TESTIMONY
OF
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DEPARTMENT OF THE INTERIOR
BEFORE THE
UNITED STATES SENATE
COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS
ON
ADDRESSING THE HOUSING CRISIS IN INDIAN COUNTRY:
LEVERAGING RESOURCES AND COORDINATING EFFORTS

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Good morning, Mr. Chairman and members of the Committee. My name is Jodi Gillette; I am the Deputy Assistant Secretary for Indian Affairs. I am here today to provide the Department of the Interior's (Department) testimony on the Bureau of Indian Affairs' (BIA) role in assisting individual Indians in the pursuit of homeownership. While we recognize that the Department of Housing and Urban Development (HUD) has primary responsibility for the development of new housing for the Federal Government and for development of affordable housing in Indian Country, my statement will provide some background information on the BIA's Housing Improvement Program (HIP). I will also discuss the current process and procedures for obtaining a Title Status Report (TSR) within the BIA, and our efforts to promote homeownership.

Housing Improvement Program

The HIP addresses the Department's strategic goal of serving Indian communities by improving the quality of life of eligible Indians by helping to eliminate substandard housing and homelessness in or near federally recognized reservation communities. The program includes housing repairs and renovations of existing homes and construction of modest homes for families who do not own a home but have ownership of or lease sufficient land suitable for housing. The BIA policy and methodology ensures that the neediest of the needy are provided housing assistance by implementing eligibility criteria that is identified in 25 C.F.R. Part 256.14.

The HIP is 95 percent contracted or compacted by tribes. Tribes participating in the program must comply with regulations found in 25 of C.F.R. Part 256 (Housing Improvement Program).

On September 28, 2004, the BIA entered into a Memorandum of Understanding with the Departments of Agriculture and HUD for the purpose of establishing a framework for partnering among the agencies to improve assistance to American Indians and Alaska Natives in the development and operation of affordable housing on trust or restricted lands, reservations, and in approved service areas. Our goal is to assist tribes in improving their living environment through the delivery of quality housing and in resolving issues that delay processing of mortgage loans to eligible Indians.

Land Title Grant Procedures

The BIA has Land Titles and Records Offices (LTRO) located at eight of its twelve regional offices: the Alaska Regional Office in Anchorage, Alaska; the Eastern Oklahoma Regional Office in Muskogee, Oklahoma; the Great Plains Regional Office in Aberdeen, South Dakota; the Northwest Regional Office in Portland, Oregon; the Pacific Regional Office in Sacramento, California; the Rocky Mountain Regional Office in Billings, Montana; the Southern Plains Regional Office in Anadarko, Oklahoma; and the Southwest Regional Office in Albuquerque, New Mexico. Each LTRO is the official Federal office for recording all title conveyance and encumbrance documents for Indian lands within the LTRO's jurisdiction. The LTRO is also the Federal office for the examination and certification of title to Indian trust and restricted lands. The official Federal certificate of title to Indian lands is the Title Status Report (TSR). The TSR reports the legal land description, the current ownership, and the recorded liens and encumbrances on ownership for a specific tract of Indian trust or restricted land. The issuance of TSR's for mortgages is the top priority of the Land Title and Records Offices. We strongly support programs that improve or develop housing on Indian lands for Indian people.

The certified title is required by the lending institution to verify that the loan applicant has acquired a leasehold interest on Tribal land or that the loan applicant has total ownership of the trust land, and that the title is clean and clear of any liens against the property so the loan application process can move forward.

Once the mortgage has been approved using the BIA-generated TSR, the document is sent to the LTRO for recording purposes with a request for a second certified TSR. HUD requires the subsequent TSR showing the mortgage as an encumbrance to the Title before the loan is guaranteed. Some lending institutions also require this additional TSR before releasing the funds.

There are very few differences in the production of TSR's from location to location. When there are, often those differences are dictated by the particular lending institution or federal agency providing the loan. Requirements and standard operating procedures vary from federal agency to federal agency. The BIA LTRO's strive to accommodate these differences, as we support the mission to provide home loans to Indian people. Private lending institutions also have varying requirements and procedures, consequently our process for providing TSR's may vary to accommodate the lender.

Since the inception of the Federal loan programs, the mortgage requests for certified titles have been a high priority for the LTROs. We have made significant changes to our title program over the past several years aimed at improving our ability to deliver in an accurate and timely manner in all aspects of our Indian land title operations, including the processing of TSRs. Previously, the procedure to request a TSR for mortgage purposes required that all requests first go through the Agency Superintendent at the relevant BIA office through the Regional Director on behalf of the tribal member. Recently, the BIA Division of Land Title and Records (DLTR) and its Land Titles and Records Offices changed their business model from a passive model or "examine-and-certify-title-only-when-requested" to a proactive business model of "title-on-demand" that requires the title to all Indian trust and restricted lands be maintained in an up-to-date certified status at all times. In December, 2011, the DLTR redesigned the TSR to improve its readability

and to make it similar to commercial title products. The redesigned TSR is produced and certified as a completely digital title report that is stored in a TSR repository as part of the Trust Asset and Accounting Management System (TAAMS). The certified digital TSR can be retrieved from TAAMS as an electronic digital image file that can be printed and mailed or can be attached to an e-mail message and sent directly to the TSR requestor, whether the requestor is a BIA agency office or a mortgage lender. Beginning in January 2012, the LTROs began the process of producing digitally certified TSRs for more than 212,000 tracts of Indian trust and restricted land. The title ownership to each tract of land is re-certified and a new digital certified TSR produced after any conveyance of ownership, whether by deed or probate order. We have additional changes planned in the near future which will further improve the quality of the data in our title system, thus improving our overall product.

In the 2004 MOU between the Departments of Housing and Urban Development, Agriculture, and the Interior, the BIA's Realty and LTRO programs agreed to provide the necessary products and services within 30 days to keep the process moving forward to assist Indians in becoming homeowners. Lenders can utilize the information in those TSR's to insure that the lands are free of liens and are available for mortgaging.

The BIA Division of Land Titles and Records has partnered with the HUD Office of Native American Programs to provide training to lenders in order to educate the lenders concerning the title process for Indian mortgages, and to facilitate and improve the efficiency of the mortgage process. Anytime a mortgage is approved it has the potential to improve the quality of life for Indians. As stated earlier, requests for title status reports for mortgage purposes are and will remain a high priority for the Bureau. The implementation of TAAMS has increased efficiency and cost savings in the management of Indian lands and in the production of TSRs for mortgage purposes.

Proposed Leasing Regulations and the HEARTH Act

Indian Affairs is in the process of revising leasing regulations as part of the effort to return control of land use decisions to tribal management and to streamline surface leasing processes to promote homeownership, economic development, and clean energy. The comment period on those proposed regulations ended over a month ago, and we anticipate issuing final regulations later this year.

In addition to proposing revisions to existing leasing regulations, the Department strongly supports the Helping Expedite and Advance Responsible Tribal Homeownership Act (HEARTH Act), both the House and Senate versions, H.R. 205 and S. 703 respectively. The HEARTH Act would restore tribal authority to govern leasing on tribal lands and to promulgate regulations for the governance of those leases, while preserving the statutory tools available to the Secretary for carrying out the trust responsibility to tribes. This model ensures that tribal regulations provide a mechanism for environmental review and public comment, exempting the Secretary for liability from claims by parties to the lease, and authorizing the Secretary to cancel a lease that is not in accordance with approved tribal regulations.

Both versions of the HEARTH Act would amend certain sections of 25 U.S.C. § 415 (the Indian Long-Term Leasing Act) to permit tribes that choose to develop their own leasing program to approve and enter into certain leases without prior express approval from the Secretary of the Interior. Under both pieces of legislation, willing tribes would initially submit their own leasing regulations to the Secretary of the Interior for approval. Following Secretarial approval of such leasing regulations, tribal governments would process leases for tribal trust land at the tribal level, pursuant to their own laws, without a requirement for further approval of the Secretary. This has the potential to significantly reduce the time it takes to approve leases for homes and small businesses.

This concludes my prepared statement. I will be happy to respond to any questions you may have.