A tribe must convince an eligible city or county to apply on its behalf. The city or county has all the responsibility to administer the grant, including drawing funds, processing payments, and ensuring compliance with a host of federal requirements.
- b. The city or county also has the risk of monitoring findings, which could impact future applications, and the risk of repayment of grant funds for nonperformance or noncompliance.¹⁰ The city/county might perceive that involving a partner tribe gives them less control over the rate of expenditure and introduces the risk that the city/

⁹ Only four applications have been funded since 2006 for a total of \$3.2 million, two in Lassen County for the Honey Lake Maidu tribe and two in the City of Shasta Lake for the Wintu tribe.

¹⁰ To increase the state’s poor CDBG expenditure rate, a new regulation was adopted in 2012 that prohibits an eligible city/county from submitting a new application until the applicant has drawn down at least 50 percent of its open CDBG grants.

county would be unable to apply for more CDBG quickly.

- c. In addition, state CDBG applications require a specific public participation process, including notices and public hearings that can take place up to a year before the application. This means that a tribe would have to work with the city/county well in advance of the public process so that the city/county staff knows about possible activities in tribal communities. While public participation can be empowering, there may be public opposition to a city/county administering a grant specifically to benefit a tribe.
- d. Cities and counties that operate homeowner or homebuyer loan programs are likely to have loan/grant documents designed only for fee land and may lack capacity to develop documents that would work on trust or restricted land.

For all these reasons, a city or county is not likely to take on obligations associated with state CDBG awards and commit their limited staff time and resources to a Native American application or funding activity, unless there is a strong relationship between the tribe and city/county and incentives to bear this risk

No Place Like Home. In 2016, the California Legislature passed, and the Governor signed, landmark legislation (AB 1618) creating the No Place Like Home (NPLH) initiative to finance the capital costs, including acquisition, design, construction, rehabilitation, or preservation, and operating reserves, of permanent supportive housing for individuals in need of mental health services and experiencing or at risk of chronic homelessness. AB 1618 authorized the sale of up to \$2 billion in state general obligation bonds for NPLH with repayment from a portion of proceeds from the Mental Health Services Act (MHSA) established by voters in 2004 (Proposition 63). MHSA is funded by a one percent state income tax surcharge on millionaires. AB 1618 also authorized \$6.2 mil-

lion from the Mental Health Services Fund to the California Department of Housing and Community Development to provide technical and application preparation assistance to counties so they may access and effectively use NPLH funds.

The legality of redirecting a portion of Proposition 63 funds to repay NPLH was initially to be adjudicated through a validation court proceeding. However, given uncertainty about the outcome and time delays, the Legislature, instead, passed AB 1827 in June 2018 authorizing placement of NPLH on the November 2018 state ballot. Proposition 2 passed with over 64 percent voter approval. Most of the capital funds will be distributed on a competitive basis in three funding pools based on county population size: Large Counties with population over 750,000, Medium Counties with population between 200,000 and 750,000, and Small Counties with population under 200,000.

Units of tribal government are not eligible for direct funding under NPLH, even though by some accounts American Indians are disproportionately represented among the homeless¹¹ and larger tribes do provide mental health services to their members like counties provide for their residents. Counties may apply in behalf of a tribe or with a housing development sponsor, which is defined to include the duly constituted governing body of an Indian reservation or rancheria. Under that scenario, it appears that an Indian reservation or rancheria, or an experienced Tribally-Designated Housing Entity delegated by a reservation or rancheria, could be a project developer of a supportive housing project on trust or fee land in partnership with a county.

On the other hand, as with the CDBG Program, counties may be unwilling to take on the responsibilities and risks of partnering with a tribal community. These decisions will depend on risk assessment and local politics and relationships.

¹¹ See Report of Expert Panel on Homeless Among American Indians, Alaska Natives, and Native Hawaiians, 2012.

SB 2, Building Homes and Jobs Act

Passage of SB 2 in 2017, creating California's first "permanent source" of revenue for affordable housing, represented the culmination of decades of advocacy and failed legislative efforts. At the time of this writing, some \$140 million had been collected in the first two quarters of 2018 by the state from a \$75 per document recordation fee on real estate transactions, not including home sales, capped at \$225 per transaction. The projection is that approximately \$250 million will be generated annually.

Although the legislation cites the dire housing needs of tribes as one justification for this new revenue source, tribes and tribal entities are not mentioned as eligible applicants. Eligible uses of funds include low-income multifamily rental housing development; capitalized reserves for permanent supportive housing; acquisition and rehabilitation of foreclosed or vacant homes; accessibility modifications; ownership opportunities, including down payment assistance; rapid rehousing, emergency shelter, transitional and permanent housing, and rental assistance for the homeless; matching funds for local housing trust funds; and incentives or matching funds for permitting of new housing.

Starting in Year 2 of the funding, and thereafter, 70 percent of the proceeds will be allocated to HCD for grants to cities and counties on a non-competitive formula basis and on a competitive basis. These funds are further divided into three sub-allocations: 83 percent will be allocated to entitlement jurisdictions on a formula basis; 10 percent to non-entitlement jurisdictions on a formula basis; and 7 percent to a competitive program for non-entitlement jurisdictions. The remaining 30 percent of proceeds will be split equally between HCD and the California Housing Finance Agency (CalHFA) for specified program purposes: 15 percent to HCD, of which 10 percent is for farmworker housing and 5 percent for incentives to streamline local housing approvals;

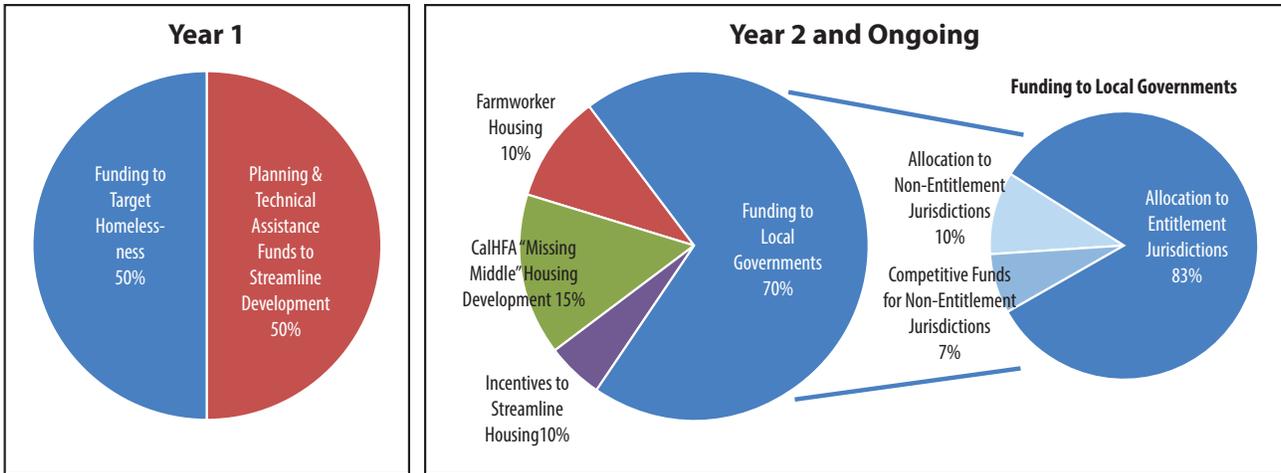
and 15 percent to CalHFA for a new middle-income housing development program. Overall, 20 percent of SB 2 funds are to be used to support homeownership and 10 percent for farmworker housing.

As currently constructed, tribes and tribal entities will be left out of SB 2 unless, as previously noted, cities and counties voluntarily decide to apply in their behalf or serve tribal members in their programs or projects. The same inhibitions about targeting tribes will be present in this program as cited in the CDBG and NPLH Programs.

Recommendations

1. One way to incorporate tribes into state programs where all or most of the funds are restricted to cities and/or counties, like No Place Like Home and SB 2, is to clarify through legislation and regulation that the duly constituted governing body of a tribe is a unit of government, just like the governing body of a city or county, and to be treated on par with other local governmental units in state housing and community development programs. HCD's Predevelopment Loan Program and Mobilehome Park Rehabilitation and Resident Ownership Program, while not explicitly listing tribes as an eligible applicant, use a broad definition of the terms 'local public entity' and 'local governmental agency' that includes tribal governments alongside city and county governments.
2. In legislation and regulations, federally-recognized tribes should be made an eligible recipient of SB 2 proceeds distributed by formula to all non-entitlement cities and counties. Tribes should also be able to apply directly in the competitive non-entitlement allocation. Given the small population base of California tribes, it is likely that the amount of funding would be quite small and have a minimal impact on the total fund. Tribes, however, would undoubtedly put

Chart 39: Allocation of SB 2 funds, Year 1



Source: California Department of Housing and Community Development

these funds to good use, supplementing their Indian Housing Block Grants, expanding their homeownership and home rehabilitation programs, and developing new rental housing for their members.

- Absent a statutory change that elevates tribal governments to the same level as city and county governments, state housing and community development agencies should incentivize cities and counties to partner with tribes whose needs are not being met under other programs. Incentives may include awarding higher points, allowing larger grants, scoring the jurisdiction's application separately from the tribal component, and holding cities and counties harmless for future applications if the tribal component of their award under-performs.

Lack of Tribal Expertise and Capacity Assistance from the State

One of the most significant impediments to tribal access to and use of state housing and community development programs is lack of expertise and capacity to develop and operate housing projects. It is very challenging for tribes, especially poorer and more geographically remote tribes, to attract and retain permanent staff and they face chronic understaffing

and turnover. Additionally, because tribes are often located in remote areas, it is difficult to receive the hands-on training and technical assistance needed to prepare and sustain staff.

Many tribes through their annual NAHASDA allocations have operated housing programs for their members, such as first-time homebuyer, housing rehabilitation, and rental assistance programs. But, fewer have developed housing, especially multifamily rental housing, that had to be maintained over a long period. Moreover, lack of experience with the state system of affordable housing finance, not to mention incompatible land title, site control, and underwriting issues, create significant roadblocks to tribal subscription.

For some 30 years, from the 1970s to 2000s, the California Department of Housing and Community Development (HCD) hosted the California Indian Assistance Program or CIAP to build the capacity of tribes and mitigate tribal barriers in these programs. CIAP also helped tribes to better access and deploy federal financing resources for housing, sewer and water improvements, and other infrastructure. Reportedly, CIAP leveraged millions of dollars in federal and non-federal housing and community development dollars. When staffing for CIAP was ended in the mid-2000s, a critical component of tribal development in California was lost.

In the coming years, due to the passage of Propositions 1 and 2 in November 2018, the state will likely see at least \$6 billion in new revenues to meet a variety of housing needs. Additionally, in the 2018/19 state budget, HCD was authorized to add 81 new positions in 2018/19 and to reach 128 new positions by 2019-20 and 146 by 2020-21 to deploy new funding and implement new responsibilities.¹² This presents an excellent opportunity for HCD to recreate CIAP by dedicating at least one Full-Time-Equivalent (FTE) position from new hires or existing staff to work directly with tribes to build capacity and increase subscription in existing and new state housing and community development programs.

Moreover, state resources for planning and capacity-building will be increasing exponentially through new funding streams. Up to \$5 million in one-time funding from SB 2 will be available for technical assistance intermediaries to build the capacity of local governments to implement land use reforms and housing activities contemplated in the 2017 state housing package. Under No Place Like Home, \$6.2 million is authorized for technical and application preparation assistance to help counties apply for program funds and implement program activities. Technical assistance funds are also available for the Cap and Trade Affordable Housing and Sustainable Communities (ASHC) Program and Mobilehome Park Rehabilitation and Resident Ownership Program (MPRRP). In other words, there could be ample resources for building the expertise and capacity of tribes to apply for and implement a host of state housing and community development programs, including creating a dedicated position or positions at HCD to assist California's tribal communities.

¹² See 2018-19 State Budget, p. 2, <http://www.ebudget.ca.gov/2018-19/pdf/Enacted/GovernorsBudget/1000/2240.pdf>

Recommendations

1. With authorization in the 2018/2019 state budget for nearly 150 new positions in the California Department of Housing and Community Development (HCD) by 2021, there is the potential to hire new staff or redeploy existing staff equivalent to at least one full-time (FTE) position to build the capacity of federally- and state-recognized tribes to access all relevant state housing and community development programs, leverage these programs with federal, other state, and nongovernmental funds, and successfully implement their projects and programs.
2. This new position, and supports from other HCD staff and resources, should be institutionalized in a new California Indian Assistance Program (CIAP) comparable to the old CIAP that was so successful in building tribal knowledge, skills, and capacity to apply for, manage, and implement complex housing and community development programs on tribal trust and fee land. HCD should advocate within the Administration for CIAP.
3. Tribes and tribal entities should be permitted to directly apply for capacity-building technical assistance and training grants or be the recipients of such assistance and training from nonprofit intermediary organizations as the result of new funding that will be made available under the Building Homes and Jobs Act (SB 2), Propositions 1 and 2, AHSC, and MPRROP.

Section VIII

Conclusions and Recommendations

Despite the general perception that many, if not the majority, of tribes have solved generational problems of poverty and housing quality due to their new-found affluence from gaming operations, nothing could be farther from the truth. By most quality-of-life indicators, Tribal California lags well behind the rest of California.

With respect to housing, this study clearly documents that there is a large unmet need for new homes and the rehabilitation of existing homes and related infrastructure throughout Indian Country in California. Tribes have lower incomes and higher poverty rates than the rest of the state. Much of the existing stock of housing is in substandard condition, particularly older homes and mobilehomes, and water and wastewater systems are inadequate. Many tribes have long waiting lists for new homes. Many families will never get access to a new home, given the current low level of funding for affordable housing on tribal land. As a result, thousands of tribal households are fated to live in overcrowded, substandard housing.

There are a number of reasons for the poor housing conditions in Indian Country. One is that reservations and rancherias are located in isolated, mostly rural areas with limited financial, social, and human resources. These locations are often far from jobs, services, and quality water and sewer infrastructure.

However, one of the most important reasons for poor housing conditions is the limited state and local resources that have been committed to Indian Country. Tribes are highly under-resourced. Until recently, they have been ineligible for, or have not been able to fairly compete in, nearly every state housing program in California. Most small tribes receive the NAHASDA minimum allocation for housing each year and nothing else. Further, even larger tribes with larger NAHASDA allocations have experienced funding levels that, on an inflation-adjusted basis, have been declining almost every year following enactment of NAHASDA in 1996.

At the state level, Governor Brown's September 2011 Executive Order on improvement of state communications and consultation with tribes and subsequent tribal consultation policies issued by the Business, Consumer Services, and Housing Agency and California Department of Housing and Community Development (HCD), have begun to set a new tone.

In the same spirit, the tribal apportionment launched by the California Tax Credit Allocation Committee in 2014, initially on a pilot basis but since made permanent, has begun the process of opening up state housing finance programs to tribes. With the success of the apportionment has come an even greater recognition of the need for reducing impediments for accessing other housing and community development resources for tribes from the State of California, including programs administered by HCD, the California Housing Finance Agency, and the Strategic Growth Council. The Tribal Housing Task Force that HCD began hosting in 2015 is exploring how to open the Department's programs.

This recognition, however, is tempered by the fact that state agencies are unfamiliar with real estate factors that are unique to Indian Country, such as the inalienability of tribal land. Further, since most state programs were designed to work for standard affordable housing developments, the unique nature of tribal housing development adds complexities to the programs that need to be examined and understood, both by the agencies and by tribes.

This study has attempted to understand the unique historical and legal antecedents, and current demographic and housing conditions, that must be addressed to demonstrably improve the quality of housing and related infrastructure on tribal land. We also identified the specific impediments to tribal access in specific State of California affordable housing programs. Based upon this analysis, we offer the following general recommendations:

- 1. California Tribes should be made specifically eligible for most, if not all, California affordable housing and community development programs.** There may be rare exceptions, such as the Transit Oriented Development (TOD) Program, which has limited utility outside of a small number of communities, however, in general, tribes should be made eligible in statute and regulations for the state's affordable housing and related community development programs.
- 2. The Uniform Multifamily Housing Regulations (UMRs) must be revised to recognize the unique nature of tribal housing programs and projects.** As noted in this report, it would do no good if tribes were to become eligible for programs, but then denied access to the funding due to underwriting issues that fail to recognize the limited debt load these projects can assume, the unique real estate issues related to tribal trust land, and the rights tribes have to self-determination as sovereign bodies. These issues are covered in this report.
- 3. Further, in most cases, a tribal set-aside, apportionment or goals will be required in order for tribes to access funding from programs administered by the California Department of Housing and Community Development (HCD) and Strategic Growth Council (SGC).** Most nonprofit developers and local governments can compete for HCD programs because they have many options for locating a project in specific locations that will score well in the competition. They can also invest their own resources from a variety of sources, such as housing trust funds, their own HOME and CDBG funds, and other sources to enhance project competitiveness. In Indian Country, there are few locational choices for projects. There are also extremely limited resources outside of the limited NAHASDA funding sources. As a result, HCD should carve

out tribal set-asides, apportionments, or goals for each of its programs, as it has done in its HOME Investment Partnerships Program with the goal of one tribal project per funding round. The SGC should do the same for its Affordable Housing and Sustainable Communities Program.

4. **Tribes, HCD, CalHFA, and SGC need to work together so that real estate documents can be developed that meet the needs of both the tribe and the lender or grantee.**

Tribes recognize that lenders need to have satisfactory collateral for loans and provisions to cover default on trust land. The Section 184 program has been successfully used for home ownership in Indian Country for many years. TCAC is working to make the real estate documentation work on trust and other tribally-owned land through its tribal apportionment, which is no longer just a pilot program. Clearly, the best approach is for tribes to adopt a HUD-approved mortgage code and for HCD and the California Housing Finance Agency to accept the documentation related to the mortgage code. Some tribes, particularly the many smaller ones that are scattered throughout California, may find that adopting a mortgage code adds more costs than benefits for their tribe. In these cases, both the tribe and the lender need to develop mutually acceptable real estate documentation to effect the transaction. After all, many smaller tribes without mortgage codes have been providing housing through NAHASDA and been able to comply with HUD regulations.

5. **The California Department of Housing and Community Development should reconstitute the California Indian Assistance Program (CIAP).**

For some 30 years, CIAP was the eyes and ears of HCD within tribal communities. It provided invaluable training and technical assistance to help tribes build tribal organizations and access hundreds of millions of dollars in gov-

ernment funds for projects and programs. The closure of the program left a large gap at HCD and within Indian Country. Reconstitution of the program will strengthen the partnership between the state and tribes and ensure that existing and new resources are marshaled efficiently and effectively.

6. **Finally, tribes, HCD, CalHFA, and SGC need to sustain the recent momentum that has spurred this report so that, over time, tribes receive their fair share of funds and resources from the State of California.**

There is no indication the federal government will increase its commitment to affordable housing in coming years. Local governments and affordable housing developers in California recognize this trend and have been working closely with HCD, CalHFA, and the SGC to access their resources. These entities have an advantage over tribes because they have worked with state agencies for many years and, in some instances, helped design and implement their programs. Now is the time that tribes need to be included in the conversation so they, too, can get their fair share of state resources that will enable them to increase the supply of decent and affordable homes on tribal land, address chronic substandard housing and water-sewer infrastructure, and improve the quality of life of their members.

Section IX

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Appendix 1. Indian Housing Survey Questionnaire

Indian Housing Survey

Indian Housing Survey

Under contract to the California Department of Housing and Community Development (HCD), the California Coalition for Rural Housing (CCRH) and Rural Community Assistance Corporation (RCAC) are performing the first-ever statewide study of tribal housing conditions and needs in California, including sewer and water infrastructure. The study will include analysis of existing data, windshield surveys, and interviews with key informants. The results will inform the State Housing Plan: 2015-2025 and provide a durable blueprint for HCD engagement with tribes for years to come.

This questionnaire is targeted to California tribes with a land base, trust or fee or both, and should be answered by tribal administrators and housing staff most familiar with your tribe's housing conditions and needs. It has been pre-tested with several tribal leaders. While some of the numerical data may require prior assembly, we estimate that the questionnaire will generally take about 30 minutes to complete on line. For questions about the questionnaire and the overall study, please contact:

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Since the timeline for HCD completion of the State Housing Plan is within the next 6 months, we urge you to complete and submit the questionnaire by **FRIDAY, AUGUST 14TH**. We will follow-up with you by phone or email if additional information is needed. The privacy and confidentiality of respondents will be protected.

In advance, we wish to thank you for participating in this landmark study to understand and address the continuing housing and community development conditions and needs of California tribes.

Indian Housing Survey

Contact Information

1. Please enter contact information for all respondents

Contact Person Name/Title	<input type="text"/>
Tribe Name	<input type="text"/>
Mailing Address	<input type="text"/>
City/Town	<input type="text"/>
ZIP/Postal Code	<input type="text"/>
Email Address	<input type="text"/>
Phone Number	<input type="text"/>

Indian Housing Survey

Overall Population and Housing Characteristics

Please make your best estimates. If you DON'T KNOW, indicate with a DK in the space provided.

2. What is the total number of members (adults and children) officially enrolled in your tribe?

3. How many of these members are currently living on trust land?

4. How many of these members are currently living on fee land?

5. How many housing units within the jurisdiction of your tribe are located on trust land?

6. How many housing units within the jurisdiction of your tribe are located on fee land?

7. Looking just ALL of your tribe's housing units, please provide the number for each of the following:

A. Units owner-occupied

B. Units renter-occupied

C. Units overcrowded
(more than 1 person/room)

D. Units 30+ years of age
(built before 1985)

8. How many of the housing units ON trust land are factory-built, meaning they are manufactured, mobile, or modular homes, including trailers?

9. How many of your tribe's housing units would you say need major physical improvements, meaning they need modernization, substantial rehabilitation, or replacement?

Need modernization

Need substantial rehabilitation

Need replacement

10. Which of the following best describes the most common problems of the units that need physical improvements? (Check all that apply)

- Failing or inadequate plumbing
- Faulty wiring
- Subsiding foundations
- Contaminated water
- Poor ventilation
- Poor insulation
- Dry rot
- Leaking roof
- Not energy-efficient
- Other (please specify)

Indian Housing Survey

Housing Units Constructed or Installed in Past 10 Years

Please make your best estimates. If you DON'T KNOW, indicate with a DK in the space provided.

11. Has your tribe built or installed any new housing units in the past 10 years (since 2005)?

- Yes (If chosen, please respond to Question 15)
- No

12. If the answer was Yes to Question 11, please provide the number of units by housing type:

Single-family units for ownership (detached)

Multi-family units for ownership (attached)

Single-family units for rent (detached)

Multi-family units for rent (attached)

13. How many of the units provided during the past 10 years were factory-built?

Indian Housing Survey

Rehabilitation, Construction, or Installation of New Homes

Please make your best estimates. If you DON'T KNOW, indicate with a DK in the space provided.

14. Please indicate below your top 4 housing priorities in rank order with 1 being the most important:

<input type="checkbox"/>	<input type="text"/>	Developing new affordable housing for ownership
<input type="checkbox"/>	<input type="text"/>	Developing new affordable housing for rent
<input type="checkbox"/>	<input type="text"/>	Making ownership more affordable via mortgage and down payment assistance
<input type="checkbox"/>	<input type="text"/>	Making renting more affordable via rent subsidies
<input type="checkbox"/>	<input type="text"/>	Rehabilitating existing homes that are substandard
<input type="checkbox"/>	<input type="text"/>	Replacing existing homes that are substandard
<input type="checkbox"/>	<input type="text"/>	Improving the quality and capacity of water and sewer services

15. Which population groups among your members have the greatest need for homes? Please indicate the top 4 groups in rank order with 1 being the group with the greatest need:

<input type="checkbox"/>	<input type="text"/>	Homes for single young adults
<input type="checkbox"/>	<input type="text"/>	Homes for starter families
<input type="checkbox"/>	<input type="text"/>	Homes for larger families
<input type="checkbox"/>	<input type="text"/>	Homes for senior citizens
<input type="checkbox"/>	<input type="text"/>	Homes for people with special needs (e.g., disabled, migrants, etc.)
<input type="checkbox"/>	<input type="text"/>	Homes to accommodate multiple generations

16. In your opinion, how important will factory-built homes be in meeting future housing needs for your tribe?

- Very important
- Somewhat important
- Not important at all
- Important, but I would prefer stick-built homes

17. Have any of the following circumstances prevented your tribe from building or installing more housing (indicate all that apply)?

	Yes	No
Lack of Water	<input type="checkbox"/>	<input type="checkbox"/>
Lack of Sewer	<input type="checkbox"/>	<input type="checkbox"/>
Lack of Developable Land	<input type="checkbox"/>	<input type="checkbox"/>
Lack of Funding	<input type="checkbox"/>	<input type="checkbox"/>
Lack of Staff Capacity	<input type="checkbox"/>	<input type="checkbox"/>
Don't have need for more housing	<input type="checkbox"/>	<input type="checkbox"/>

For any other reasons not listed, please specify below:

18. What is the total acreage of your tribe's land and how much of that acreage is potentially developable and appropriate for new housing?

Total acreage in trust

Total acreage for housing

Indian Housing Survey

Rehabilitation, Construction, or Installation of New Homes (con'd)

19. How many new homes will be needed within the next 10 years?

For ownership

For rent

20. Is there an existing housing wait-list?

Yes (if chosen, please respond below)

No

If Yes, how many households are on the wait-list?

21. What is the estimated waiting time (e.g., months, years)?

Indian Housing Survey

Tribal Capacity to Address Housing Needs

22. Do you have dedicated in-house housing staff?

- Yes
 No

23. If Yes to Question 22, please list the number of staff by function and full-time or part-time status.

	Full-Time	Part-Time
Project Development (e.g., modernization, rehabilitation, construction, replacement)	<input type="text"/>	<input type="text"/>
Program Services (e.g., financial assistance, counseling, training)	<input type="text"/>	<input type="text"/>
Management/Maintenance of Rental Units	<input type="text"/>	<input type="text"/>
Administration (e.g., executive, clerical, support staff)	<input type="text"/>	<input type="text"/>
Other	<input type="text"/>	<input type="text"/>

Other (please specify)

24. If you operate housing program services, indicate all of the types below that apply:

- First-time homebuyer loans
- First-time homebuyer down-payment assistance
- First-time homebuyer matched savings accounts
- First-time homebuyer counseling
- Housing rehabilitation loans and/or grants
- Rental assistance
- Financial literacy and self-sufficiency
- Residential construction job training
- Other (please specify)

25. Do you contract out for some housing functions?

- Yes
- No

26. If Yes to Question 25, please list functions (e.g., financial packaging, management, maintenance, etc.)

Indian Housing Survey

Access to Specific Federal and State Housing Resources

27. Have you received a NAHASDA allocation within the last 3 years?

- Yes
 No

28. If Yes to Question 27, please describe the kinds of housing activities you have performed using NAHASDA funds:

29. Have you received an Indian Community Development Block Grant within the last 3 years?

- Yes
 No

30. If Yes to Question 29, please describe the kinds of housing activities you have performed using ICDBG funds:

31. For each of the following State-run housing programs, please indicate in the appropriate cell your level of knowledge.

	Very knowledgeable	Somewhat knowledgeable	Not knowledgeable at all
HOME Investment Partnerships (HOME)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Low-Income Housing Tax Credit	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Tax-Exempt Housing Bonds	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Multifamily Housing Program (MHP)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
CalHome Program	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Veterans Housing Program	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Affordable Housing and Sustainable Communities (Cap & Trade)	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Uniform Multifamily Housing Regulations	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

32. Would you be interested in training related to these programs?

- Yes, very interested
- Maybe, somewhat interested
- Not interested at all

Specify below the program or programs for which you are interested in receiving training:

33. Have you ever participated in a Housing Element process with a nearby jurisdiction?

- Yes
- No

If Yes, describe your experience:

34. Have you ever participated in a Consolidated Plan (e.g., CDBG, HOME) process with a nearby jurisdiction?

- Yes
- No

If Yes, describe your experience:

35. In conclusion, please rank your top 4 priorities for State Housing Program supports or reforms that you think are most needed with 1 being the most important:

⋮	<input type="text"/>	Relaxation of site-amenity requirements in existing programs
⋮	<input type="text"/>	Regulatory amendments to accommodate tribal property law in existing programs
⋮	<input type="text"/>	Technical assistance and training
⋮	<input type="text"/>	Ongoing consultation on tribal housing needs
⋮	<input type="text"/>	Dedicated funding for tribal housing
⋮	<input type="text"/>	Information and publication of tribal housing best practices

Appendix 2. Tribes Responding to Indian Housing Survey

Agua Caliente Band of Cahuilla Indians*
Berry Creek Rancheria
Big Valley Rancheria
Bishop Paiute Tribe
Cahto Tribe of the Laytonville Rancheria
Cedarville Rancheria
Dry Creek Rancheria
Enterprise Rancheria
Ewiiapaayp Band of Kumeyaay Indians**
Fort Independence Indian Reservation
Grindstone Indian Rancheria
Guidiville Rancheria
Hoopa
Hopland Band of Pomo Indians
Ione Band of Miwok Indians
Karuk Tribe Housing Authority
Manchester Band of Pomo Indians
Mechoopda Indian Tribe of Chico Rancheria (Chico Rancheria Housing Corporation)
Mooretown Rancheria
North Fork Rancheria of Mono Indians of California
Pala Band of Mission Indians
Quartz Valley Indian Reservation
Quechan Tribe of the Fort Yuma Indian Reservation
Redwood Valley Band of Pomo Indians
Resighini Rancheria
Rincon Band of Luiseno Indians
Robinson Rancheria Band of Pomo Indians
Sherwood Valley Band of Pomo Indians
Smith River Rancheria (Tolowa Dee-ni' Nation)
Stewarts Point Rancheria (Kashia)
Sulphur Bank Rancheria (Elem Indian Colony)
Timbisha Shoshone Tribe
Trinidad Rancheria (Cher-Ae)
Tule River Indian Housing Authority
Twenty Nine Palms

* Agua Caliente was not included in our analysis of the American Community Survey, 2009-2013, because the tribal statistical area was overwhelmingly populated by non-members. However, it was included in the questionnaire population since the information supplied only pertained to tribal members.

** Ewiiapaayp did not have a population base living on trust land according to the American Community Survey, 2009-2013, but reported population and units in the questionnaire

Appendix 3. California Federally-Recognized Tribes

FEDERALLY-RECOGNIZED TRIBES WITH POPULATED LAND BASE	
Federally-Recognized Tribe Name (Federal Register, January 2015)	Tribal Statistical Area in American Community Survey, 2009-2013
Capitan Grande Bank of Diegueno Mission Indians	Barona Reservation (Capitan Grande)
Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation	Benton Paiute Reservation and Off-Reservation Trust Land (Utu Utu)
Berry Creek Rancharia of Maidu Indians of California	Berry Creek Rancharia and Off-Reservation Trust Land
Big Lagoon Rancharia	Big Lagoon Rancharia
Big Pine Paiute Tribe of the Owens Valley	Big Pine Reservation
Big Sandy Rancharia of Western Pomo Indians of California	Big Sandy Rancharia
Big Valley Band of Pomo Indians of the Big Valley Rancharia	Big Valley Rancharia
Bishop Paiute Tribe	Bishop Reservation (Bishop Paiute)
Blue Lake Rancharia	Blue Lake Rancharia and Off-Reservation Trust Land
Bridgeport Indian Colony	Bridgeport Reservation
Cabazon Band of Mission Indians, California	Cabazon Reservation
Cahuilla Band of Mission Indians of the Cahuilla Reservation, California	Cahuilla Reservation
Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California	Campo Indian Reservation
Cedarville Rancharia	Cedarville Rancharia and Off-Reservation Trust Land
Chemehuevi Indian Tribe of the Chemehuevi Reservation, California	Chemehuevi Reservation
Cold Springs Rancharia of Mono Indians of California	Cold Springs Rancharia
Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancharia	Colusa Rancharia (Cachil DeHe)
Cortina Indian Rancharia	Cortina Indian Rancharia
Coyote Valley Band of Pomo Indians of California	Coyote Valley Reservation
Elk Valley Rancharia	Elk Valley Rancharia and Off-Reservation Trust Land
Enterprise Rancharia of Maidu Indians of California	Enterprise Rancharia
Fort Bidwell Indian Community of the Fort Bidwell Reservation of California	Fort Bidwell Reservation and Off-Reservation Trust Land
Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation	Fort Independence Reservation
Fort Mojave Indian Tribe of Arizona, California, and Nevada	Fort Mojave Off-Reservation Trust Land
Quechan Tribe of the Fort Yuma Indian Reservation, California and Arizona	Fort Yuma Indian Reservation (Quechan)
Greenville Rancharia	Greenville Rancharia
Grindstone Indian Reservation of Wintun-Wallaki Indians of California	Grindstone Indian Rancharia

Guidiville Rancheria of California	Guidiville Rancheria and Off-Reservation Trust Land
Hoopa Valley Tribe, California	Hoopa Valley Reservation
Hopland Band of Pomo Indians, California	Hopland Rancheria
Karuk Tribe	Karuk Reservation and Off-Reservation Trust Land
La Jolla Band of Luiseno Indians, California	La Jolla Reservation
La Posta Band of Luiseno Indians, California	La Posta Indian Reservation
Cahto Tribe of the Laytonville Rancheria	Laytonville Rancheria (Cahto)
Lone Pine Paiute-Shoshone Tribe	Lone Pine Reservation
Los Coyotes Band of Cahuilla and Cupeno Indians, California	Los Coyotes Reservation
Manchester Band of Pomo Indians of the Manchester Rancheria, California	Manchester-Point Arena Rancheria
Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California	Manzanita Reservation and Off-Reservation Trust Land
Mesa Grande Bank of Diegueno Mission Indians of the Mesa Grande Reservation, California	Mesa Grande Reservation
Middletown Rancheria of Pomo Indians	Middletown Rancheria
Mooretown Rancheria of Maidu Indians of California	Mooretown Rancheria and Off-Reservation Trust Land
Morongo Band of Mission Indians, California	Morongo Reservation and Off-Reservation Trust Land
Northfork Rancheria of Mono Indians of California	North Fork Rancheria and Off-Reservation Trust Land
Pala Band of Luiseno Mission Indians of the Pala Reservation, California	Pala Reservation
Paumu Band of Luiseno Mission Indians of the Pauma and Yuima Reservation, California	Pauma and Yuima Reservation
Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California	Pechanga Reservation
Picayune Rancheria of Chukchansi Indians of California	Picayune Rancheria and Off-Reservation Trust Land
Pinoleville Pomo Nation, California	Pinoleville Rancheria
Pit River Tribe	Pit River Trust Land
Quartz Valley Indian Community of the Quartz Valley Reservation of California	Quartz Valley Reservation and Off-Reservation Trust Land
Redding Rancheria	Redding Rancheria
Redwood Valley or Little River Band of Pomo Indians of the Redwood Valley Rancheria California	Redwood Valley Rancheria
Resighini Rancheria	Resighini Rancheria
Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California	Rincon Reservation
Robinson Rancheria	Robinson Rancheria and Off-Reservation Trust Land
Bear River Band of the Rohnerville Rancheria, California	Rohnerville Rancheria (Bear River)
Round Valley Indian Tribes, Round Valley Reservation, California	Round Valley Reservation and Off-Reservation Trust Land
San Manuel Band of Mission Indians, California	San Manuel Reservation and Off-Reservation Trust Land

San Pasqual Band of Diegueno Indians, California	San Pasqual Reservation
Santa Rosa Indian Community of the Santa Rosa Rancharia	Santa Rosa Rancharia
Santa Rosa Band of Cahulla Indians, California	Santa Rosa Reservation
Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California	Santa Ynez Reservation
lipay Nation of Santa Ysabel, California	Santa Ysabel Reservation (lipay)
Sherwood Valley Rancharia of Pomo Indians of California	Sherwood Valley Rancharia and Off-Reservation Trust Land
Shingle Springs Band of Miwok Indians, Shingle Springs Rancharia	Shingle Springs Rancharia and Off-Reservation Trust Land
Smith River Rancharia, California	Smith River Rancharia and Off-Reservation Trust Land
Soboba Band of Luiseno Indians, California	Soboba Reservation and Off-Reservation Trust Land
Kashia Band of Pomo Indians of the Stewarts Point Rancharia, California	Stewarts Point Rancharia (Kashia)
Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancharia, California	Sulphur Bank Rancharia (Elem)
Susanville Indian Rancharia	Susanville Indian Rancharia and Off-Reservation Trust Land
Sycuan Band of the Kumeyaay Nation	Sycuan Reservation and Off-Reservation Trust Land
Wiyot Tribe, California	Table Bluff Reservation (Wiyot)
Table Mountain Rancharia of California	Table Mountain Rancharia
Death Valley Timbi-sha Shoshone Tribe	Timbi-Sha Shoshone Off-Reservation Trust Land (Death Valley)
Torres Martinez Desert Cahulla Indians, California	Torres-Martinez Reservation
Cher-Ae Heights Indian Community of the Trinidad Rancharia, California	Trinidad Rancharia and Off-Reservation Trust Land (Cher-Ae)
Tule River Indian Tribe of the Tule River Reservation, California	Tule River Reservation and Off-Reservation Trust Land
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancharia of California	Tuolumne Rancharia
Twenty-Nine Palms Band of Missin Indians of California	Twenty-Nine Palms Reservation
Habematolel Pomo of Upper Lake, California	Upper Lake Rancharia (Habematolel)
Capitan Grande Bank of Diegueno Mission Indians of California	Viejas Reservation (Capitan Grande)
Washoe Tribe of Nevada and California	Woodfords Community (Washoe)
Yurok Tribe of the Yurok Reservation, California	Yurok Reservation

FEDERALLY-RECOGNIZED TRIBES WITH CALIFORNIA LAND BASE BUT NO RESIDENT POPULATION	
Federally-Recognized Tribe Name (Federal Register, January 2015)	Tribal Statistical Area in American Community Survey, 2009-2013
Alturas Indian Rancharia	Alturas Indian Rancharia
United Auburn Indian Community of the Auburn Rancharia	Auburn Rancharia and Off-Reservation Trust Land (United Auburn)
Augustine Band of Cahulla Indians	Augustine Reservation

<p>Chicken Ranch Rancharia of Me-Wuk Indians of California</p> <p>Dry Creek Rancharia Band of Pomo Indians, California</p> <p>Ewiaapaayp Band of Kumeyaay Indians, California</p> <p>Inaja Band of Diegueno Missions Indians of the Inaja and Cosmit Reservation, California</p> <p>Ione Band of Miwok Indians of California</p> <p>Jackson Band of Miwok Indians</p> <p>Jamul Indian Village of California</p> <p>Lytton Rancharia of California</p> <p>Mechoopda Indian Tribe of Chico Rancharia</p> <p>Paskenta Band of Nomlaki Indians of California</p> <p>Ramona Band of Cahuilla, California</p> <p>Yocha Dehe Wintun Nation, California</p>	<p>Chicken Ranch Rancharia and Off-Reservation Trust Land</p> <p>Dry Creek Rancharia and Off-Reservation Trust Land</p> <p>Ewiaapaayp Reservation</p> <p>Inaja and Cosmit Reservation</p> <p>Ione Band of Miwok TDSA</p> <p>Jackson Rancharia</p> <p>Jamul Indian Village</p> <p>Lytton Rancharia</p> <p>Mechoopda TDSA</p> <p>Paskenta Rancharia</p> <p>Ramona Village</p> <p>Rumsey Indian Rancharia (Yocha Dehe)</p>
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FEDERALLY-RECOGNIZED TRIBES WITH NO CALIFORNIA LAND BASE	
Federally-Recognized Tribe Name (Federal Register, January 2015)	
<p>Buena Vista Rancharia of Me-Wuk Indians</p> <p>California Valley Miwok Tribe</p> <p>Cloverdale Rancharia of Pomo Indians of California</p> <p>Colorado River Indian Tribes of the Colorado River Indian Reservation, California and Arizona</p> <p>Federated Indians of Graton Rancharia, California</p> <p>Koi Nation of Northern California (Lower Lake Rancharia)</p> <p>Potter Valley Tribe</p> <p>Scotts Valley Band of Pomo Indians of California</p> <p>Tejon Indian Tribe</p> <p>Wilton Rancharia, California</p>	

Appendix 4. Summary of Windshield Survey Findings

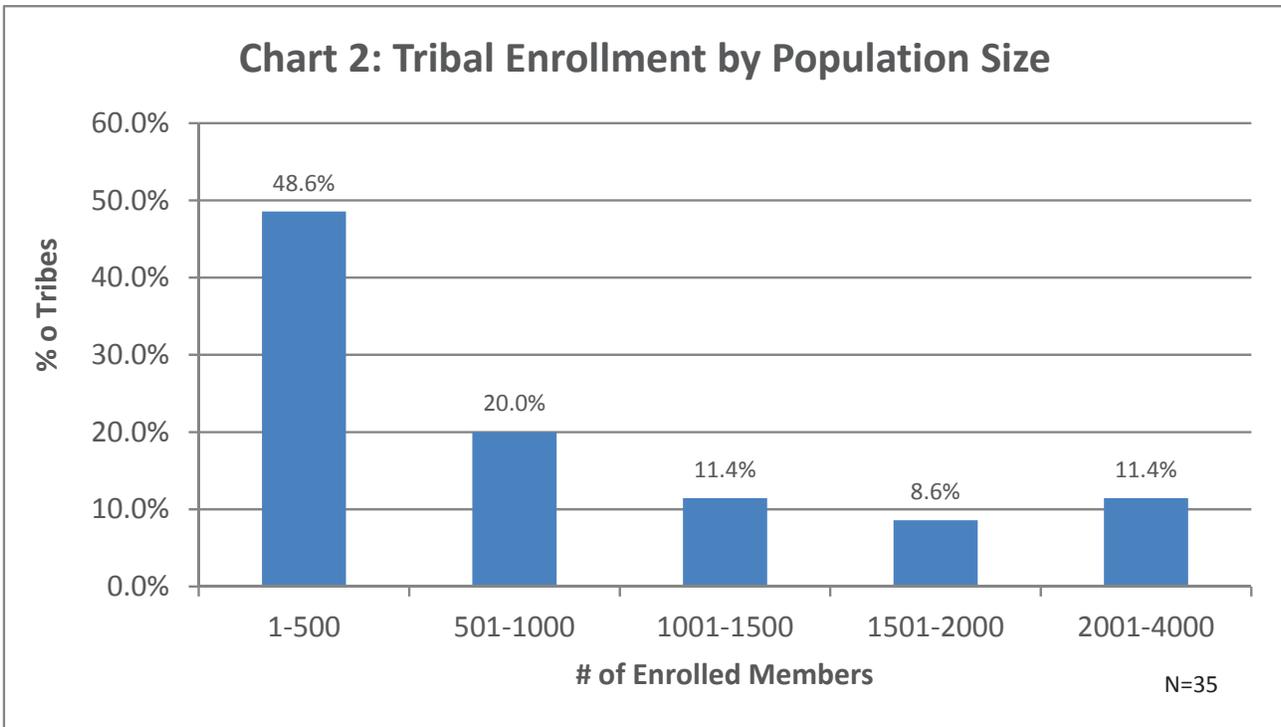
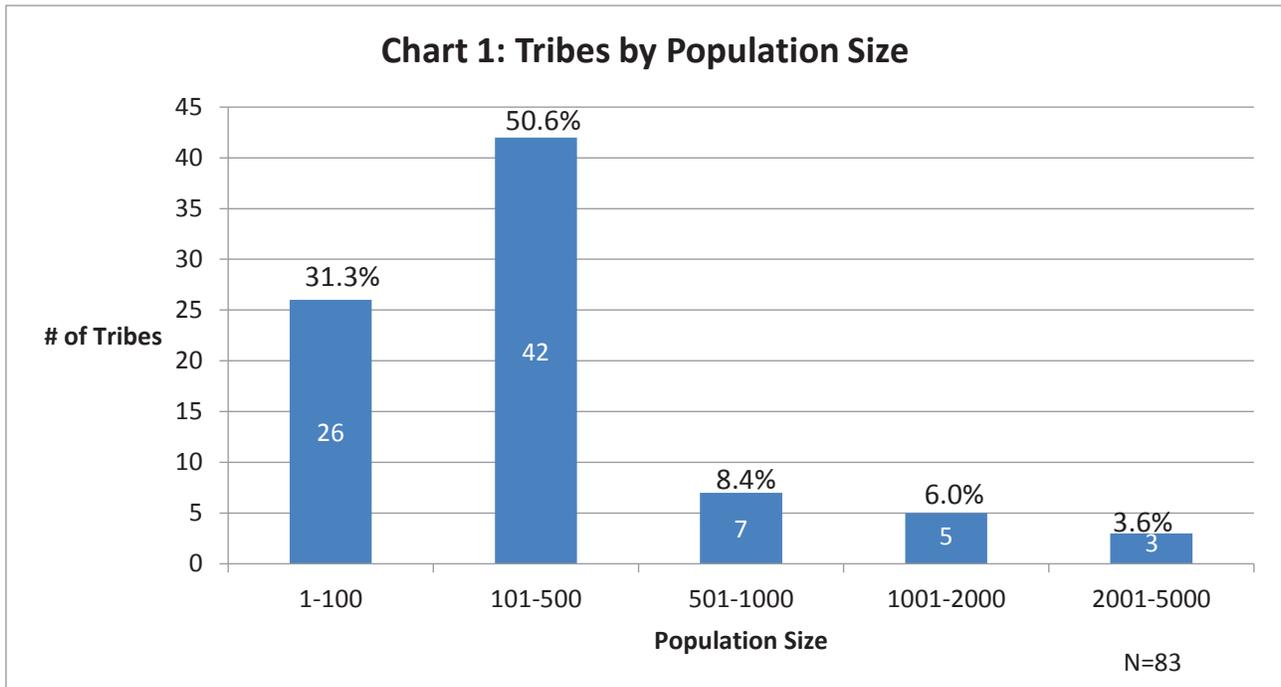
Population and Housing Characteristics

Tribal Reservation/Rancheria	Population	Acres	# of Homes Surveyed	# Homes Unoccupied	% Vacant	Substandard Homes	% Substandard	Mobile Homes	% Mobile Homes	Multifamily Units	% Multifamily
Point Arena-Manchester	212	364	86	2	2.3%	14	16.3%	4	4.7%		
Kashia - Stewart's Point	57	100	17	0	0.0%	1	5.9%	0	0.0%		
Redwood Valley	263	177	31	0	0.0%	0	0.0%	0	0.0%		
Resighini	36	228	12	0	0.0%	4	33.3%	3	25.0%		
Sherwood Valley	179	356	70	0	0.0%	10	14.3%	4	5.7%		
Smith River	240	186	48	2	4.2%	22	45.8%	7	14.6%	6	12.5%
Bear River	96	177	54	0	0.0%	2	3.7%	1	1.9%		
Table Bluff	97	88	36	0	0.0%	0	0.0%	0	0.0%		
Trinidad	73	47	44	0	0.0%	8	18.2%	0	0.0%		
Big Sandy	96	228	47	0	0.0%	15	31.9%	7	14.9%	2	4.3%
Cold Springs	193	155	46	3	6.5%	23	50.0%	1	2.2%		
Campo	351	16,512	88	4	4.5%	23	26.1%	9	10.2%		
La Posta	18	3,556	12	0	0.0%	0	0.0%	0	0.0%		
Los Coyotes	74	25,000	34	1	2.9%	2	5.9%	1	2.9%		
Pauma	186	5,877	88	0	0.0%	2	2.3%	0	0.0%		
San Pasqual	752	1,380	303	5	1.7%	72	23.8%	76	25.1%	2	0.7%
Quechan Fort Yuma	2,340	43,942	134	1	0.7%	8	6.0%	0	0.0%	8	6.0%
Santa Ysabel	250	15,000	102	2	2.0%	8	7.8%	3	2.9%		
Santa Rosa	70	11,021	33	0	0.0%	2	6.1%	0	0.0%		
Total	5,583	124,394	1,285	20	1.6%	216	16.8%	116	9.0%	18	1.4%

Ratings by Reservation/Rancheria

Tribal Reservation/Rancheria	# of Homes Surveyed	Overall Ave Score	# of Conditions Rated 4+	# of Homes With Any 4+ Ratings	% of Homes With Any 4+ Ratings
Point Arena-Manchester	86	2.5	79	19	22.1%
Kashia - Stewart's Point	17	2.4	18	16	94.1%
Redwood Valley	31	2.3	0	0	0.0%
Resighini	12	2.5	28	5	41.7%
Sherwood Valley	70	2.1	30	15	21.4%
Smith River	48	2.1	47	24	50.0%
Bear River Reservation	12	2.6	2	2	16.7%
Bear River - Tish-Non Village	42	2.0	0	0	0.0%
Table Bluff	36	2.1	4	3	8.3%
Trinidad	44	2.4	22	13	29.5%
Big Sandy	47	2.8	103	46	97.9%
Cold Springs	46	3.2	94	34	73.9%
Campo	88	2.9	150	26	29.5%
La Posta	12	2.0	0	0	0.0%
Los Coyotes	34	2.2	20	5	14.7%
Pauma	88	2.0	14	6	6.8%
San Pasqual	303	2.7	192	87	28.7%
Quechan Fort Yuma	134	2.1	63	17	12.7%
Santa Ysabel	102	2.2	44	16	15.7%
Santa Rosa	33	2.0	11	2	6.1%
Total	1,285	2.3	921	336	26.1%

Appendix 5. Charts



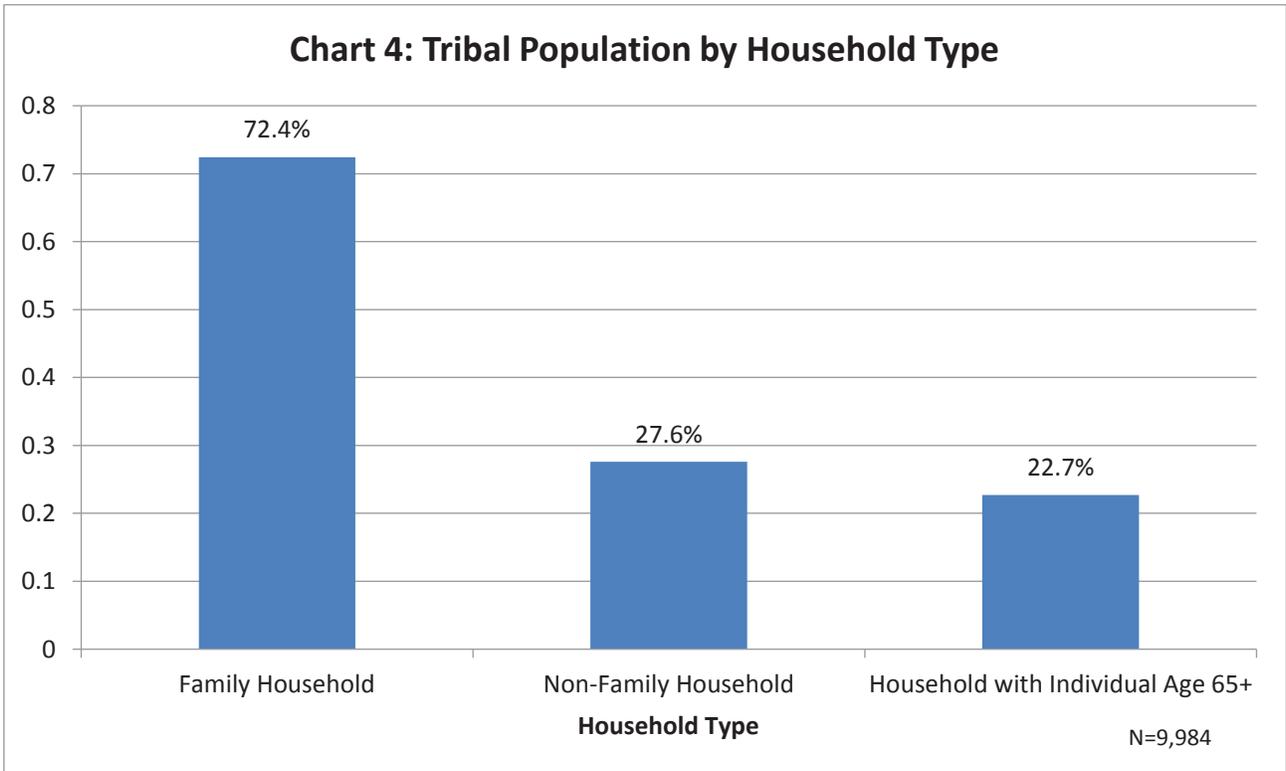
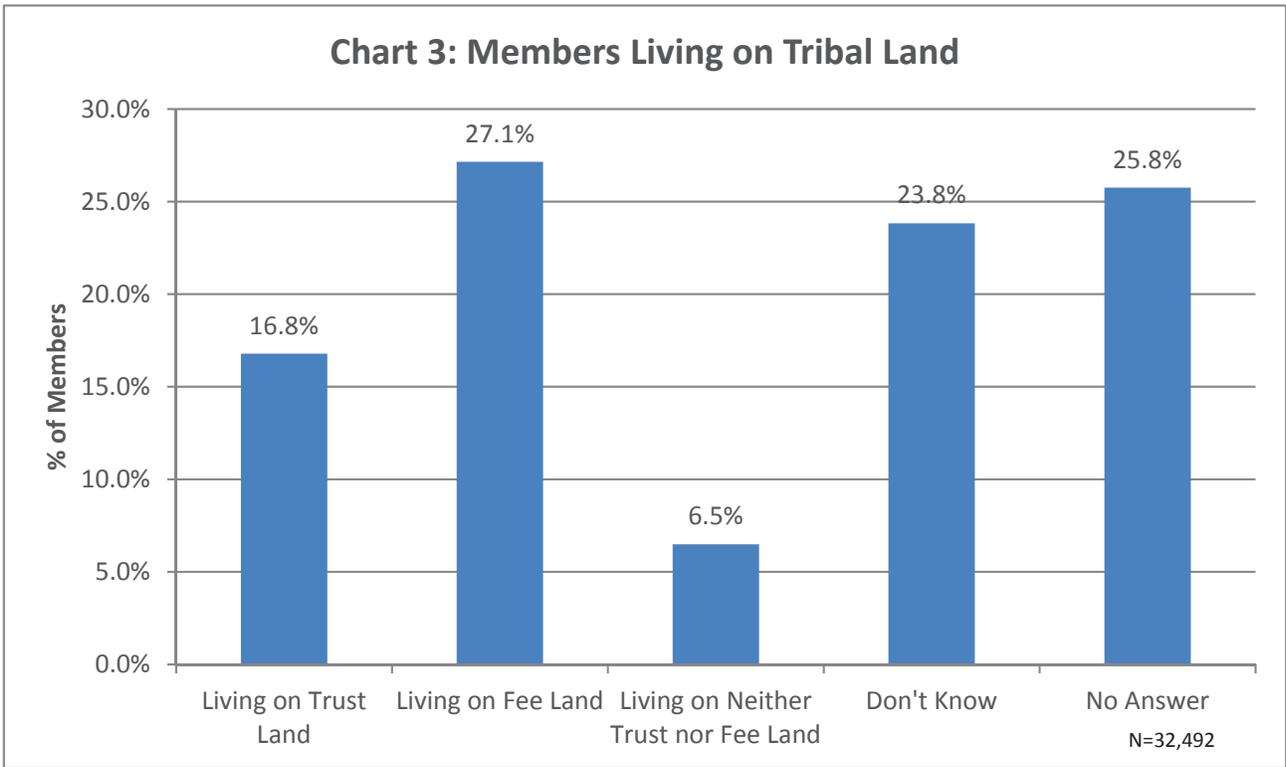


Chart 5: Units Located on Tribal Land

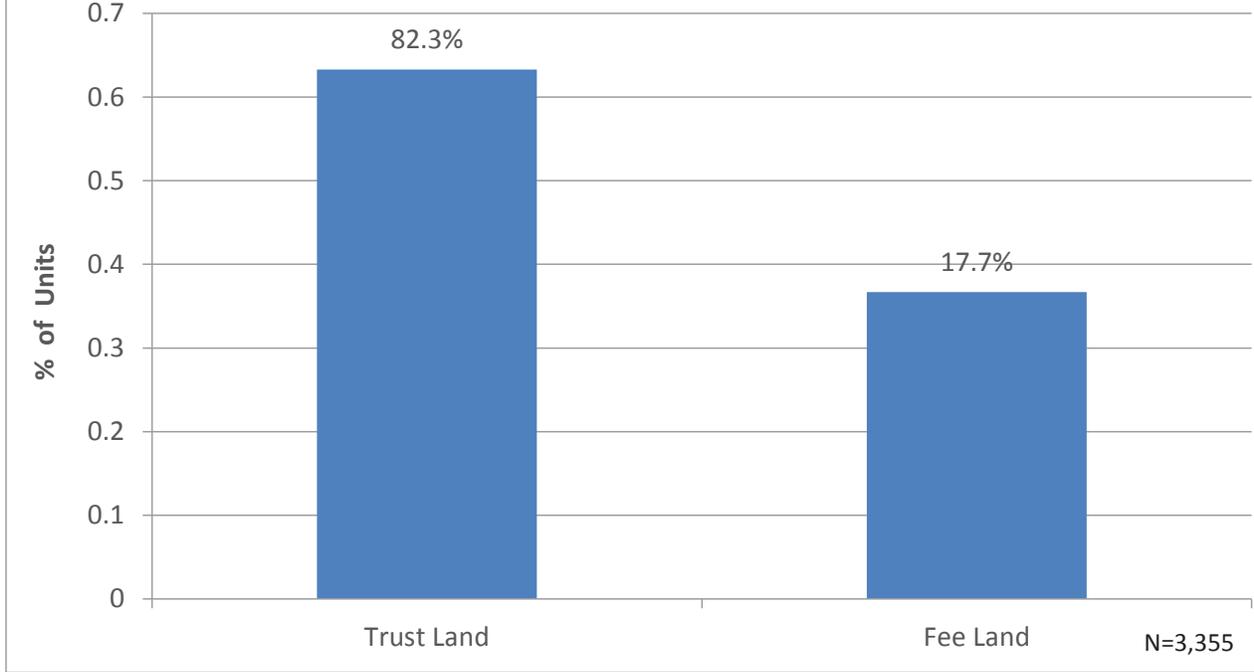


Chart 6: Housing Units by Structure Type

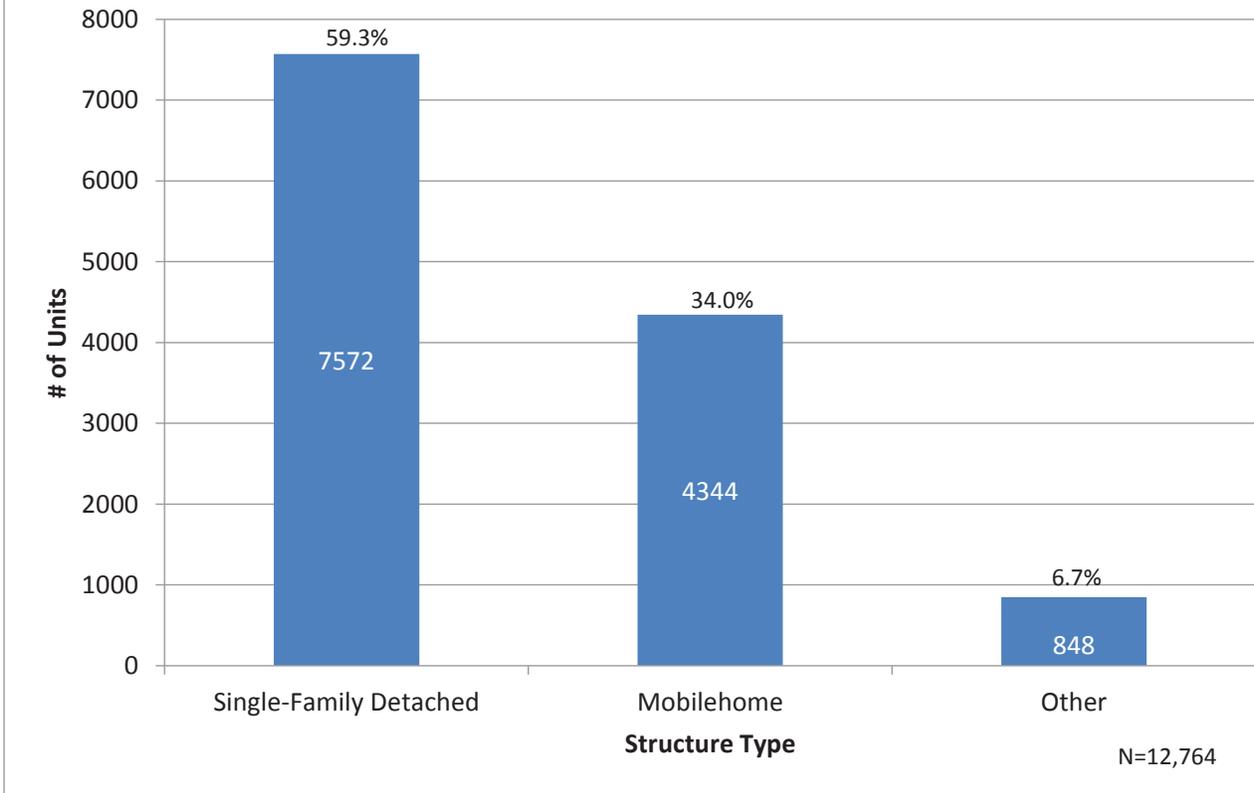


Chart 7: Housing Units by Bedroom Size

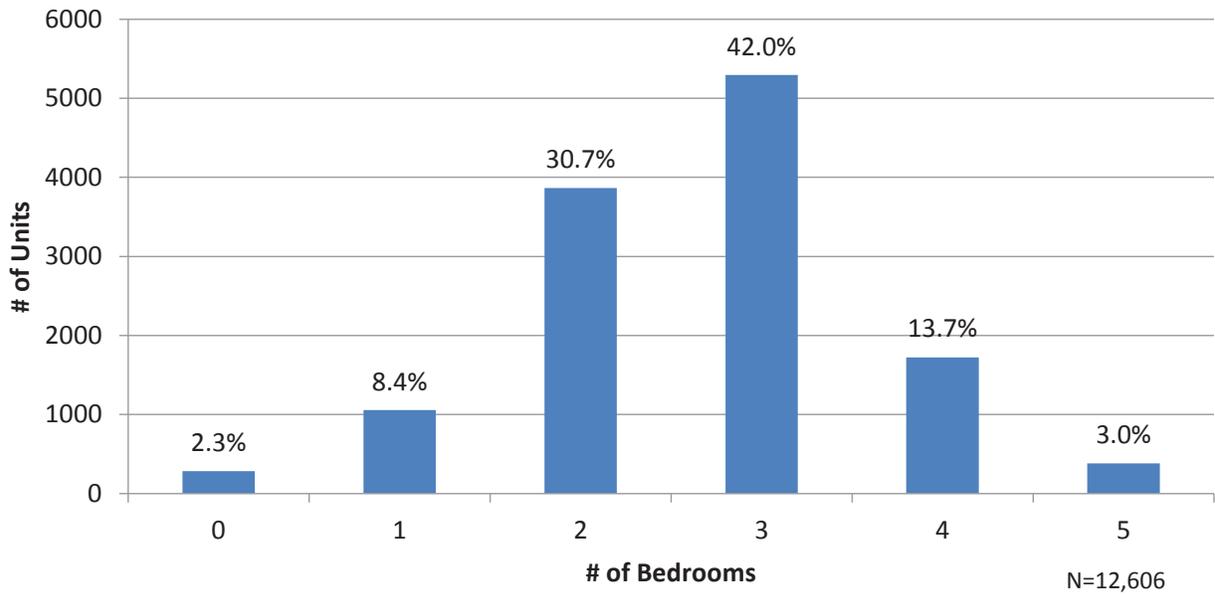


Chart 8: Age of Units

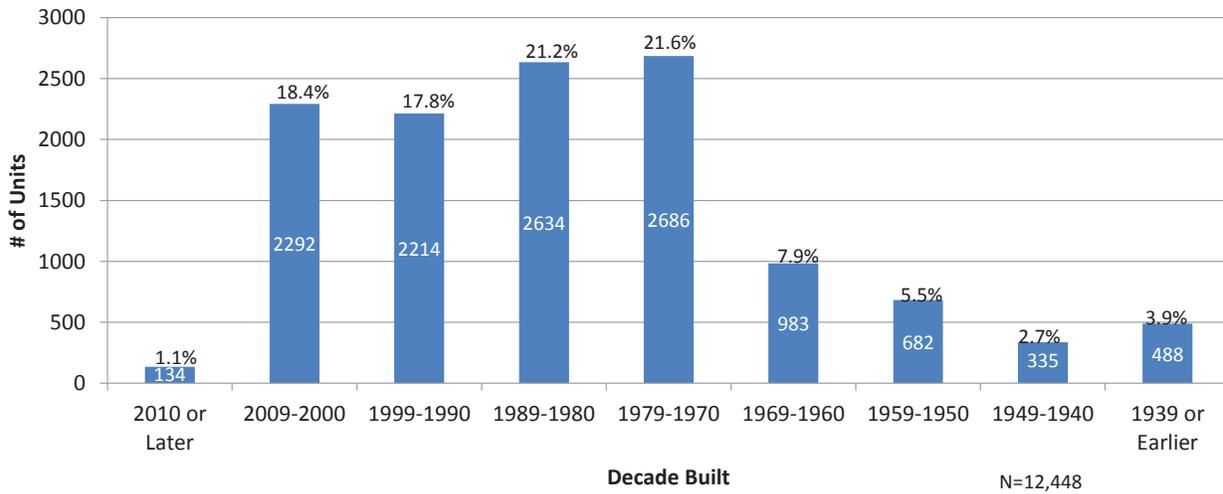


Chart 9: Tribes with New Home Production in Last 10 Years

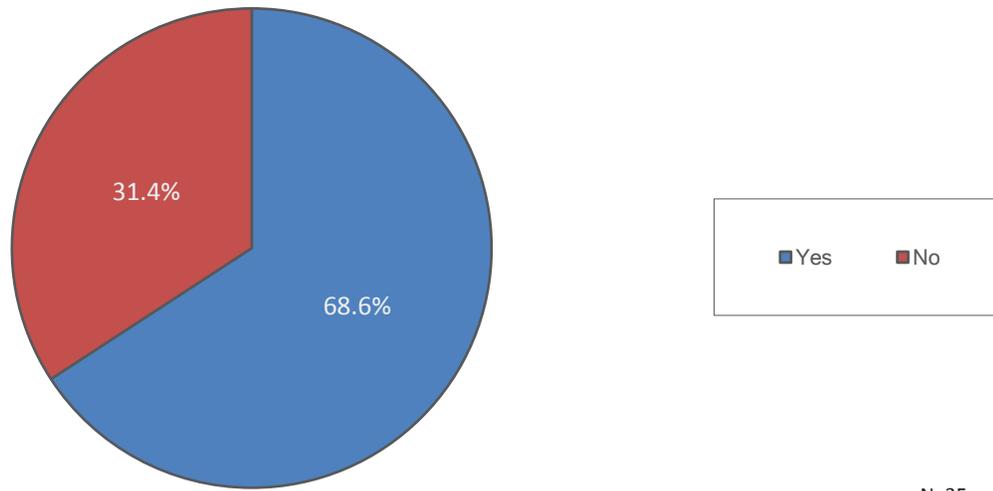


Chart 10: Types and Tenure of Units Produced within Past 10 Years

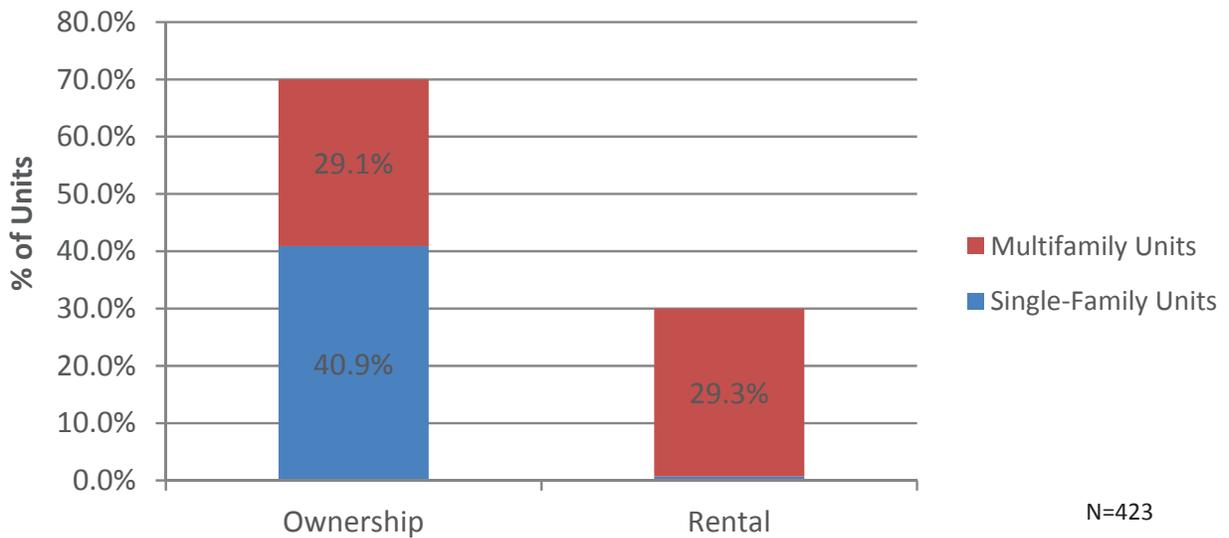


Chart 11: Housing Units by Tenure

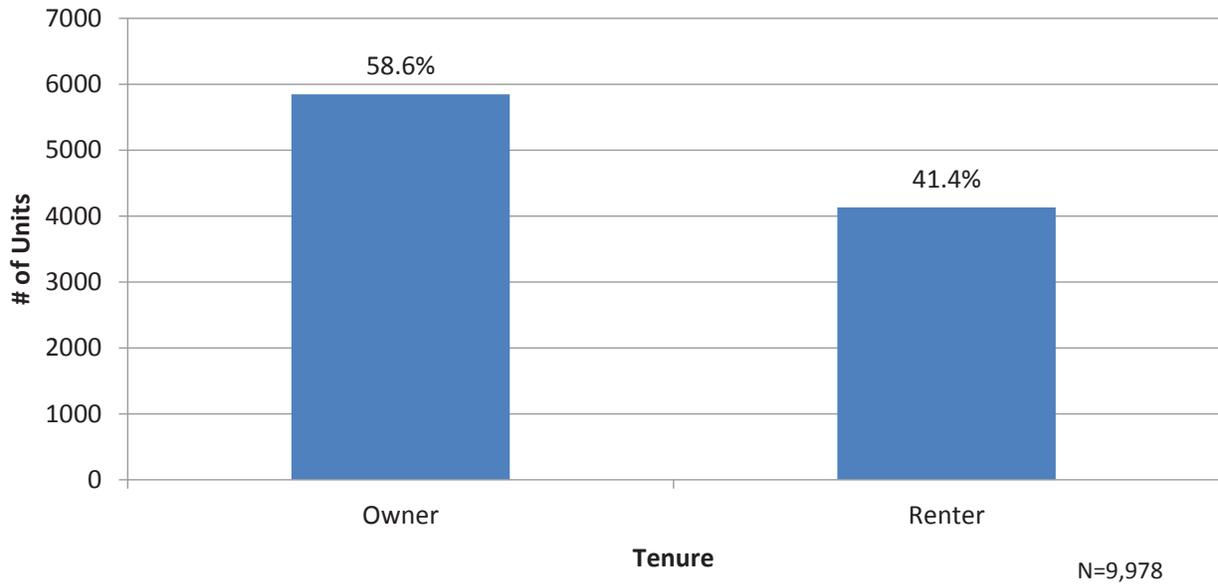


Chart 12: Factory-Built vs. Stick-Built Homes as Percent of Total Units on Trust Land

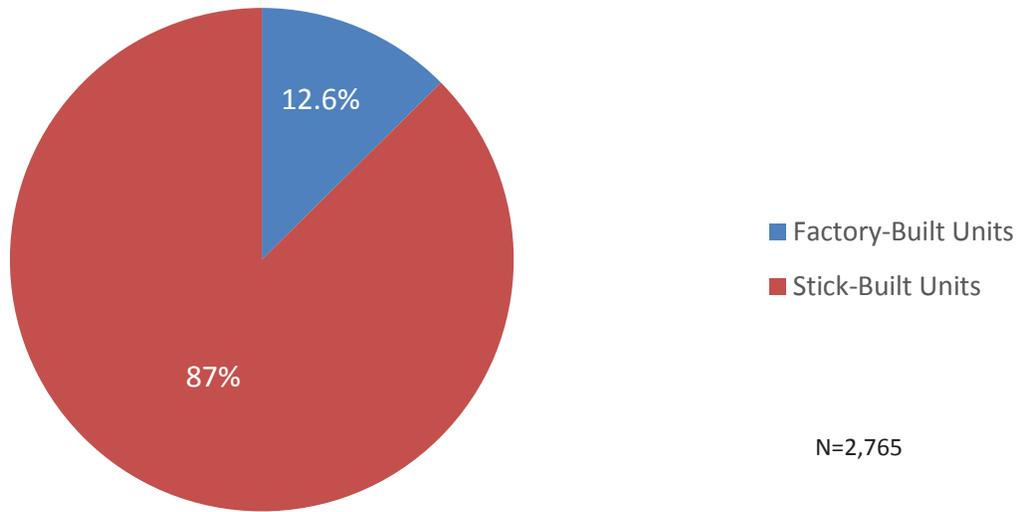


Chart 13: Tribal Median Household Income

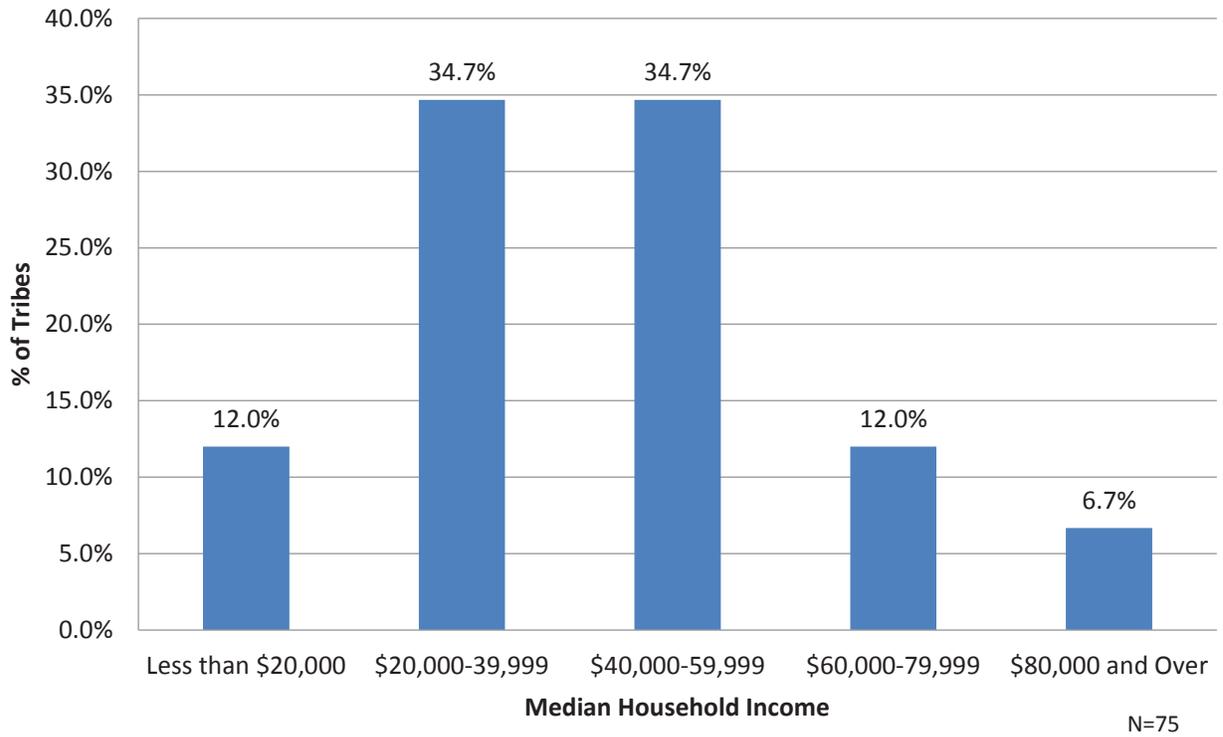


Chart 14: Tribal Poverty Rate per Capita

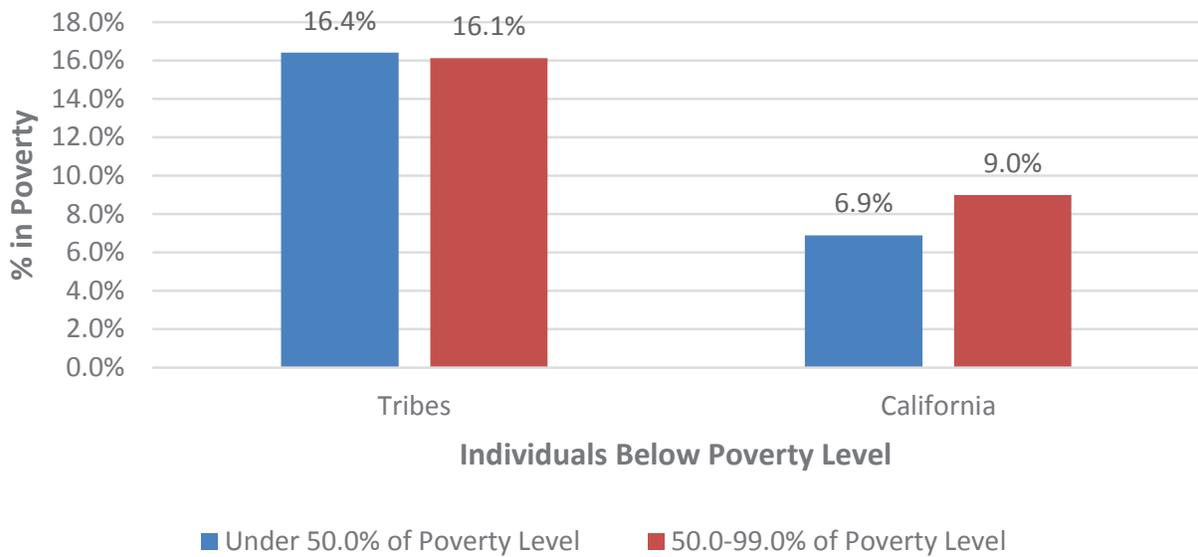


Chart 15: Gross Rent Percent of Household Income

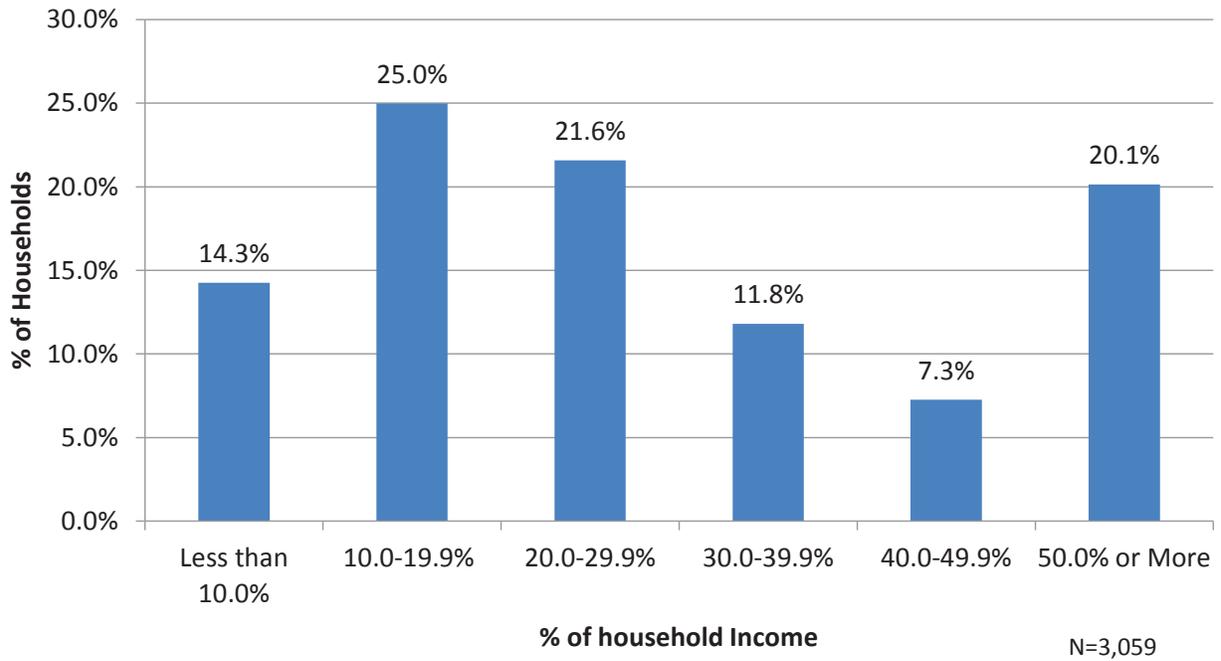


Chart 16: Selected Conditions of Occupied Units

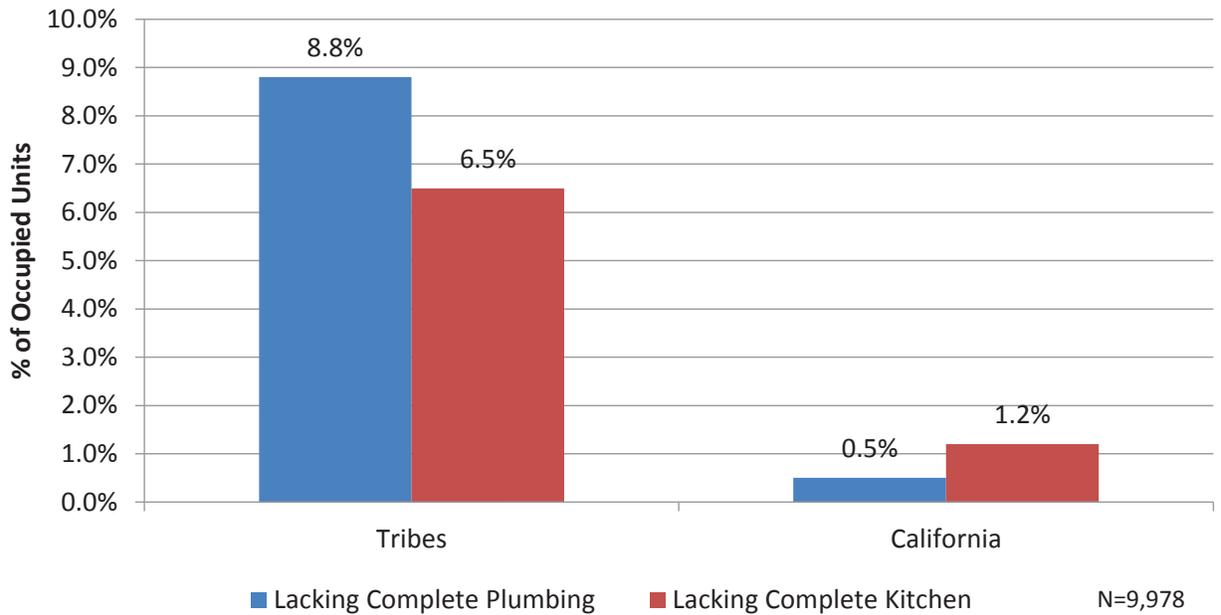


Chart 17: Units Needing Physical Improvement

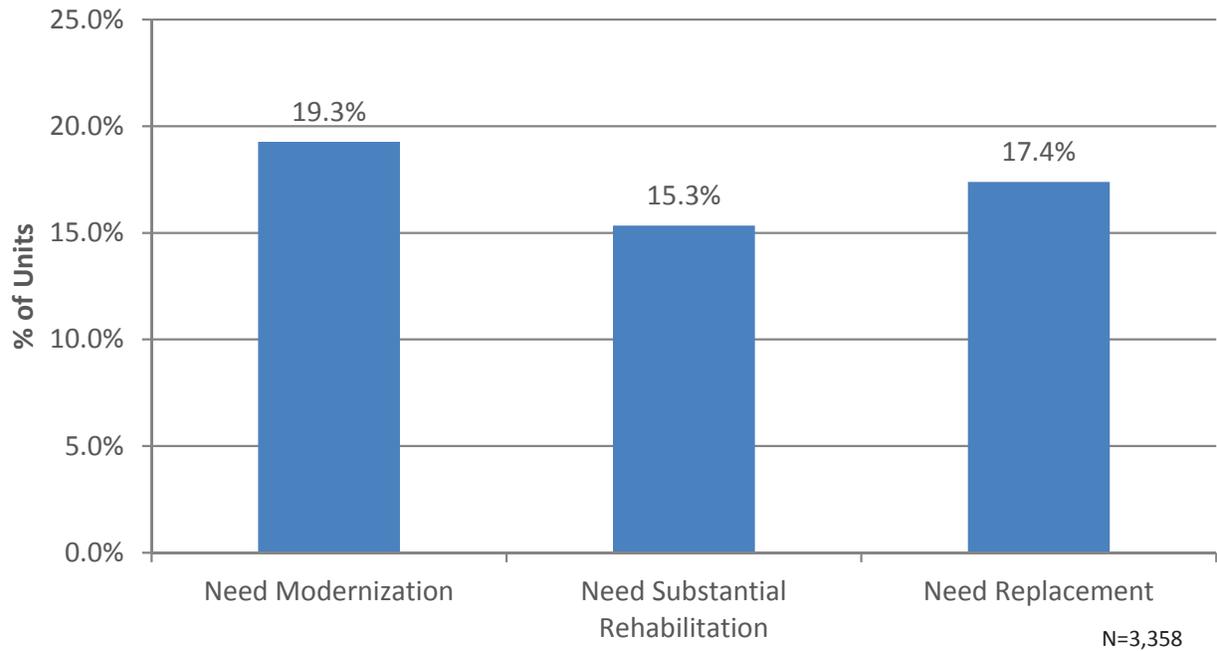


Chart 18: Most Common Physical Problems

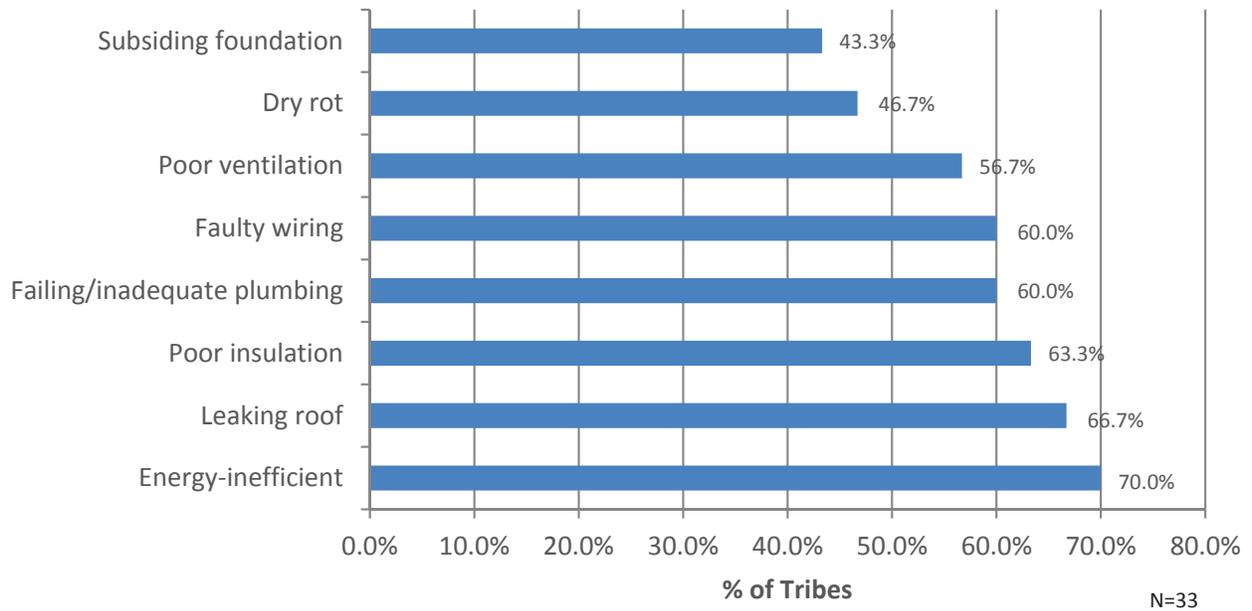


Chart 19: Population Groups with Greatest Housing Needs

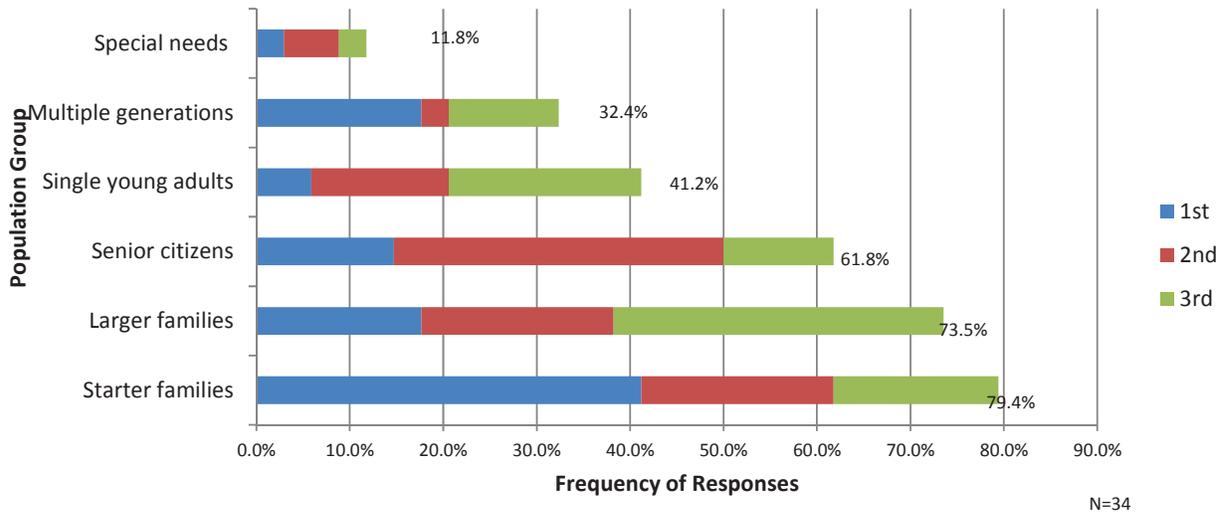


Chart 20: Units Needed Next 10 Years by Tenure

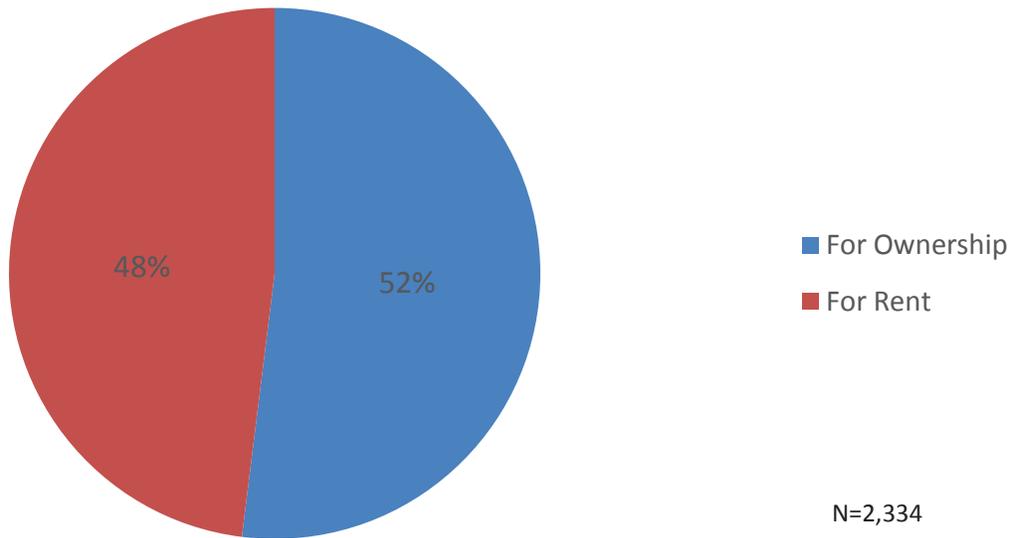
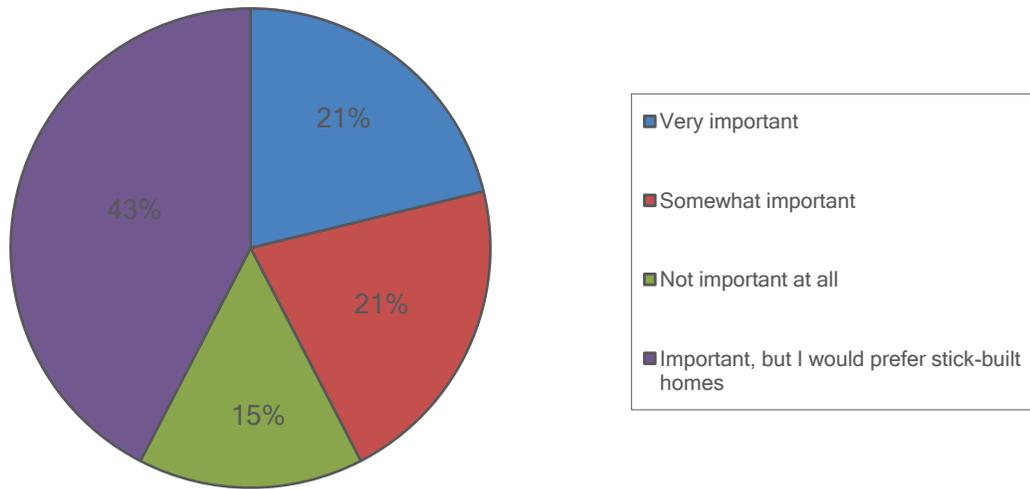
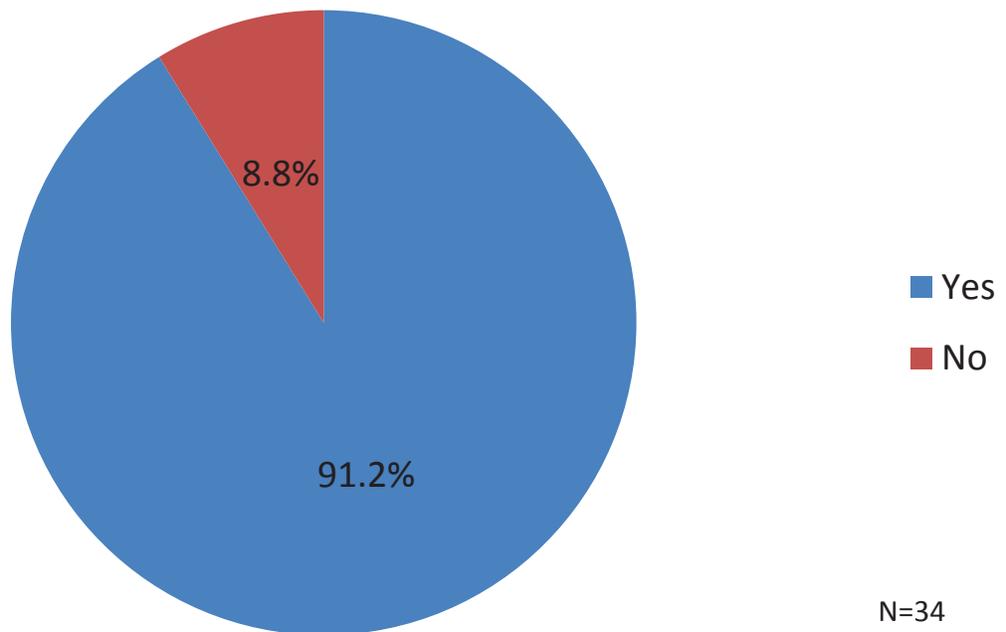


Chart 21: Importance of Factory-Built Homes in Meeting Future Housing Needs



N=33

Chart 22: Waiting List for Homes



N=34

Chart 23: Estimated Waiting Times for Homes

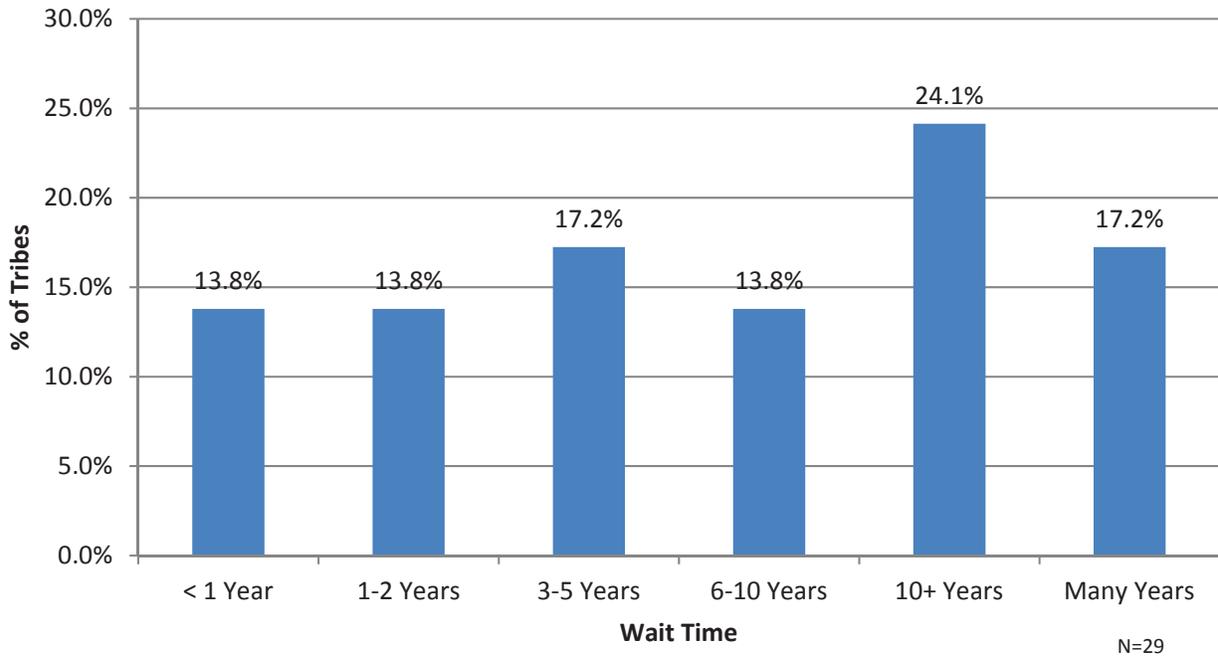


Chart 24: Obstacles to Building/Installing New Homes

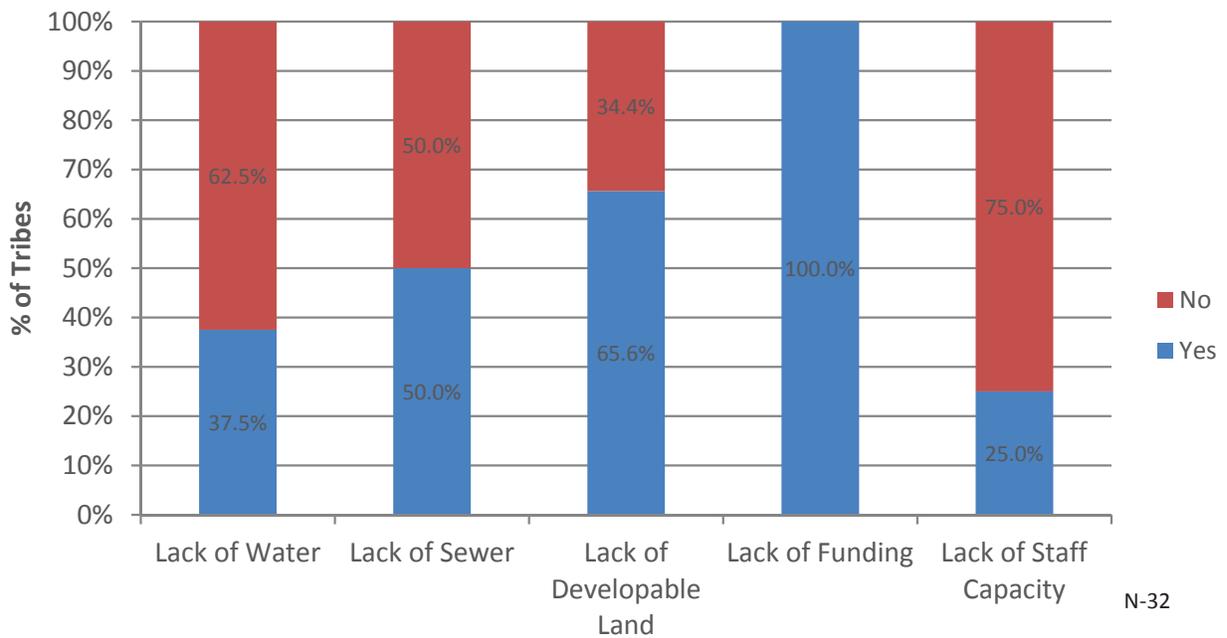


Chart 25: Acreage for Housing Development

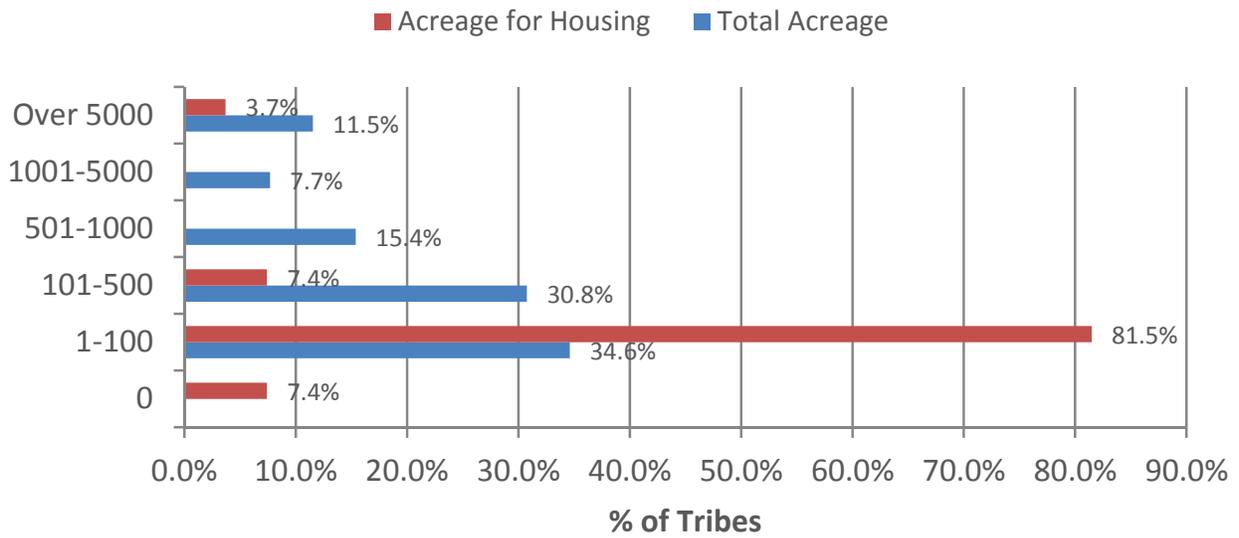


Chart 26: Full- and Part-Time Housing Staff

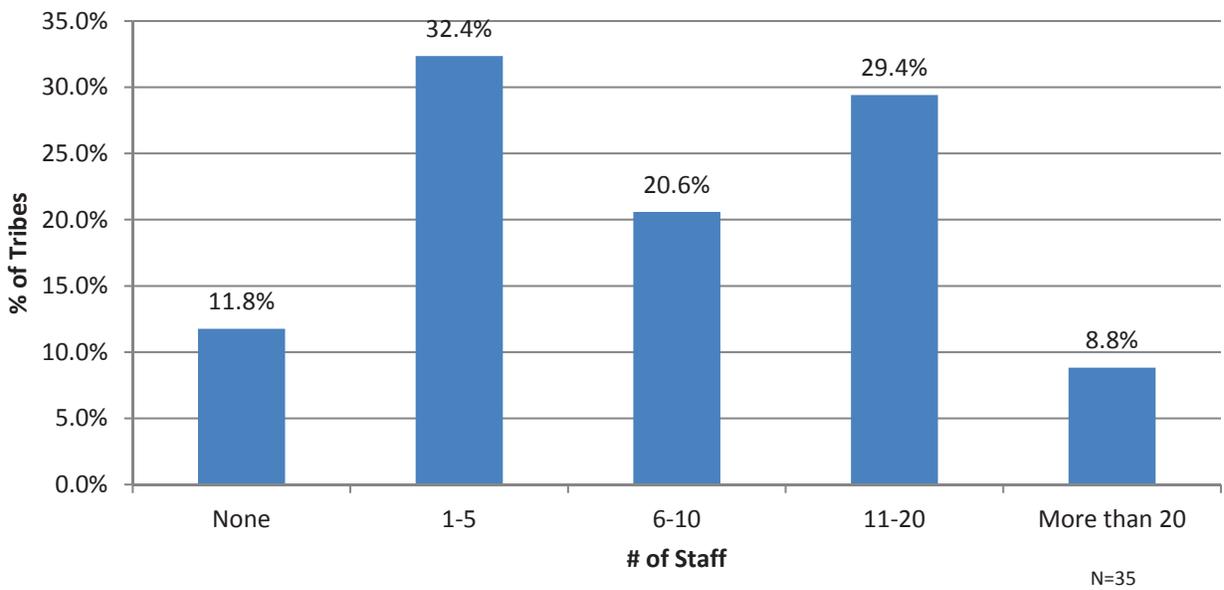


Chart 27: Percent of Full-Time Staff by Function

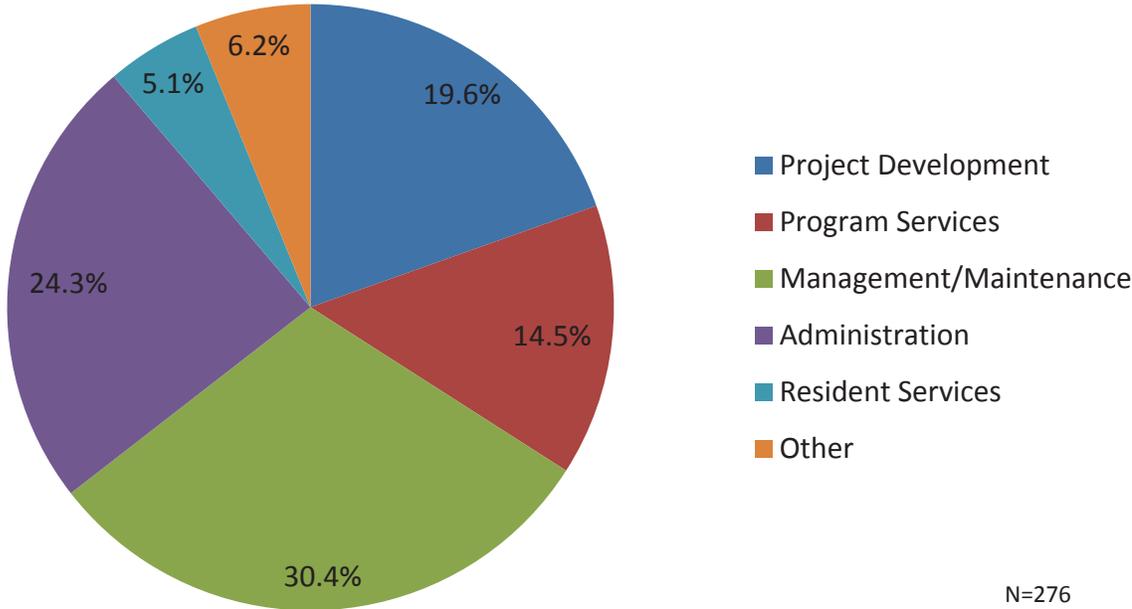


Chart 28: Percent of Part-Time Staff by Function

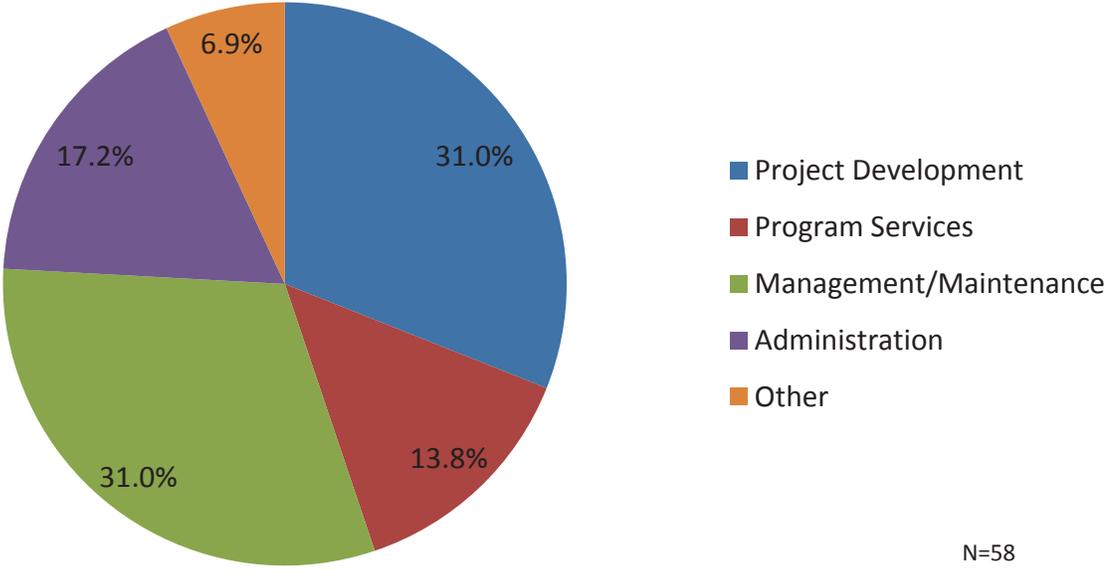


Chart 29: Housing Program Services Provided

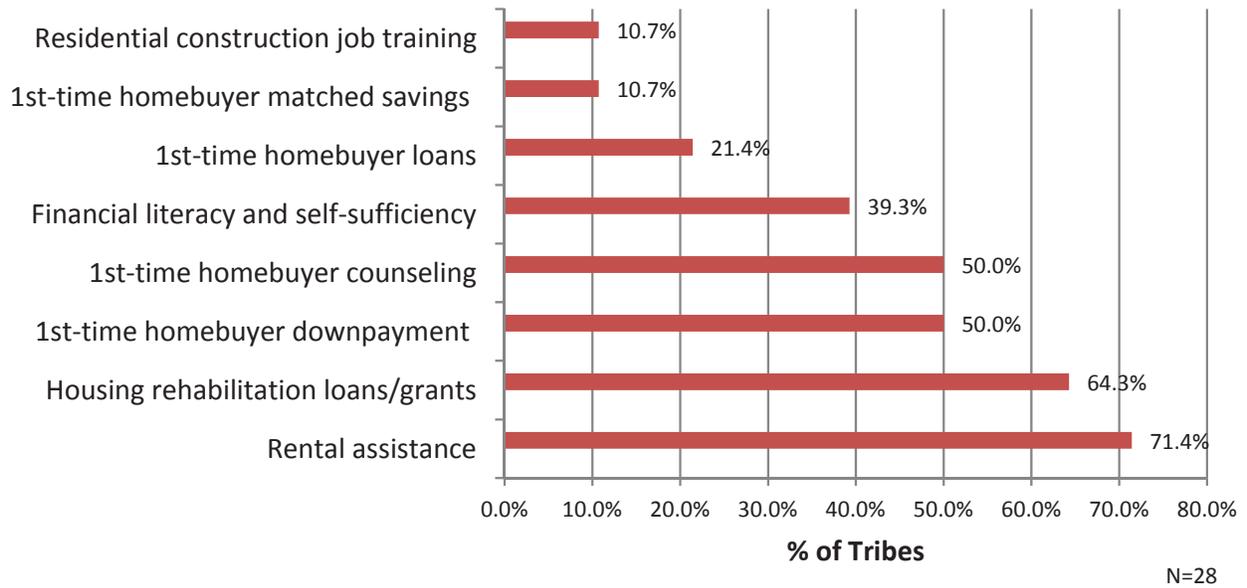


Chart 30: Received NAHASDA Allocation Within Past 3 Years

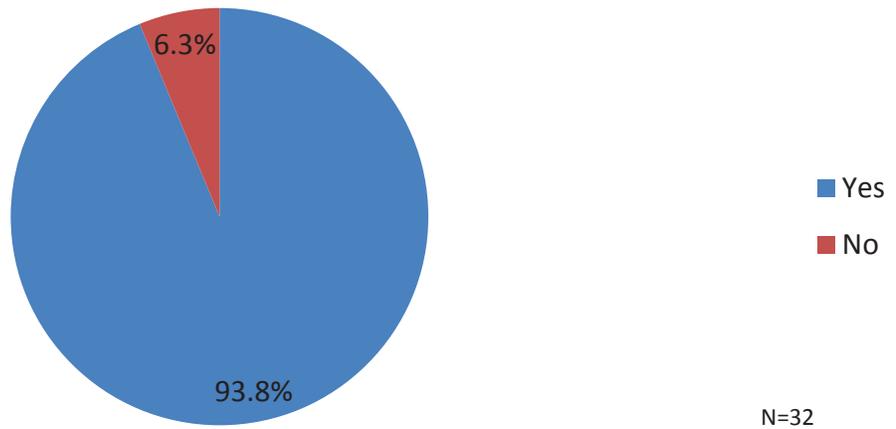


Chart 31: Activities Funded by NAHASDA

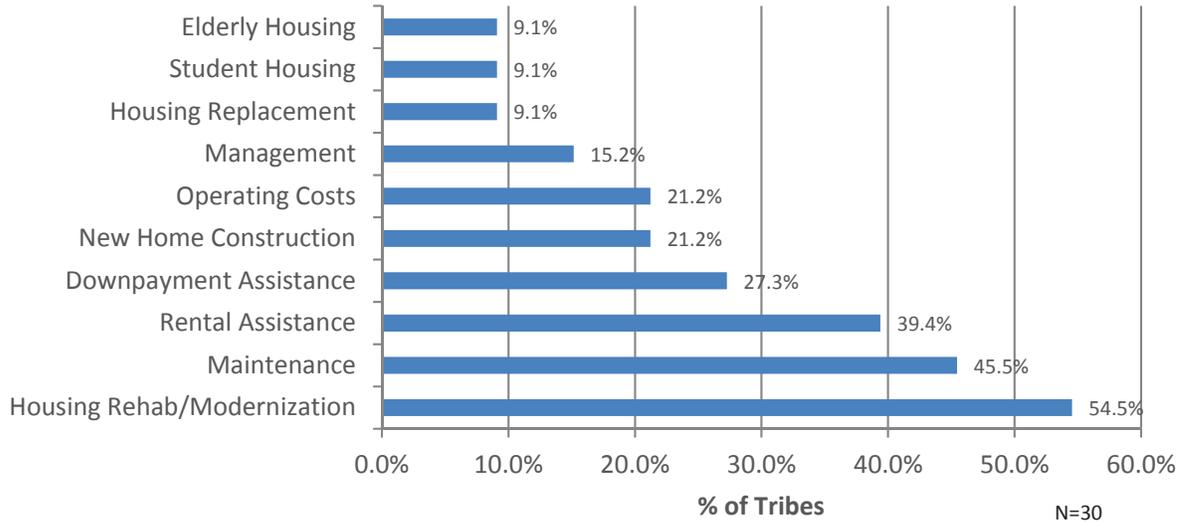


Chart 32: Received Indian Community Development Block within Past 3 Years

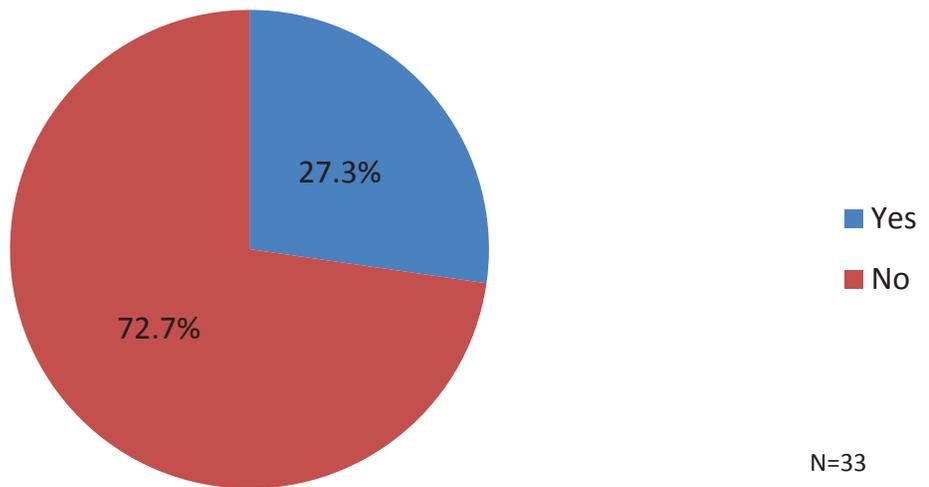


Chart 33: Knowledge of Specified State-Run Housing Programs

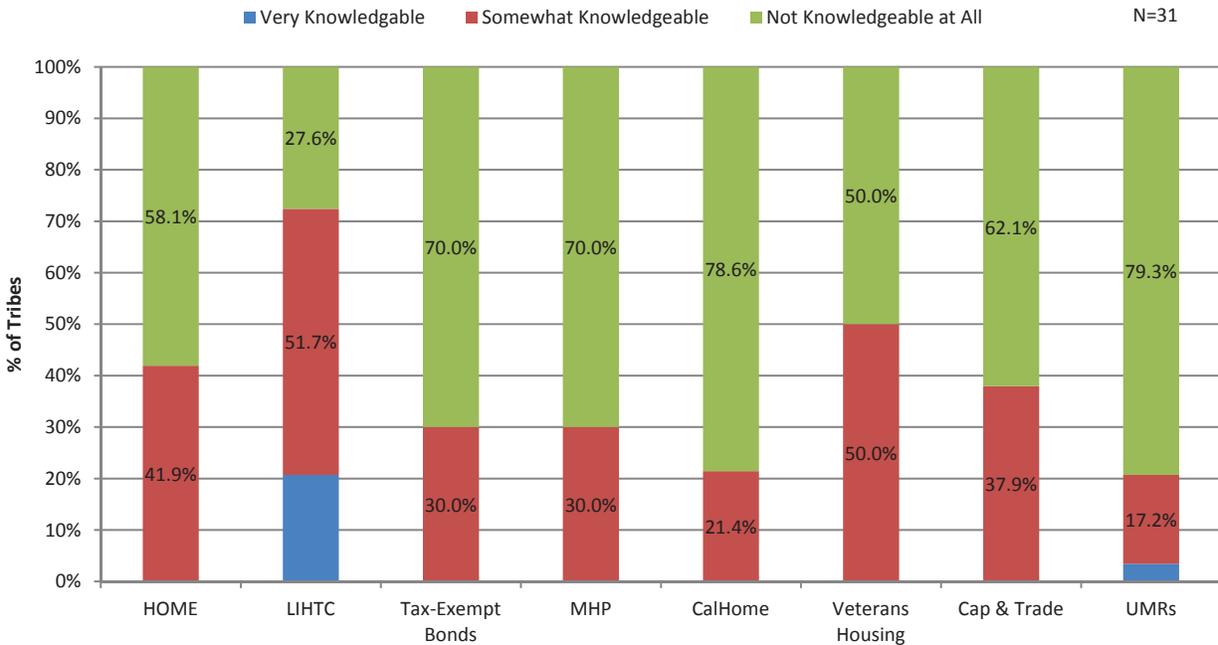


Chart 34: Highest Priority Program Supports/Reforms

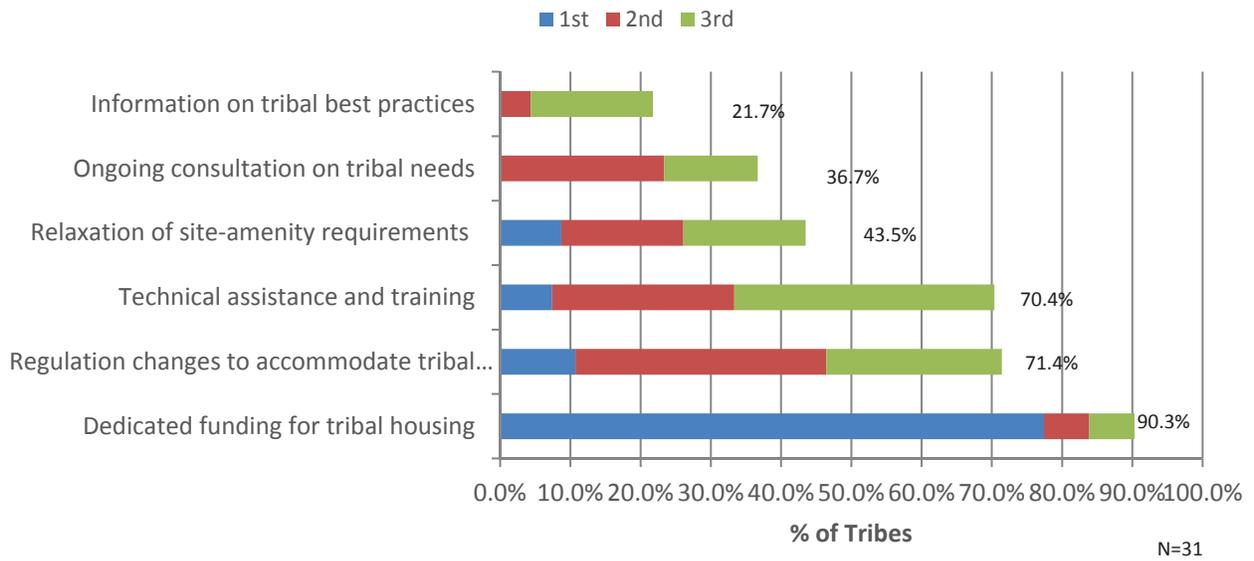


CHART 35: HOUSING NEEDS OF NAHASDA GRANTEES

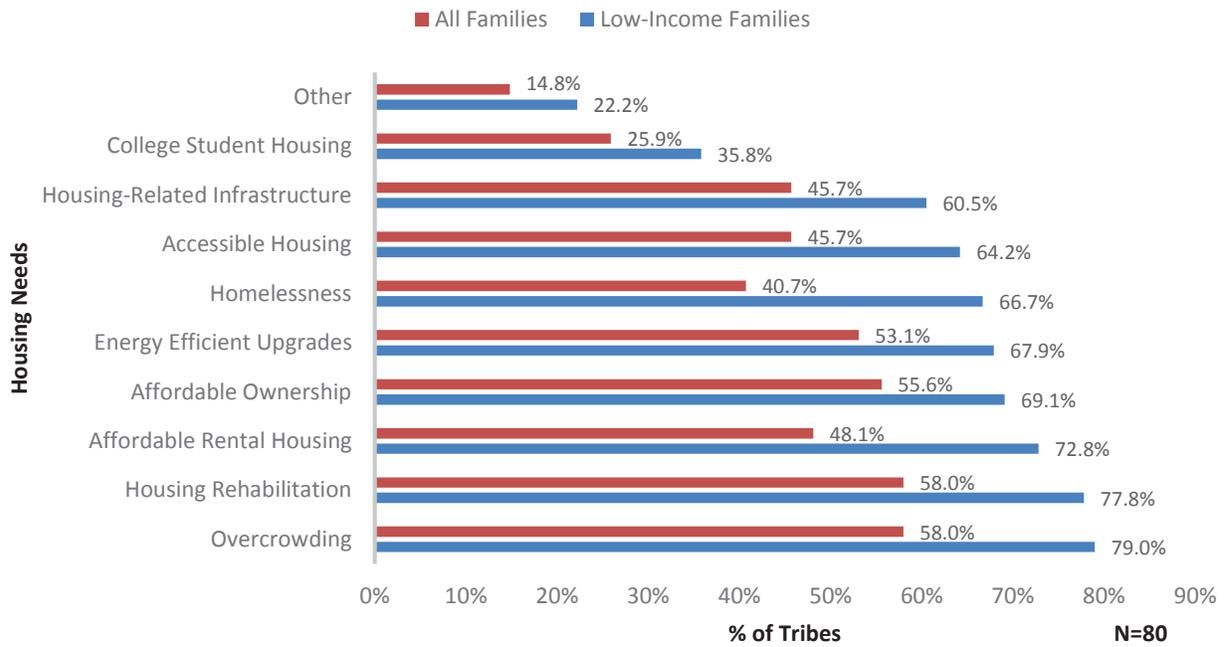


Chart 36: PY 2015 IHBG Funding Levels

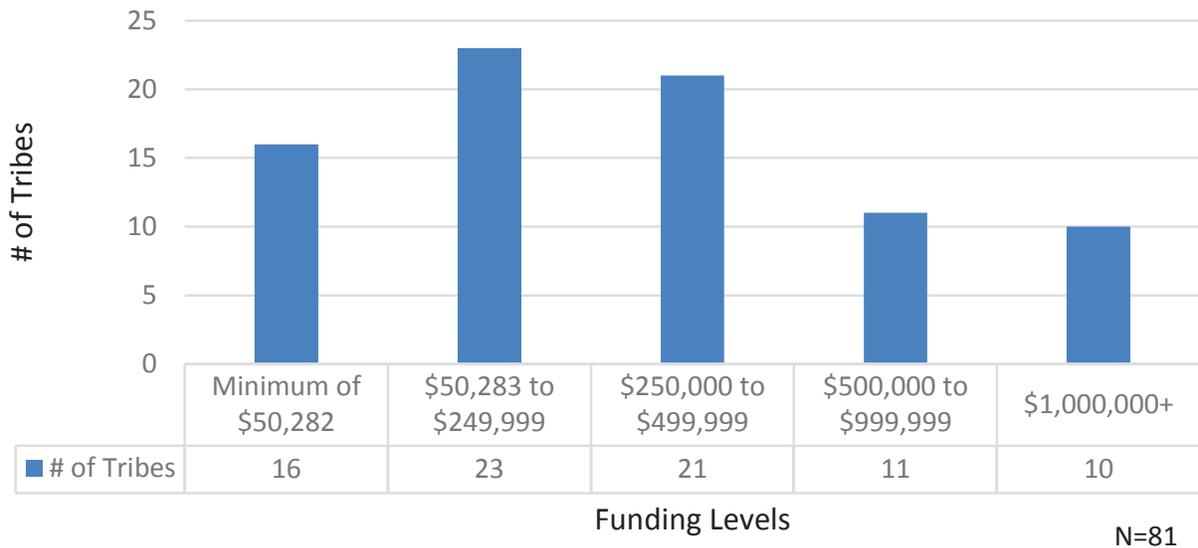


Chart 37: PY 2015 Indian Housing Plan (IHP) Activities and Budget Allocations

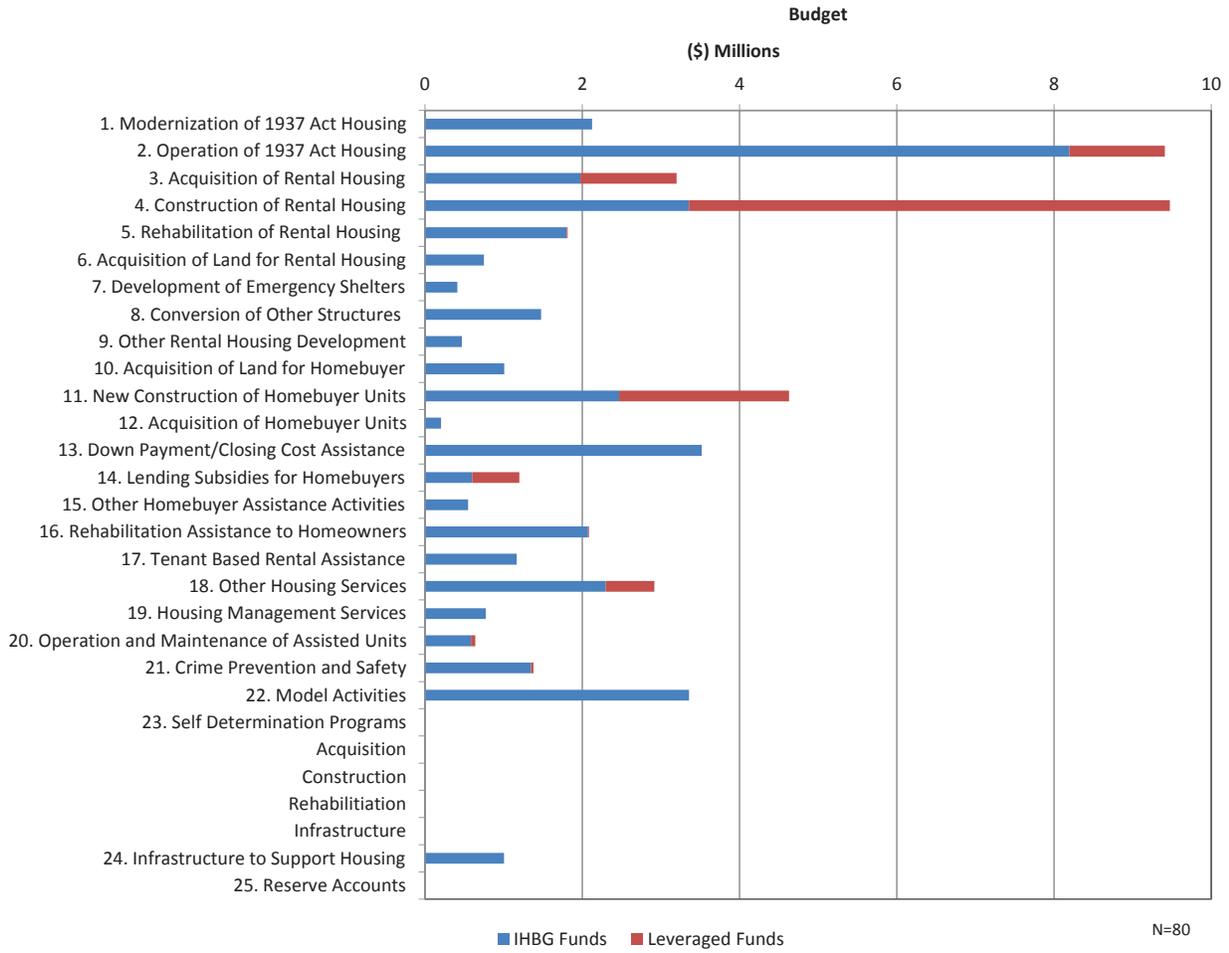


Chart 38: Source of Funds as % of Total IHP Budget

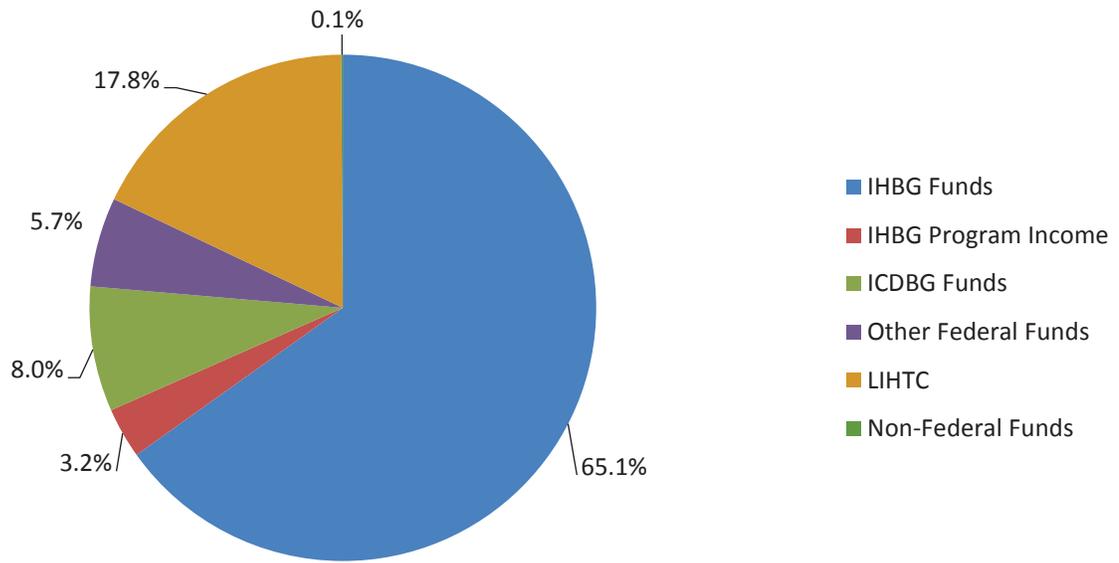


Chart 39: Allocation of SB 2 funds, Year 1

