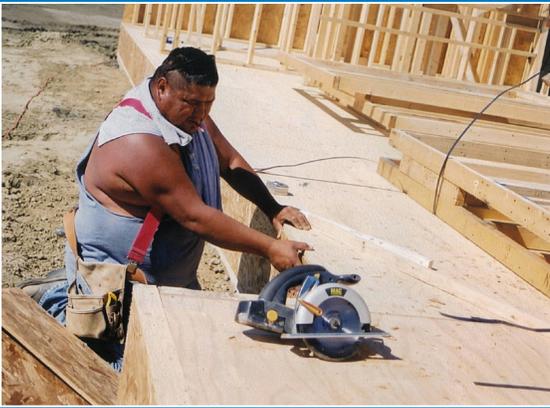


Community Developments *Investments*

September 2016

Housing Financing in Indian Country Spotlight on HUD's Title VI Program



www.occ.gov/Indianhousingfinance

Housing Financing in Indian Country: Spotlight on HUD’s Title VI Program

What’s Inside

A Look Inside	2
Community Reinvestment Act.	4
Title VI Loan Guarantee Program	6
Indian Housing Block Grant Program	7
Indian Home Loan Guarantee Program (Section 184).	9
Success Spotlight: Two Title VI Projects.	10
The Title VI Loan Guarantee Program: A Source of Hope on Pine Ridge	11
Fostering Economic Growth in Native American and Other Underserved Communities.	13
Resources	16

A Look Inside ...

Barry Wides, Deputy Comptroller, OCC

Access to capital in Indian Country¹ has always been a challenge, and some Native American² communities rank among the poorest communities in the United States. Additionally, Native American tribes are sovereign nations with their own governments, laws, and courts. National banks and federal savings associations (collectively, banks) interested in financing homes in Indian Country may therefore be unfamiliar with and reluctant to lend there.



Housing Assistance Council

A home under construction on the Pine Ridge Indian Reservation

What banks may not realize, however, is that many of the nation's 567³ federally recognized Indian tribes have adopted the necessary legal and commercial infrastructure to reduce the uncertainty banks may have about lending in Indian Country. Moreover, the federal government allocates substantial resources to support economic development in Indian Country, and some of these resources are dedicated to increasing access to

capital for building and sustaining affordable housing.

One example is the U.S. Department of Housing and Urban Development (HUD) Title VI Loan Guarantee (Title VI) Program, which is the focus of this *Community Developments Investments*. Authorized as the Federal Guarantees for Financing for Tribal Housing Activities program by the Native American Housing

Community Developments

Deputy Comptroller

Barry Wides

Editorial Staff

Ammar Askari

Janet Fix

Design Staff

Victor Battista

Vincent Harris

Questions or comments, please phone (202) 649-6420 or e-mail communityaffairs@occ.treas.gov.

This and previous editions are available at www.occ.gov/cdd/resource.htm.

On the cover

Native American totem pole with photos (from top to bottom) of a construction worker building a home in Eagle Butte, S.D., a home under construction, and newly completed homes on the Pine Ridge Indian Reservation in South Dakota. (Photos courtesy of the Housing Assistance Council.)

Disclaimer

Articles by non-OCC authors represent their own views and not necessarily the views of the OCC.

¹ "Indian Country" is a legally defined term in 18 USC 1151 that generally refers to Indian reservations and other Indian areas. The U.S. Department of the Interior's Bureau of Indian Affairs (BIA) defines a federal Indian reservation as "an area of land reserved for a tribe or tribes under treaty or other agreement with the United States, executive order, or federal statute or administrative action as permanent tribal homelands, and where the federal government holds title to the land in trust on behalf of the tribe" (see BIA's FAQs). Section IV of the Native American Housing Assistance and Self Determination Act of 1996, as amended, defines Indian area as "the area within which an Indian tribe or a tribally designated housing entity, as authorized by 1 or more Indian tribes, to provides assistance under this Act for affordable housing."

² In the United States, "Native American" refers to a person belonging to one of three primary groups: Native Hawaiians, Alaska Natives, and American Indians (residents of the contiguous United States). The Title VI program, highlighted in this *Investments*, is applicable to federally recognized tribes and tribally designated housing entities located within Alaska and the contiguous United States. Therefore, "Native American," in this context, refers only to Alaska Natives and American Indians.

³ For the number of federally recognized tribes, see 81 FR 26826 (May 4, 2016).

Assistance and Self-Determination Act of 1996,⁴ the Title VI program is designed to enhance collaboration among tribes, banks, and other government programs to promote housing financing in Indian Country.

The Office of the Comptroller of the Currency (OCC), in this *Investments*, spotlights the Title VI program and explains how banks may receive Community Reinvestment Act (CRA) consideration for financing affordable housing for low- and moderate-income persons and communities in Indian Country. The OCC encourages interested banks to join the federal effort supporting affordable housing in Indian Country and other communities in need.

Banks willing to lend in Indian Country stand to influence more than just their balance sheets and CRA performance. Loans and investments made by banks help secure badly needed housing and infrastructure, create jobs, and revitalize communities. The loans and investments can open doors to Native American entrepreneurs seeking to build and expand businesses and generate economic growth for their communities.

This *Investments* includes informative articles authored by the Title VI program administrator and two bankers who describe the

program, its challenges, and its benefits to thousands of Native Americans in need of affordable housing. The views expressed in their articles are those of the authors, not necessarily the OCC's. I know you will find the following articles helpful:

- *HUD's Robert Lamp* explains in "Title VI Loan Guarantee Program" how the program works and has fared since issuing its first loan guarantee in 2000.
- *Valerie Mann of First National Bank of Gordon, Neb.*, describes in "The Title VI Program: A Source of Hope on Pine Ridge," her bank's experience with the program. She discusses the bank's Title VI deal with the Oglala Sioux Tribe of South Dakota, one of the nation's poorest communities.
- *Tish Secrest, Bank of America's Chief CRA Officer*, discusses, in "Fostering Economic Growth in Native American and Other Underserved Communities," her bank's holistic approach to community development and to doing business in Indian Country.
- *Ammar Askari, an OCC Community Development expert*, describes two other programs that promote housing in Indian Country. In addition, he describes how banks may receive CRA consideration from the OCC for financing housing and community development activities in Indian Country.

Housing in Indian Country

There are large gaps between Indian Country and the rest of the United States, according to most economic and welfare indicators.⁵ This is particularly true for affordable housing on Indian reservations. Vibrant communities depend on safe, affordable housing. Native Americans living on reservations, however, face some of the worst housing and living conditions in the United States. Barriers to housing development in Native communities include poor infrastructure, limited private investment opportunities, low-functioning housing markets, and poverty.

According to the National Congress of American Indians, "Forty percent of on-reservation housing is considered substandard (compared to six percent outside of Indian Country) and nearly one-third of homes on reservations are overcrowded. Less than half of the homes on reservations are connected to public sewer systems, and 16 percent lack indoor plumbing. In some areas, up to 50 percent of Native American homes are without phone service. Additionally, 23 percent of Native households pay 30 percent or more of household income for housing."⁶

⁴ See 25 USC 4101 et seq. and 24 CFR 1000.

⁵ See American Indian employment and poverty rates in the *2013 American Indian Population and Labor Force Report*, Office of the Assistant Secretary–Indian Affairs, U.S. Department of the Interior (January 16, 2014).

⁶ See the National Congress of American Indians' "Housing and Infrastructure" web page.

Community Reinvestment Act

Ammar Askari, Community Development Expert, OCC

Because Indian Country includes some of the poorest and most financially underserved communities in the country, bank activities in Indian Country may be eligible for Community Reinvestment Act (CRA) consideration.

CRA regulations define the types of activities that bank examiners consider during the course of a bank's CRA performance evaluation. These activities include loans, investments, and services that meet the CRA's definition of community development (CD).

Qualifying activities may, for example, target low- or moderate-income (LMI) individuals or geographies, or distressed or underserved nonmetropolitan middle-income geographies, as defined by the federal banking supervisory agencies. General categories of activities that qualify for consideration under the CRA regulation¹ include those activities that

- provide affordable housing or community services to LMI individuals or geographies.
- promote economic development by financing small businesses and small farms that meet size or revenue standards defined in the regulation.
- revitalize or stabilize LMI areas.
- revitalize or stabilize distressed or underserved nonmetropolitan middle-income geographies, as defined by the federal bank supervisory agencies.

In most cases, the qualifying CD activity should serve the bank's assessment area,² or the broader statewide or regional area that includes the assessment area. CD activity outside the broader statewide or regional area may be considered if the bank has a nationwide branch network, or is designated wholesale or limited purpose when it conducts the activity.

Qualitative factors may influence CRA consideration given to these activities, including the following:

- The activity is responsive to credit or CD needs in the area.
- The activity involves innovative or flexible lending practices conducted in a safe and sound manner to address the credit needs of LMI individuals or geographies.
- The type of investment is not routinely provided by private investors.

Banks of all sizes can receive CRA consideration for making retail loans that help meet the credit needs of LMI individuals, small businesses, or small farms. Although CRA regulations emphasize home mortgage, small business, and small farm loans located in a bank's assessment area or areas, the OCC may consider retail loans made outside a bank's assessment areas or areas to LMI individuals, small businesses, or small farms.

Under the CRA regulations, loans, investments, and services provided to a tribe or tribally designated housing entity to provide affordable housing primarily for LMI individuals using the Title VI program may be eligible for CRA consideration. How activities are considered varies depending on the applicable evaluation process.

For more information, contact Ammar Askari at ammar.askari@occ.treas.gov.

¹ See Federal Financial Institutions Examination Council's "Interagency Questions and Answers Regarding Community Reinvestment."

² Assessment areas generally refers to the areas in which the bank has its main office, its branches, and its deposit-taking automated teller machines.

Federal Support

The federal budget for fiscal year (FY) 2016 includes funding for direct services and programs administered by tribes. More than 20 federal departments and agencies and all 567 federally recognized tribes collectively provide services to more than 2 million American Indian and Alaska Native people. The budget authorizes \$20.8 billion in spending for a wide range of federal programs serving tribes, including in education, social services, justice, health, housing, infrastructure, and stewardship of land, water, and other natural resources.⁷

The Title VI program is designed to support affordable housing in Indian Country by helping eligible Native tribes and entities leverage their grants from another important federal program called the Indian Housing Block Grant (IHBG) Program. Together these programs provide critical funding that empowers tribes to develop, implement, and manage strategies to meet the specific housing needs of their communities.

Under the FY 2016 budget, HUD was allotted \$648 million for the IHBG program and \$2 million for the Title VI program to be used as a credit subsidy in support of loan guarantees.⁸

OCC Resources

The OCC has long supported more involvement by banks in Indian Country, and by tribes in the nation's banking system. For examples of banks extending credit in Indian Country, review the OCC's *Community Developments Investments* on "Extending Credit in Indian Country: How Banks Use Federal Programs to Promote Economic Development" (August 2013). The OCC's *Community Developments Insights* report on "Commercial Lending in Indian Country: Potential Opportunities in a Growing Market" (February 2016) discusses the opportunities for banks interested in lending to businesses on reservations. The report also describes several federal programs that encourage commercial lending on reservations.

The OCC has 14 district community affairs officers working in four regions across the country. They provide assistance and consultation to banks on all issues related to community development, including those related to rural and tribal communities. The OCC's Native American Banking Resource Directory lists banking and finance resources sponsored by the OCC, other federal agencies, and other organizations. For more information, see the OCC's Community Affairs web page.

Conclusion

This *Community Developments Investments* is part of the OCC's efforts to raise awareness of innovative financing approaches and to share emerging best practices. We encourage banks serving communities that include Indian reservations to consider the Title VI program when looking for business opportunities that may help increase the supply of affordable housing in Indian Country.

For banks located in or serving Native American communities, the OCC hopes the information in this *Investments* informs and encourages them to learn more about the federal programs available to support their doing business in Indian Country.

For more information, contact Barry Wides at barry.wides@occ.treas.gov.

⁷ "Middle Class Economics: Standing With Indian Country," The President's Budget, Fiscal Year 2016.

⁸ See page 11-1, "Public and Indian Housing, Native American Housing Block Grants, 2017 Summary Statement and Initiatives," *U.S. Department of Housing and Urban Development, Fiscal Year 2017 Congressional Justifications*.

Title VI Loan Guarantee Program

Robert Lamp, Loan Guarantee Specialist, U.S. Department of Housing and Urban Development

The Title VI Loan Guarantee (Title VI) Program and the Indian Housing Block Grant (IHBG) Program¹ were authorized by the Native American Housing Assistance and Self Determination Act (NAHASDA) of 1996, as amended.² The Title VI program provides loan guarantees to lenders financing housing development projects by IHBG recipients, typically Indian tribes and tribally designated housing entities (TDHE). The goal of the program is to promote the development of private capital markets to support affordable housing in Indian Country.³

Lenders benefit from the Title VI program because it provides them with limited risk exposure, reduced costs, increased loan marketability, and improved opportunities to market financial services. Loans guaranteed by this program may also count towards meeting the lenders' community reinvestment goals. Tribes benefit because they can build more housing at current costs and use loans to leverage additional funds from other sources. Improved financial services from lenders permit flexible financing terms.

Additionally, the pledge and guarantee eliminate the need to



A home under construction in Pueblo de San Ildefonso Office of Loan Guarantee, U.S. Department of Housing and Urban Development

use land as collateral for loans. Lenders avoid trust land issues in loan closing, and tribes allay their concerns of risking Native lands in obtaining financing.

Title VI Background

Over the years, the Title VI program has evolved and adapted to meet the needs of borrowers and lenders. Since its inception, the program has proven to be a useful tool in helping tribes and TDHEs secure affordable housing for their members with little cost to the government.

The first Title VI loan guarantee was issued in 2000 for \$1.7 million to First National Bank Alaska. From 2000 through June 2016, the Title

VI program processed 90 loans for \$229 million in guarantees. The Title VI program has helped finance 3,148 housing units through rehabilitation, new construction, or creation of infrastructure. There have been no defaults, and 43 loans have been paid off in full.

The Title VI program is overseen by the Office of Native American Programs (ONAP) at the U.S. Department of Housing and Urban Development (HUD). The Office of Loan Guarantee (OLG) within ONAP administers the Title VI program. OLG staff is located at HUD headquarters in Washington, D.C.

¹ The IHBG program is a formula grant that provides a range of affordable housing activities on Indian reservations and other tribal lands. The U.S. Department of the Interior's Bureau of Indian Affairs (BIA) defines a federal Indian reservation as "an area of land reserved for a tribe or tribes under treaty or other agreement with the United States, executive order, or federal statute or administrative action as permanent tribal homelands, and where the federal government holds title to the land in trust on behalf of the tribe" (see BIA's FAQs).

² See 25 USC 4101 et seq. and 24 CFR 1000.

³ "Indian Country" is a legally defined term in 18 USC 1151 that generally refers to Indian reservations and other Indian areas. The U.S. Department of the Interior's Bureau of Indian Affairs (BIA) defines a federal Indian reservation as "an area of land reserved for a tribe or tribes under treaty or other agreement with the United States, executive order, or federal statute or administrative action as permanent tribal homelands, and where the federal government holds title to the land in trust on behalf of the tribe" (see BIA's FAQs). Section IV of NAHASDA, as amended, defines Indian area as "the area within which an Indian tribe or a tribally designated housing entity, as authorized by 1 or more Indian tribes, to provides assistance under this Act for affordable housing."

Indian Housing Block Grant Program

Ammar Askari, Community Development Expert, OCC

The Indian Housing Block Grant (IHBG)¹ Program is a formula grant program that provides funding for a range of affordable housing activities on Indian reservations and in Indian areas. The IHBG program is the principal means by which the United States fulfills its trust obligations to low-income American Indians and Alaska Natives to provide safe, decent, and sanitary housing. Furthermore, IHBG program grants are the main source of funding for housing assistance in Indian Country.

Eligible IHBG recipients typically are federally recognized Indian tribes or their tribally designated housing entities. An eligible recipient must submit to the U.S. Department of Housing and Urban Development (HUD) an Indian Housing Plan each year to receive funding. At the end of each year, recipients must submit to HUD an annual performance report on their progress in meeting the goals and objectives included in their Indian Housing Plans.²

According to the authorizing statute, eligible IHBG activities include housing development, assistance to housing previously developed under HUD programs, housing services to eligible families and individuals,

crime prevention and safety, and model activities that provide creative approaches to solving affordable housing problems.³

Since its first funding year in 1998 through fiscal year (FY) 2016, the IHBG program has distributed almost \$12 billion to approximately 360 recipients representing more than 550 tribal governments. Recipients have used those funds to build or acquire more than 38,000 affordable homes and rehabilitate more than 81,000 (in addition to other housing assistance activities, such as operation and maintenance).⁴

The FY 2017 budget request for the program was \$700 million. HUD will distribute \$698 million in block grant funds to approximately 369 recipients, from among 567 tribes in 34 States. HUD estimates that this level of funding would allow IHBG recipients to build, acquire, or substantially rehabilitate 5,065 affordable units in FY 2017. Recipients will also operate and maintain approximately 40,000 older affordable units.⁵

For more information, contact Ammar Askari at ammar.askari@occ.treas.gov.

¹ See 25 USC 4101 et seq. and 24 CFR 1000.

² Indian Housing Block Grant Program web page.

³ Ibid.

⁴ Office of Native American Programs, HUD.

⁵ See page 11–4, “Public and Indian Housing, Native American Housing Block Grants, 2017 Summary Statement and Initiatives,” *U.S. Department of Housing and Urban Development, Fiscal Year 2017 Congressional Justifications*.

The Title VI program works in conjunction with HUD’s IHBG program, which is a formula⁴ grant that provides a range of affordable housing activities on Indian reservations and on Indian areas. Under the federal budget for fiscal year (FY) 2016, HUD was allotted \$648 million for the IHBG and \$2 million for the Title VI program to

be used as a credit subsidy for \$17.5 million in guarantee authority.

How Title VI Works

A tribe or TDHE may pledge a portion of its annual IHBG program grant and the housing development project’s income as security to HUD in exchange for a Title VI loan guarantee.

In turn, HUD provides a 95 percent guarantee of outstanding principal, plus accrued and unpaid interest as collateral to the lender. The lender then provides the financing to the tribe.

The maximum guarantee amount that a tribe or TDHE can borrow is approximately five times the

⁴ The IHBG program formula has two components: need and formula current assisted stock. The need component considers population, income, and housing conditions. The formula current assisted stock component reflects housing developed under the United States Housing Act of 1937 that is owned and or operated by the IHBG recipient and provides funds for ongoing operation of the housing. For more information, see the IHBG program’s website.

need portion of its annual IHBG. The tribe or TDHE may have one or more Title VI loans, but the combined total of the loans may not exceed the maximum guarantee amount. The pledged funds from the IHBG annual grant are only pledged to HUD, and may be expended for the completion of the project, debt payments, or other affordable housing activities.

Once issued, the guarantee coverage is not affected by changes to the annual grant levels. The guarantee protects the lender from affordable housing projects that do not have a positive cash flow. Without land as collateral, the guarantee permits flexible loan structures and construction-permanent terms up to 20 years. It also limits default costs, since there are no foreclosures.

A guarantee has no minimum, which permits tribes to use the program for small projects or gap financing. Loan sizes have ranged from \$170,000 to \$50 million. The guaranteed loans have been used for acquisition, single and multifamily housing, transitional housing, gap financing for tax credit projects, infrastructure, community centers, housing offices and related warehouses, and recreation facilities. Generally, one tribe pledges its IHBG program grant to HUD, but in some instances, several tribes have combined their resources to maximize development.

Title VI Process

The Title VI program uses a team approach with regular conference

calls to help ensure project success by providing technical assistance, answering questions, and coordinating the various parties to keep the project on schedule. The main participants may include the tribe, the TDHE, the lender, the ONAP Area Office and OLG, and the HUD loan guarantee and development specialists.

The Title VI program has a two-step application process. First, the tribe or TDHE requests a preliminary letter of acceptance (PLA) from HUD. Second, the selected lender for the tribe or TDHE requests a firm commitment for a guarantee from HUD.

Up to six months may elapse between the PLA request and the request for a firm commitment. During this time, significant changes to the scope of the project and costs may occur. Project data must, however, be similar in both the preliminary request for acceptance and the request for a firm commitment.

Figure 1 illustrates the Title VI program's typical two-step process, from application by the tribe, to

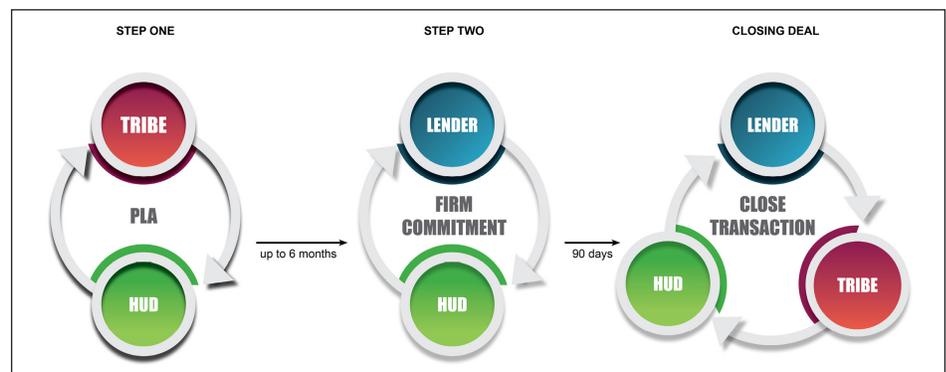
the review and firm commitment by HUD, and finally, the granting of the guarantee and closure of the transaction.

If the tribe or TDHE is submitting project information to other funding sources, that information may be sufficient for documenting the Title VI loan request. If not, the OLG will request additional information from the borrower or lender.

The PLA is the OLG's preliminary approval of a guarantee to a tribe or TDHE. Although this step is not required, it is highly recommended because it

- verifies the amount of the available guarantee.
- permits an early compliance check and feasibility review.
- offers an opportunity to identify and address potential issues before they create project delays.
- increases lender interest by documenting HUD's willingness to issue the guarantee.
- provides an opportunity for the local ONAP and the OLG to offer technical assistance.

Figure 1: Title VI Application and Loan Guarantee Process



Office of Loan Guarantee, HUD

Indian Home Loan Guarantee Program (Section 184)

Ammar Askari, Community Development Expert, OCC

The Indian Home Loan Guarantee Program (commonly referred to as the Section 184 loan program) is a federal home loan guarantee program for enrolled members of federally recognized tribes or for tribally designated housing entities.¹ It provides a 100 percent guarantee on housing loans made by private lenders and tribal housing agencies to American Indian and Alaska Native borrowers, which can include tribes.

The program is administered by the Office of Loan Guarantee within the U.S. Department of Housing and Urban Development's (HUD) Office of Native American Programs. HUD works with a broad group of private lenders and tribal partners to promote access to capital through this program. Potential borrowers are advised to take home buyer financial education courses.

Section 184 loans offer many advantages, including the following:

- A low down payment—2.25 percent on loans of more than \$50,000 and only 1.25 percent on loans of \$50,000 or less.
- A fixed interest rate—lenders charge market rate. No adjustable rate mortgages are permitted. Fees are monitored to prevent predatory loans.
- The borrower pays a onetime 1.50 percent fee at closing, which can be financed into the loan with an annual increase of 0.15 percent of the remaining loan balance. In addition, loans with a loan-to-value ratio of 78 percent or greater are subject to an annual 0.15 percent mortgage insurance premium.²
- Manual underwriting—the program uses a hands-on approach to underwriting and approval, as opposed to automated decision-making tools.
- Liquidity—a Section 184-guaranteed loan, including the security given for the loan, may be sold or assigned by the lender to any financial institution. Section 184 loans are eligible for inclusion in Fannie Mae, Freddie Mac, and Ginnie Mae's mortgage-backed securities. Additionally, some state housing financing agencies and federal home loan banks purchase Section 184 loans.
- In fiscal year (FY) 2015, the Section 184 loan program guaranteed 4,198 loans for more than \$738 million. The average loan in FY 2015 was \$175,820.³ As of June 30, 2016, the program had guaranteed 34,700 loans over its 22-year life, providing over \$5.7 billion in guaranteed funds.⁴

For more information, contact Ammar Askari at ammar.askari@occ.treas.gov.

¹ Section 184 of the Housing and Community Development Act of 1992, codified at 12 USC 1715z-13a. The corresponding regulations can be found at 24 CFR 1005. For more information, see the IHLG program web page.

² HUD anticipates an increase in the annual fee from 0.15 to 0.25 percent in FY 2017, while the upfront loan guarantee fee will remain at 1.50 percent.

³ See p. 12-3, "Public and Indian Housing, Indian Housing Loan Guarantee Fund (Section 184), 2017 Summary Statement and Initiatives," U.S. Department of Housing and Urban Development, Fiscal Year 2017 Congressional Justifications.

⁴ Office of Native American Programs, HUD.

The PLA stage is also a good opportunity for the lender to provide its financial expertise to assist the borrower with not only general financing terms, but also with knowledge on how to leverage and

structure a project and pull together standard types of documentation, all of which help in building a solid relationship between the lender and the borrower.

Once the project planning is complete, the selected lender of the tribe or TDHE makes the application for the firm commitment with new and updated material following a general checklist. If the lender's

Success Spotlight: Two Title VI Projects

Robert Lamp, Loan Guarantee Specialist, U.S. Department of Housing and Urban Development

Pueblo de San Ildefonso



Office of Loan Guarantee, U.S. Department of Housing and Urban Development
A home in Pueblo de San Ildefonso

The Northern Pueblos Housing Authority in New Mexico built 10 units of lease-purchase housing in the Pueblo de San Ildefonso. The \$2 million project used a \$645,000 loan from the Rural Community Assistance Corporation guaranteed by the Title VI program.

Village of Anaktuvuk Pass



Office of Loan Guarantee, U.S. Department of Housing and Urban Development
Homes in one of the Villages of Anaktuvuk Pass

The Tagiugmiullu Nunamiullu Housing Authority in Alaska used a \$6,752,160 Title VI program loan from Wells Fargo to build 24 homeowner units in six villages. The units used high energy-efficient technology that significantly reduced energy costs and improved affordability in an extreme climate in northern Alaska. The Title VI guarantee was secured by pledges from six tribes in Alaska.

application for the firm commitment is approved, the lender and borrower must meet the conditions of the commitment and close the transaction in 90 days.

Title VI Flexibility

The entire Title VI process from the request for the PLA to the issuance of a guarantee is designed to be flexible to meet the needs of the project, tribe, borrower, and lender. The OLG ensures flexibility in the program by employing several strategies, including using

- a two-step application process.
- the lender's standard loan documents.

- regularly scheduled conference calls coordinating the guarantee and loan closing processes.
- checklist-based applications without specific forms or application deadlines.
- plainly written loan guarantee documents.

Conclusion

It has been said that the Title VI program is the hidden gem of NAHASDA. Through HUD's 95 percent payment guarantee, lenders gain access to underserved markets, reduce default risks, and reduce

costs. Tribes/TDHEs obtain access to much needed capital while using pledged grant funds for the project, payment of debt service, or other eligible grant activities. Lender and borrower partnerships are built, which is reflected in the lack of any defaults during the 16-year history of the program.

For more information, visit the Title VI program web page or contact Robert Lamp at robert.a.lamp@hud.gov.

Articles by non-OCC authors represent the authors' own views and not necessarily the views of the OCC.

The Title VI Loan Guarantee Program: A Source of Hope on Pine Ridge

Valerie Mann, Senior Vice President, First National Bank of Gordon

For over 40 years, the First National Bank of Gordon (FNB Gordon), based in north central Nebraska, has had the privilege to serve as the bank of choice for the Oglala Sioux Tribe. The tribe's Pine Ridge Indian Reservation is located on approximately 2.1 million acres in the southwest portion of South Dakota, an area on the Nebraska border that is more than twice as large as Rhode Island, and home to 46,855 tribe members.¹

The Pine Ridge reservation covers all of Shannon County and parts of Jackson and Bennett Counties, with Shannon being the most populated. Shannon County is among the poorest counties in the United States, with a per capita income of \$9,226 in 2014, compared with \$26,311 for South Dakota and \$28,555 for the United States.² In the same year, 52.2 percent of Shannon County's population lived in poverty, compared with 14.8 percent in South Dakota and 14.2 percent in the United States.³

The Oglala Sioux people struggle with chronic housing issues. The tribe's official waiting list for houses has over 500 applicants, and most members have become discouraged and choose not to apply for tribal housing. The instability caused by the shortage of quality housing often results in overcrowded housing and



Housing Assistance Council

New homes on the Pine Ridge Indian Reservation

contributes to a range of health-related problems for those living on the reservation.

During its long-standing relationship with the tribe, FNB Gordon has used a number of government programs when extending loans and making investments to enhance the economic development of the reservation. The bank has used U.S. Small Business Administration loans, Bureau of Indian Affairs guaranteed loans, and U.S. Department of Agriculture (USDA) Rural Development and Farm Service Agency guaranteed and direct loan programs.

For example, FNB Gordon has worked with USDA Rural Development to provide interim funds to construct the administration building for the Oglala Sioux tribally designated housing entity (TDHE). The banking relationship with the tribe has produced several successful deals, including financing for the

construction of the commodity warehouse, the veteran's cemetery, and a new tribal nursing home. The bank has also provided banking services for several other tribal programs and businesses, such as the first motel on the reservation. These experiences provided the foundation for FNB Gordon's confidence in dealing with tribes and TDHEs.

Anatomy of a Deal

In 2013, when the Oglala Sioux Lakota Housing initially approached FNB Gordon regarding a loan from the U.S. Department of Housing and Urban Development (HUD) Loan Guarantee (Title VI) program⁴ for the construction of 45 three-bedroom single-family homes, the bank's officers hesitated. Despite the high concentration of tribal reservations in South Dakota, not a single Title VI loan had been made in the state. FNB Gordon is a small bank with its

¹ Pine Ridge Agency, Bureau of Indian Affairs, U.S. Department of the Interior.

² QuickFacts, Shannon County, South Dakota, U.S. Census Bureau.

³ Ibid.

⁴ For information, see the Title VI program web page.

primary expertise in ranching loans. Given FNB Gordon's history with the Oglala Sioux and the desperate housing needs, however, its officers started conducting due diligence to investigate whether this was a project the bank should undertake.

FNB Gordon's officers spent numerous hours talking with the manager of the Title VI program and other bankers who had completed Title VI loans. The bank hired a law firm that specializes in Title VI loans. FNB Gordon also worked with a brokerage firm to gain insight into how to structure these loans for sale to participating banks.

The advice and guidance provided by the legal and brokerage firms was essential for FNB Gordon to successfully complete the application, receive approval of the loan guarantee, and close the loan. FNB Gordon sold the guaranteed portion of the loan to Native American Bank of Denver at a premium and collected a servicing fee. There was also an origination fee. As a participating bank, Native American Bank provided useful insight into the structuring and feasibility of the loan as well as ongoing monitoring of the loan. FNB Gordon retained the unguaranteed portion of the loan, secured by cash collateral.

In June of 2014, FNB Gordon's officers attended an Office of the Comptroller of the Currency (OCC) minority banks conference in Dallas, Texas, to gather further insight and discuss the Title VI program with other minority bankers and OCC staff. The officers worked with FNB Gordon's OCC portfolio manager regarding undertaking this new product and its implications for the bank.

Currently, construction is nearing completion and is on track toward substantial completion by October of 2016, as scheduled. The project has required massive additions to the infrastructure on the reservation. The bank has retained an outside construction consultant to perform monthly inspections of the sites. FNB Gordon attends monthly budget and construction meetings.

Lessons Learned

Midway through the project, the bank learned that the project's infrastructure costs were higher than projected by the tribal consultants. Part of this was due to the lack of basic infrastructure on the reservation; on many of the sites, the houses were located in the middle of former wheat fields or cattle pastures. Roads, water lines, septic systems, light poles and electricity, phone lines, and complete landscaping had to be developed.

In the future, hiring an engineering consultant during the application process will be part of FNB Gordon's underwriting procedure for Title VI loans. Verification of the proposed construction figures' validity will assist the tribal entities in budgeting properly for the projects. In areas where basic infrastructure is lacking, this will be critical and result in more accurate planning.

To ameliorate the impact of the unexpected increase in project expenses, the bank negotiated a solution with the TDHE and federal and state government agencies. FNB Gordon augmented the Title VI loan guarantee with a cost reimbursement grant and low-interest loan from USDA Rural Development, as well as a zero-payment loan from the South Dakota Housing Development

Authority. This particular transaction could lead potentially to the design of a new framework for Title VI loans where the USDA funds infrastructure expenses through grants or low cost programs, while HUD finances the housing construction through its guarantee program. FNB Gordon hopes to see the synergy created between HUD and Rural Development continue in future projects.

Conclusion

This Title VI loan has been beneficial for both FNB Gordon and the tribe. It will provide additional housing for the tribe and create stability. The loan has also been a way for FNB Gordon to earn non-interest income and tax-free interest income. The bank is well secured. The guaranteed portion payments can be subsidized by the income stream provided by the same organization providing the guarantee in the case of a default. The Title VI program office works hard to ensure the success of the projects and has been proactive in working with the bank's officers. For FNB Gordon, working with HUD has been a positive experience. The cooperation between HUD and USDA on the loans will maximize the use of available funds and allow for more projects in the future.

FNB Gordon's officers are satisfied by the decision to take advantage of this loan product and look forward to the next opportunity in this market.

For more information, contact Valerie Mann at fngord.valerie@gpcom.net.

Articles by non-OCC authors represent the authors' own views and not necessarily the views of the OCC.

Fostering Economic Growth in Native American and Other Underserved Communities

Tish Secret, Chief Community Reinvestment Act Officer, Bank of America

Today, more than 20 percent¹ of the nation's Native American² population lives on tribal lands often remote, rustic areas, frequently without running water, electricity, wired telephones, cell coverage, or Internet access, where living conditions accommodate only the most basic needs. This, paired with a shortage of decent affordable housing on reservations, has created overcrowding in challenging conditions.

These issues have persisted for many years. They are among the reasons why Bank of America continues its long-standing commitment to community development for low- and moderate-income (LMI) individuals and neighborhoods, including promoting neighborhood revitalization in Native American communities.

In 2009, Bank of America renewed this commitment with a 10-year, \$1.5 trillion community development goal of lending and investing in LMI communities, including \$50 billion dedicated to help build up rural and Native American communities. From January 2009 through December 2015, approximately \$797 billion has been funded as part of the community development goal, including \$35 billion supporting rural and Native American programs. Leveraging its expertise



Bank of America

Pueblo of San Felipe construction crews build homes. Construction jobs created by Bank of America's investment.

in credit, banking, and investment management, Bank of America has delivered much-needed loans through nonprofit organizations, such as community development financial institutions, community development corporations, financial intermediaries, and tax-exempt entities that promote neighborhood revitalization on Native American land.

Lending and investing over the past few years has been challenging, however, due to the economic and housing market downturn, decreased credit demand, and tightened regulatory requirements. While this has caused some banks to abstain from lending in Native American communities, Bank of America has leaned on its experience and

relationships with Native American tribes to continue to provide support.

Leveraging Resources

During the past five years, Bank of America has provided 12 Community Reinvestment Act qualified loans and 28 investments totaling \$69 million to tribes and organizations serving Native Americans. The bank has also provided eight community development services, such as financial literacy training to attendees at the National Indian Youth Leadership Project in Gallup, N.M., as well as board leadership and service to the Four Directions Development Corporation. These efforts have helped revitalize communities on reservations and

¹ "Profile: American Indian/Alaska Native," U. S. Department of Health and Human Services, Office of Minority Health.

² In the United States, "Native American" refers to a person belonging to one of three primary groups: Native Hawaiians, Alaska Natives, and American Indians (residents of the contiguous United States). The Title VI program, highlighted in this *Investments*, is applicable to federally recognized tribes and tribally designated housing entities located within Alaska and the contiguous United States. Therefore, "Native American," in this context, refers only to Alaska Natives and American Indians.

tribal lands across the country, providing housing to relieve overcrowding and job development opportunities for those hired to construct the homes on-site.

Through these lending experiences, Bank of America has gained valuable knowledge in how to address challenges specific to Native American communities, including navigating their unique legal status. Each Native American tribe exists as its own sovereign nation and has the power to make and enforce laws affecting business, property, secured transactions, and the conduct of its tribal members and non-members on the reservation. When considering a tribe as a borrower, lenders must also consider who in the tribal government has the power to act on behalf of the tribe, as well as the risk that governmental changes may affect loan repayment.

Because of unique challenges such as these and other unanticipated issues that can often arise as the relationship deepens and progresses, it is helpful for a lender to consider all of the resources that can be brought to bear in addressing a situation.

Maria Barry, a Bank of America Merrill Lynch Community Development Banking executive, credits the bank's holistic offerings in helping navigate these challenges successfully.

“The issues facing Native American communities today

have, unfortunately, been around for a long time,” said Ms. Barry. “And while the challenges aren't necessarily new, we felt, based on our deep expertise in community development lending, that it was important to approach the needs of each community differently—acknowledging that, while the common denominator was often lack of access to traditional financing, the solution for each community might vary.”

The following two projects illustrate Bank of America's lending approaches to help revitalize neighborhoods in Native American communities.

Pueblo of San Felipe

The Pueblo of San Felipe is a federally recognized sovereign nation in New Mexico. Over 60 percent of the community members on the reservation fall into the LMI category, with more than half of all families living in substandard housing.

In 2011, the San Felipe Pueblo Housing Authority (SFPHA), a tribal entity of the pueblo, applied for housing rehabilitation under the Indian Community Development Block Grant Program (ICDBG) and the Indian Housing Block Grant (IHBG) Program, both administered by the U.S. Department of Housing and Urban Development (HUD).³ To be approved for funding, a tribal entity must undergo an extensive



Bank of America

Pueblo of San Felipe construction crews add landscaping to a home funded by Bank of America through the Title VI program.

review process that includes an audit of its finances, an environmental assessment, receipt of housing plans, and confirmation that it is in good standing with the Bureau of Indian Affairs. When Bank of America was introduced to SFPHA, the entity had been approved for a project loan that used HUD's Title VI Loan Guarantee (Title VI) Program.⁴

Title VI loans were established to encourage banks to lend on tribal land by providing a 95 percent principal and interest guarantee from the federal government. After an initial lender backed out, Bank of America leveraged its long-standing experience with these communities to quickly fill the gap, making a \$2.8 million project loan to SFPHA through the Title VI program.

³ For more information, see the ICDBG program web page and the IHBG program web page.

⁴ Refer to 25 USC 4101 et seq. and 24 CFR 1000.

The pueblo project included 28 houses financed by Bank of America in 2011 and successfully paid off in 2013, creating in 2015 a second phase of financing for 21 additional houses. All of these homes will be part of the pueblo's Black Mesa View subdivision. The loan also contributed to economic growth within the community by creating 70 jobs.

“Bank of America was the only lender that took the time to work with us through what can be a long and complex process, and our community has benefitted tremendously from their willingness and dedication to help,” said SFPHA Executive Director Isaac Perez. “The bank’s financing has provided homes for nearly 50 families in the community so far, with more homes expected to be financed by the bank and built in 2016.”

The project demonstrates the necessary level of commitment in these situations for guaranteeing success, from both the tribal community seeking to secure financing as well as the lender working to ensure that the community’s financial needs are met.

Tohono O’odham Nation

The Tohono O’odham Nation is a federally recognized tribe in southwestern Arizona. With 28,000 members and a land base approximately the size of Connecticut, the Tohono O’odham Nation is the country’s second-



Bank of America

A typical Tohono O’odham Nation home in Sells, Ariz., financed by Bank of America.

largest reservation in both population and geographical size.

Similar to New Mexico’s Pueblo of San Felipe, the nation had a long housing renovation waiting list of LMI families living in substandard housing. In 2014, the Tohono O’odham Ki:Ki Association, the tribally designated housing entity for HUD purposes, received a \$2.5 million Title VI guaranteed loan from Bank of America. The association also received \$4.2 million in equity awarded through the Low-Income Housing Tax Credit program, the federal government’s primary program for encouraging investment of private equity in the development of affordable rental housing for low-income households. Following receipt of the tax credits, the tribe asked the bank to manage a second loan, demonstrating the strength of the bank’s relationship with the tribe. Bank of America purchased the tax credits as the investor, and the combined funds went toward the renovation of 60 single-family houses located on tribal land in Sells, Ariz.

Lessons Learned

These case studies, as well as the 10 loans that Bank of America provided to Native American reservations and LMI communities, offer useful insights that can be leveraged when working with this unique type of borrower. The lender must demonstrate a strong commitment to understanding the client’s distinctive governance structure, its challenges in the face of multiple stakeholders, and its needs when seeking to secure funding. Taking the time to develop and deepen the relationship often translates into valuable rewards.

For more information, contact Tish Secrest at tish.secrest@bankofamerica.com.

Articles by non-OCC authors represent the authors’ own views and not necessarily the views of the OCC.

Resources

Federal Government Resources

Center for Indian Country Development, Federal Reserve Bank of Minneapolis

Community Development Financial Institution Fund

Indian Loan Guaranty Program, Indian Affairs, U.S. Department of the Interior

Office of Native American Business Development, Minority Business Development Agency, U.S. Department of Commerce

OCC Community Affairs Publications

OCC Native American Banking Resource Directory

Office of Native American Programs, U.S. Department of Housing and Urban Development

Industry Resources

The National Congress of American Indians

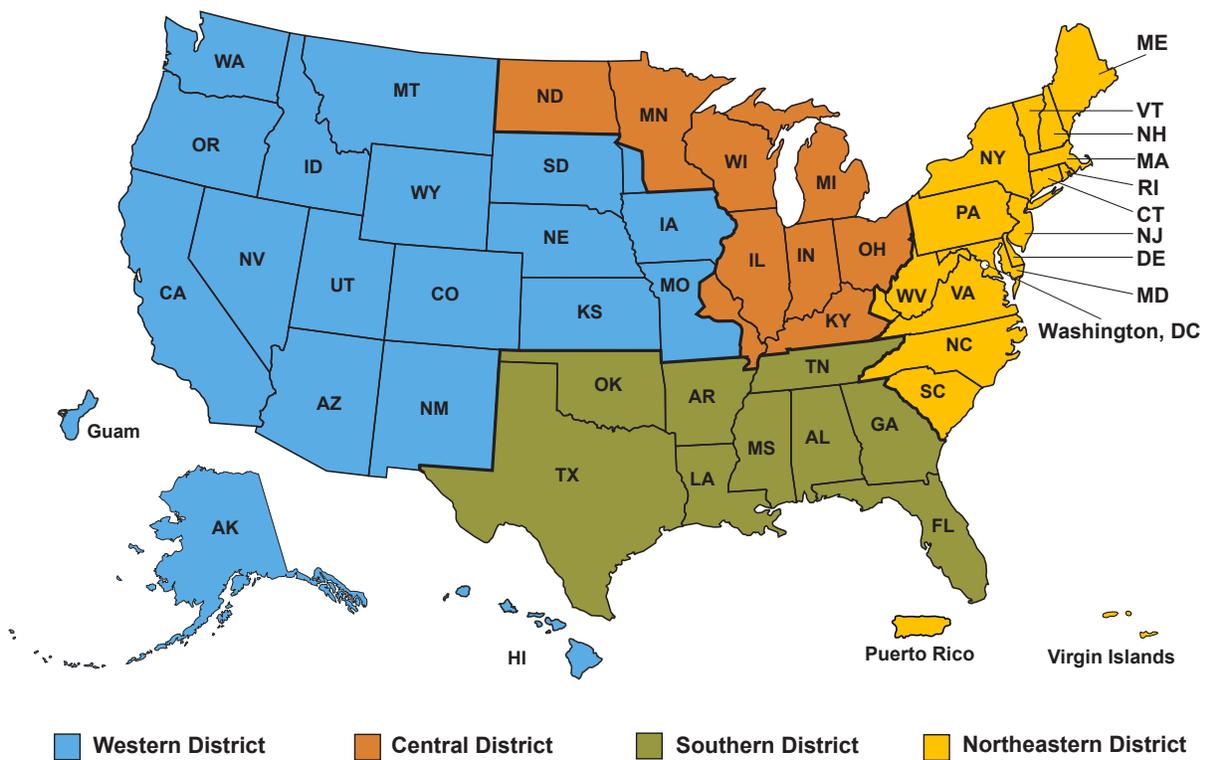
The Harvard Project on American Indian Economic Development

The National Center for American Indian Enterprise Development

Native American Finance Officers Association

The National American Indian Court Judges Association

Community Affairs supports the OCC's mission to ensure a vibrant banking system by helping national banks and federal savings associations to be leaders in providing safe and sound community development financing and making financial services accessible to underserved communities and consumers, while treating their customers fairly.



E-mail and telephone information for the OCC's District Community Affairs Officers is available at www.occ.gov/cacontacts.

Community Affairs

Office of the Comptroller of the Currency
Washington, DC 20219
(202) 649-6420
www.occ.gov/communityaffairs
www.occ.gov/cacontacts