

Tribal Consultation for HUD Housing Counseling Agency Approval and Housing Counselor Certification Requirements, 2/4/20

Olga Mulherin: "HUD Housing Counseling Agency Approval and Housing Counselor Certification Requirements webinar." The webinar today will be recorded and training materials will be available on HUD Exchange in the next 10 days in the webinar archives. Materials will also be posted in the travel consultation page in the HUD Exchange. Prior to this webinar you should have received an email to link with to access the slides. If you did not receive the slides, please send a chat to the host and we will send a link to you.

If you experience any technical issues with your video, your audio, please use the chat feature on the right hand of your screen to send a message to the host and she will assist you. If you have feedback that you would like to provide, please also use the chat feature but be sure to select All Attendees, so that everyone can see your feedback. If you would like to provide verbal feedback, please type in, "I have a comment," in the chat box, and we will place you in a queue and you will be unmuted and prompted to speak.

Please be sure to include your native nation or tribal affiliation when prompted to provide your verbal feedback.

It is my pleasure to introduce David Berenbaum, the deputy assistant secretary for the Office of Housing Counseling.

David Berenbaum: Thank you for joining us today for the United States Department of Housing and Urban Development's Office of Housing Counseling tribal consultations for certification requirements. My name is David Berenbaum, and I am the deputy assistant secretary for housing counseling. Welcome.

Amendment to the housing and urban development act of 1968 specified new requirements for our program and how we engage with counseling agencies. We believe that these statutory changes have implications for certain HUD native American programs. HUD is committed to engaging with tribal leaders through consultation on this issue to ensure effective access to counseling services.

The mission of the Office of Housing Counseling is to help families to obtain, sustain, and retain their homes. We accomplish this mission through a strong network of HUD-approved housing counseling agencies and counselors. Housing counselors provide unbiased assistance to help consumers resolve their housing problems or meet their needs. To date, our impact in tribal communities leads extensive opportunities for greater engagements.

In fiscal year 2019, we counseled over 6200 households. And through the third quarter of fiscal year 2020, agencies have served over 3600 households. Today we are inviting your feedback to determine how to apply these housing counseling program eligibility and certification requirements for tribal entities. And determine how to best implement what's called the Section 106 statutory requirements, as applied to the Indian Housing Block Grant Program and the Indian Community Development Block Grant Program.

At this time, I'd like to offer my appreciation to HUD's Office of Native American Programs, or ONAP, for their partnership in planning today's consultation.

Let's go to the next slide.

Part one of the agenda, or the first thirty minutes, will cover an overview for today, including, first, the goals for the tribal consultation, and then second, will provide background on the housing counseling program.

Next, a third section of this area will provide information about HUD's Housing Counselor Certification Rule, followed by information about Program Eligibility and Approval Requirements, and resources and other information.

Then, for the next 60 minutes, we'll move to the Feedback Session, the real crux of today's session.

We recognize and respect the fact that there are extremely successful existing and ongoing financial empowerment and related counseling initiatives in tribal communities, and it is our hope to explore how we can augment the role of housing counseling through this consultation. Please actively engage with us today. You may also submit written comments. Feedback is being collected through March 19 of this year.

Let's go now to the next slide.

It's my pleasure to introduce our presenters and panelists. Jad Atallah is the director of the Office of Performance and Planning at the Office of Native American Programs.

Jerrold Mayer is the director of the Office of Outreach and Housing Counseling at the Office of Housing Counseling.

Olga Mulherin and Deborah Webster will be our facilitators, and they are both Community Compass Grantees.

Jad, let me turn it over to you, and thank you again for participating, everyone.

Jad Atallah: Hello, everybody, hopefully you can hear me okay. My name is Jad Atallah, the Director of Performance and planning in the Office of Native American programs at HUD. Thank you all for joining us today for the webinar. Need to adjust this light a little bit on my face.

Thank you all for joining us today. We in the office of Native American Programs really are here to provide as much support as we can to the office of Housing Counseling as they pursue this rulemaking and engage in this tribal consultation, and we're happy to partner with them.

As you all know very well, we have a HUD tribal consultation policy, where anytime the Department is considering any major policy changes, that have a substantial impact on tribes, that HUD consults with tribes and tribal leaders to ensure that we're taking your feedback in and make sure we're designing programs and requirements to fit the needs of your communities, and your programs and the communities you serve.

So really this is an effort by us to present you what HUD is considering, give you an idea of the history of these statutory and regulatory requirements, and where we're going with these, and what we're considering in terms of future rulemaking and really to get as much input from you all, to make sure that whatever regulations we develop work for your communities.

I think for our purposes, as you all know, we have two major programs -- you can probably go to the next slide, please.

We have two major programs under the Dodd-Frank Act that got enacted back in 2010, that got covered by Housing Counseling Certification requirements. The first is the Indian Housing Block Grant Program, where, under the Housing Services Activity, housing counseling can be provided using IHPG funding. The second is the Indian CDBG program, which is a much smaller, less common use under ICBPG, but the program doesn't allow funds to be used for public services, and those public services could certainly include different kinds of housing counseling.

So what Dodd-Frank did was, it enacted into law a requirement that when housing counseling is done under or in connection with HUD programs, that the housing be done in a manner that's approved by HUD, by certified counselors and counseling. The statute lists a bunch of different programs that are covered by this requirement and the two ONAP tribal programs that are covered by the Indian Housing Block Grant Program and ICDBG. The native Hawaiian programs were covered as well, but we've already done rulemaking on that and so when the Office of Housing Counseling did their rulemaking to implement this Dodd-Frank requirement years ago, they did not impose these requirements on the tribal programs pending tribal consultation with tribes.

Now we are at a point where the Office of Housing Counseling is moving forward with this rulemaking and they do want to consult, get as much of your feedback as they pursue this rulemaking. So I think our message from ONAP is, we're here to help, we will support the Office of Housing Counseling, but I implore all of you to give us as much feedback as you can and let us hear your voice. And if you have any concerns or ideas, or questions, please feel free to let us know and ask us in the Office of Housing Counseling.

With that I'll turn it over to Jerry.

Jerrold Mayer: Well thank you, Jad, and thank you to all the participants who are joining us today, and also for the opportunity to consult with you. This slide shows you some of the underlying legislation and rules that we work with, that are the foundations for our Housing Counseling Program, and I especially want to call your attention to Section 106 of the Housing and Urban Development Act of 1968, which sets forth the types of agencies that can participate

in our program, especially those local government entities as well, and we'll talk about that a little bit more on one of our later slides.

The rule that really governs the housing Counseling Program is 24 CFR, part 214, and I encourage everyone to take a look at that. That one is very important, it sets forth most of our program guidelines. Just as an overview, right now we have about 1700 housing counseling agencies in our program, and some of the things that we do is we administer grant programs, and we do some monitoring of our agencies to ensure quality. Right now we are involved in a process of certifying all of our housing counselors nationwide. Next slide, please.

So a little background on that certification. Back in December of 2016, HUD published its final rule on housing counselor certification, and that provided that within 36 months of the availability of the certification exam, that housing counseling could only be provided by HUD-certified housing counselors, that are working for a HUD-approved or participating agency. And this applies to all housing counseling required by or provided in connection with a wide variety of HUD programs.

Now in December of 2020, we published another rule that was recently finalized, and that bumped out the final compliance date for housing counselor certification to August 1 of 2021. So it gave a one-year extension, and that was largely due to COVID. Next slide, please.

Now, I think it's very important for our discussion to define what a HUD-certified housing counselor is, and what are the elements of housing counseling. Now, a HUD certified housing counselor is a housing counselor who has passed the HUD certification examination and works for a HUD participating agency.

Now, to define housing counseling: it is independent, expert advice customized to the need of the client to address their housing barriers and help them achieve their housing goals. A typical unit of housing counseling, as we call it, includes five elements.

There is the client intake, which gathers basic client information, economic information, demographic information. Then the counselor works out a budget with the client to help them get from where they are now to where they need to be economically to achieve their housing goal.

Then there is financial and housing affordability analysis to make sure that their goal is in line with what they worked out in their budget. There's an action plan that helps them with the various milestones and steps they need to follow to achieve their housing goals, and of course, in the case of reverse mortgage, there is no action plan, because, basically, it's to obtain a reverse mortgage.

Finally, a reasonable effort to follow up with the client and determine what the outcomes were in their quest for that housing goal. Next slide, please.

So what is not housing counseling is also important to define. Now, if you're just giving out housing information, or it's a placement or referral service that doesn't include those five elements, or all of those five elements, then it may not be housing counseling. And certainly

routine administrative activities that are going on in various programs may not be housing counseling, because they don't include all of those activities. Case management that is part of a larger program and again doesn't include all those elements is not housing counseling. And fair housing advice and advocacy such as processing complaints or filing claims wouldn't include all those elements and so is not considered housing counseling.

Finally, this one is very important to understand. Group education that does not include any individualized housing counseling services is also not considered housing counseling. In group education, it's a classroom setting so no one is having that one-on-one opportunity to make out that action plan and budgeting and things like that. So group education in and of itself and by itself is not considered housing counseling. Next slide, please.

So let's talk about the entities that can participate in HUD's program. Now, a tribal entity can participate in HUD's program if it is a 501(c) organization, has that tax-exempt certificate from the IRS. Or if it is designated as the state or local government entity that's authorized to provide housing counseling. For instance, like a housing finance agency, would fall into that kind of category.

Now, the thing that I want to call your attention back to is that Section 106 of that 1968 Act. Because that was very important to our discussion today because tribal entities, these and other tribally designated entities, were not specifically cited in that 1968 act. And your comments on this are very important to us. Because as it stands right now, these, that you see on the screen, the 501(c) or the designated state or local government entity, are the only two routes for which tribal entities can participate in our program.

Next slide, please.

So some of the approval criteria, should an organization put in an application with us, for approval. We look at experience, we want to see the administration of a housing counseling program or something that's very substantially similar, for at least one year. We also want to see that they are a community-based organization. Functioning within the geographical area that they propose to serve. We're looking for those community contacts, the interdependence with various other organization and entities in the community, we're looking for that track record.

And also, do they have the resources to carry out a housing counseling program? Specifically, the financial capacity, the administrative capacity; do they have everything they need to see at least 30 clients during the first year? Next slide, please.

And now I'm going to turn the presentation and the mic over to Olga for the feedback session.

Olga Mulherin: Thank you, Jerry. So as Jerry just mentioned, we are now moving into the feedback session of this webinar. I'd like to remind folks that they can submit feedback via the chat. Please remember to selection All Attendees on the dropdown. And if you'd like to provide some verbal feedback, please state, "I have a comment," in that chat box, and we will put you in the queue and prompt you when it's your turn to speak. When speaking, please make sure you provide your native nation or your tribal affiliation.

I also want to let everyone know that we are considering all feedback that's being provided, whether it comes through the e-mail box of tribalconsult@HUDexchange.info, through the chat and written format, or verbally. For the purpose of this session, we do want to hear from as many folks as possible, so we will prioritize verbal feedback first, and then we'll move on to written feedback. And with that I'd like to turn the session over to Deborah Webster, who will facilitate this.

Deborah Webster: Depending on where you are, good morning or afternoon. I wish you and your family and all members of your community well, and I pray for your health and safety at this time. This begins the feedback portion of the consultation session. The HUD Office of Housing Counseling and the HUD office of Native American Programs have devised five questions for you to consider and provide feedback on the housing counseling agency approval process, and the housing counselor certification requirements.

Bear in mind, these questions are only intended as a framework and not to limit your thinking or feedback on this final rule or the housing counseling program. The HUD offices are interested in hearing your ideas, your solutions, as well as the issues and challenges you face. We want to thank you for participating in this important exchange. We have approximately one hour to obtain feedback in this session. If you are speaking, please be aware of the time limits, because we would like to give people -- as many participants a chance to speak as possible. If there are no questions, let's begin.

Chantel, are there any verbal comments in the queue?

Chantel Key: One. Dave, you can now speak now.

Dave Castillo: Okay, thanks. I am homeschooling today, so I'm going to try to keep this brief. I expect to be interrupted. I also don't have my camera on. So I submitted my comments in written format and, I just wanted to, I think, recognize the comments that were made in the previous session in relation to -- there it is. Hold on, buddy. Sorry.

So I think one of the issues is that, you know, we've got organizations that I think are really well-intentioned, like neighbor works organizations, and others that provide services in areas near tribal communities. But I think over the years, 20-plus years of working with non-native, non-profit, or other intermediaries, is that that shows is that a lot of times those organizations provide good services to rural non-populations, but really fall short when it comes to trying to expand that and serve tribes, particularly because the unique nature of tribal lands and also tribal governance.

So I think it's not exactly a novel concept, right, to say, well, we can have a certified counseling agency that could then provide by extension services to tribes. Again, an interesting and not novel concept, but its implementation, in my experience, has not been successful. Or sustained, with quality outcomes.

I can point to the Department of Energy and Weatherization Assistance Program, which is kind of where I started my career, and then obviously we were working with intermediary organizations, and other CDFIs, which, I failed to -- I failed to identify myself earlier.

Dave Castillo, CEO for Native Community Capital. We're headquartered in Laguna, Pueblo, with offices in Arizona serving tribes throughout the Southwest. And so where we have other intermediaries, particularly mature organizations that have defined programs that are compliant, you know, the idea of serving maybe Hispanic farm workers, is one approach that I think, the idea is, well, it could just be replicated in any country, and often it cannot. Here are a few of the reasons why I think we've got a concept that we'd like to advance, and that is to create a stand-up, a single-purpose, nonprofit, Native-led organization that can serve as a regional intermediary, as opposed to a national intermediary.

And the reason that would be so important is because of the limited deal flow in most tribal communities for homeownership. I detail that in my written comments. But the ideal would go as such. I think what we could do is, essentially, create and maybe replicate what you find in rural dental, tribal dental clinics, or rural-tribal water, wastewater programs. In both those cases, you have a licensed professional who provides oversight, quality control, consulting, advisement, and oversight, but on a limited basis.

And so basically, in both those situations it doesn't mean that when the doctor or the certified wastewater treatment plant operator that all services stop. Quite the opposite. They continue and those individuals, those paraprofessionals that are on hand can deliver the baseline services and even more complex services under the oversight of that professional. So I would think that we could do something similar, where we have a certified homeownership counselor, in Albuquerque or Phoenix, and then that individual dispatches to tribes when they're needed and provides training for trainers in those tribal locations.

The reason why that's important -- and they may or may not be certified -- and the reason why the tribal individuals, the folks working for a tribal housing entity or a Native CFI, or some other department in the tribe, may not always want to be completely certified and not be able to maintain their certification, is primarily because of the number of homeownership opportunities in any one specific tribal community during any portion of time; specifically, what's noted in the rule of serving 30 individuals in a 12-month time period. That just may not be feasible in many small tribal or Pueblo communities. So in order to have economies of scale and be able to scale the effort, it really should be across the regional area.

So again, I submitted that in written form. I think, generally speaking, I think there's some other comments that will come in from Fort Belknap that talk about the idea that a lot of these polices were developed without tribes in mind and then to try to implement them in a tribal setting is really inappropriate. Rather, the question should be, given the uniqueness of tribal communities, can the rule really address adequately the needs of tribal communities. So it's just another way of looking at it.

But again, you have my written comments and I appreciate comments that have been made by my colleagues and others in the previous session and that I expect will be forthcoming for this session. Thank you.

Deborah Webster: Thank you. Chantel, is there another comment in the queue?

Chantel Key: Yes, we do have another one. Robin, you have been unmuted.

Robin Thorne: Can everyone hear me? Hi. This is Robin Thorne, vice-president of asset management and training for RTHawk Housing Alliance. We are a Native-owned consulting firm that works exclusively in Indian country, on their affordable housing projects. The issue of the housing credit counseling certification has arisen for many of our clients over the last year, because in addition to the Indian housing block grant funds that the tribes utilize to support and sustain their affordable housing programs, which include homeownership programs. They pair those funds with things like the Low-Income Housing Tax Credit program and the Housing Trust Fund program and the HOME fund, and the requirement to have a certified counselor has arisen as part of compliance requirements.

In reviewing the original program that's been instituted, there's several items that really don't fit well into, in our option, the tribal housing community. The program that NAIHC currently has pathways to homeownership is structured specifically for tribally designated housing entity to train members of the staff at the local level through the housing authority staff to work with the applicants within the individual tribes who have either expressed an interest in homeownership or who are currently actively involved in a homeownership program that the tribe may have.

Those counseling that Pathway to Homeownership has a trainer program, which allows the housing authority staff to become trained to then offer the services on an individual basis, the requirement of the rule, so that they can sit down and do long-term planning with the individual households to prepare them for homeownership.

The unique aspects of homeownership in Indian country involve things like tribal trust land. The ability to secure financing for tribally controlled land sometimes being limited only to, for example, the section 184 program for mortgages. In order to have a program that would effectively serve Indian country, you have to have housing credit counselors that not only understand the unique programs that are available only in Indian country, but also to understand the unique financial makeups of our families and the obstacles that they have to overcome in order to qualify and be adequately prepared to become homeowners.

So the kind of program needs to be individualized and, as Dave was pointing out, all of the unique characteristics that you see in rural communities, but additionally the unique characteristics you see in Indian country need to be addressed for the final rule for the Indian country requirements.

I know that Tony Walters at NAIHC is on the line today, and he can provide more information with regard to the pathways to homeownership program. But it seems to me, having worked in the industry for over 18 years, and working directly with program involving homeownership as

an end goal, you have to incorporate the requirements of tribal trust land, the financing programs that the tribes currently work within, as far as being able to make homeownership available, and then the uniqueness of the population that you're serving. Thank you.

Deborah Webster: Thank you, Robin. And I just want to remind folks, if we could be mindful of the time that we have, and so, as you make your comments, which are all very important, just be mindful that we want to get as many people to speak as possible. Thank you.

Chantel Key: Tanya, you have been unmuted.

Tanya: All right. Thank you for the opportunity to speak. I really tried to follow the framework of the questions posed, but I appreciate the opportunity to sort of think outside the box. I felt like the topic of context is really important here.

So I wanted to begin there. In 1968, when the housing counseling program was created, tribal nations at that time were still reeling from the Indian termination era, and the negative effects of the Dodd Act and flawed policy. Our nation as a whole had not yet fully embraced self-determination. It was not until 1996, 28 years later, that NAHSDA was established. And today, another 25 years after NAHSDA and 53 years after the housing counseling program was created, we're finding that HUD's generic utilization of a counseling program contrived 28 years before tribes had the tools to develop our own programs is wrought with issues.

The application and enforcement of certification requirements contrived ten years ago under Dodd-Frank act creates exactly the problem that the 2010 Financial Reform Act was intended to solve, because it places tribes in the position to work with non-native counterparts entirely unfamiliar with tribal land processes, and to forego housing and homeownership development due to the excessive expense to build their own facility, function and report a full year prior to funding, obtain specialized training, and ensure stability of staffing to deliver the key five elements of the effective housing counseling --both in a culturally and contextually relevant way.

We would say the assertion that a non-Native HUD-certified agency or counselor could effectively implement those five key elements identified as effective counseling, particularly for remote tribes seeking to not only ensure compliance with their IHBG grant, but more importantly, to alleviate the housing crisis they're experiencing and build a strong homeownership program, is a pretty significant reach and the arms of 2010 Dodd-Frank legislation are just too short to fill up that gap.

In fact, even though fair housing laws do not apply in tribal communities, the burdensome requirements placed on tribes to comply with outdated legislation in effect creates and further perpetuates a notably unfair housing climate for reservation-based communities, rendering any progress under IHBG and ICGBCG programs far less than attainable.

And so we would turn the tables in this conversation and instead of HUD asking us, how it can help tribes and TDHGs to comply, the more appropriate question is for tribes to ask how HUD can prove a non-Native but certified counseling agency can possibly exhibit effective application

of five key elements of housing counseling, and help their clients have faith in the housing counseling session; and help tribal families obtain, sustain, and retain their homes on tribal land.

All the while they're referring to real estate, title insurance, property taxes, and fair housing issues that don't apply in our communities and offering no clear understanding of BIA approval, recordation and the threat of ITSR process, with the limited products offered in our communities. We would say that if we are to accomplish what we intend to accomplish, the legislation and policy needs to support our mission rather than hinder it.

By way of exploring solutions, I would assert that a solution to the legislation needs to be made, and I would concur with Dave's suggestion of a regional single-purpose intermediary to more effectively and specifically meet the needs of the tribal communities that we all serve. Thank you.

Deborah Webster: Do we have another person in the queue?

Chantel Key: Yes, we do. Anthony, you've been unmuted.

Anthony Walters: Thank you, my name's Anthony Walters. I'm the executive director of the national American Indian Housing Council. I certainly appreciate the comments others have made on this call, and on the call last week, or two weeks ago. As some people have mentioned, we do provide a homebuyer course education for tribal housing program professionals. I think we've trained or certified nearly 1100 staff since our program began back in 2004. So tribes are certainly carrying out housing counseling services in their communities.

Many people have already said on the call, on the prior call, that it's really tailored to tribal communities, and tribal communities wouldn't get that through any other provider. They're not going to get that tribal expertise, or expertise on tribal land issues, which we know are entwined with, you know, trusts, and treaty responsibilities that are handled by the BIA largely, but really impact homeownership on a practical level when prospective homebuyers start to work with banks and other agencies that are needed to process a mortgage on tribal land.

Outside of the issue of, you know, who else can provide this education that tribal communities -- there's a larger question that I think tribes will want to have answered about this whole consultation process. I think when we first heard of these rules being applied to tribes, we saw it as an entry point to the housing counseling program and housing counseling grants. The way it's been described I think, over the last few calls, and then the Dear Tribal Leader letter, it's almost like a restriction on tribes, that they can't provide these services unless they become certified.

And that really kind of goes against the policies that are in place both by Congress and through HUD to the implementation of NAHSDA, which is the primary funding source for tribes, where tribes provide an Indian housing plan that carries out that details and describes the housing services that they need for their local communities, and tribes are free to practice their sovereignty and self-determination.

Defining those plans, and having them submitted to HUD, and carrying them out at the tribal level, having this extra requirement or restriction, saying that tribes can't carry out this kind of activity, would certainly go against those policies and really inhibit housing counseling services being provided in these areas at all.

Because as those of us said on this call, there aren't providers that can provide it in a lot of these communities that are remote or rural and many providers won't go into tribal communities because they realize they're unfamiliar with tribal issues and don't want to provide services in those communities because they know they can't do so effectively.

So I think if the goal was to create or increase the level of housing counseling services in tribal communities, having these restrictions in place won't help; certainly I think we can probably amend any rules to make sure that tribal housing programs are eligible. Certainly we would want to make those flexible and easy for tribes to meet; you know, for the extent of capacity; these tribal housing programs have been in existence for decades in many instances, so redetermining capacity should really be a kind of a non-issue.

Many of these are already carrying out housing counseling services as well, so hopefully if that has to happen, that can happen a little bit easier than what the current requirements are. I think there would be some issue with providing another opportunity to hear what the impact of the rule would be on tribal communities.

You know, this isn't a proposed rulemaking per se, where there's going to be another round of comments. If you're just going to apply the existing final rule to tribes, I think we would need a further consultation period for more people to become aware of and involved with the full impact that this rule would have on tribal housing programs.

I think we'll submit a lot more comments probably in writing by the deadline, but I just wanted to let folks know about these --.

Deborah Webster: Thank you, Anthony. Chantel, do we have another comment?

Chantel Key: Yes. Cielo, you have been unmuted.

Cielo: To clarify, on the five elements of housing counseling, number one, they're integrated into the pathways curriculum, into the train the trainer, and also into the participant book. All those elements have met the required, meet OHC's requirement, even before OHC and Dodd-Frank came out.

Because not -- Pathways has been going on, as I mentioned, since 2003. Prior to that, when we had the 37 Act funds, I'd like to mention also, that HUD provided separate funding for housing counseling and that was delegated to the Indian housing authorities. And that seemed to be a problem at that time, for them to recognize that Indian housing authorities should be providing the counseling. And there was no question as to, should it be a separate counseling agency, someone who was, like, 500 miles away, etc., etc.

The other thing I want to clarify for everyone is, we do not just focus on homeownership. And we focus also on providing housing. And helping people build capacity to eventually move into homeownership. WE do rental counseling. Our material is suitable for renters or for people who are just trying to figure out what they want. We do financial management. We do mostly one on one counseling. And that is emphasized every single class that -- this is about one on one counseling. It's not about a classroom. It's about follow-up. Ninety-five percent of the work is done with the family. And we have been very very successful, even before Dodd-Frank came along. By the way, I like Dodd-Frank. I firmly believe in it, I think it's great.

But in your question number five, you anticipate challenges. If the qualification process that HUD currently uses, for approving units as state or local government, yes, it's going to be challenged. Because when you say HUD, who are we talking about? HUD already recognizes tribes as individual, distinct, sovereign nations. OHC doesn't seem to get that. And there will be challenges. And I hope that -- there will probably be some legal challenges. I don't understand why we're reinventing the wheel and why we're going back. Back again to not being eligible, being left out of housing counseling agency designation. NAIC and tribes were not eligible to apply. They weren't even mentioned in the notebook.

So yes, I do think there are challenges to that. And I also believe that -- I hope that there is going to be some more consultation. We're talking, but the talks should have begun years ago. And it was supposed to have begun several years ago. I keep remembering all these consultations being canceled. This needs to be a sit-down session, breaking into work groups, working on what the certification requirements would be. I like the idea of certification requirements. It helps with credibility.

But I also think that we have a lot of credible success and models out there that you all should be looking at when you're evaluating or trying to determine what certification requirements should be required for native tribes. That's all I have to say. Thank you.

Deborah Webster: Anyone else from the queue?

Chantel Key: There's no one in the queue at this time.

Deborah Webster: Okay. So do we want to address questions?

Olga Mulherin: She's curious about TDHEs. She says, "We know they are certified groups with HUD, but we have also heard that they are not allowable or, assuming, eligible for approval, so we were curious about their status in this programming." Does anyone want to take that question?

Jerrold Mayer: Well, I think I will take a try for that one. In terms of TDHEs, they're certainly participants in many of HUD's programs, especially on the ONAV side, but unfortunately in the housing counseling program, because of that 1968 Section 106 law, the way that they're structured, we have a problem with that in that under 24 CFR 214, we can't approve organizations that aren't either a 501(c)(3) or a local government entity like an HFA, for instance. So that is really the crux of what we're wrestling with here.

Chantel Key: And we have one in the queue. Laurie, you have been unmuted. Yes.

Laurie Cloud: Thank you very much. My name is Laurie Cloud. I'm the executive director with the First Tribal Housing Authority. And I just wanted to briefly echo the sentiments of many of the comments that have been made before. I think having the housing counseling certification would be a great opportunity. The certification would be a great opportunity for tribal programs.

However, just bringing over the HUD counseling certification requirements will not work because, I'm going to steal Tony's words, because of the uniqueness of our tribal communities. Not only is it just our tribal community, but it's already the federal regulations that are in place for other departments. You have BIA, which is under the Department of the Interior. They don't even consider housing on trust property as real property. It's personal property. So it's not just the nuances of tribal communities, it's the federal regulation for tribal programs that make our issues so complicated.

So I am in favor of housing counseling certification for ONAV programs. That's not the same as public housing or general housing. But I also want it to be consistent so that we are eligible for the housing counseling program opportunities. And at the same time, like as was mentioned earlier or in the housing counseling certification where you have to maintain your certification and serve 30 people -- we have a menu of housing counseling -- we have a menu of homebuyer and rental counseling that our clients pick and choose what they want to learn today. We don't specifically put them on a client action plan. And a client action plan is required for the 30 people under housing counseling certification. I could go on and on and on. So I'm going to stop there and just make those key points.

I'm in favor of housing counseling certification, but it has to be tailored for tribal program. Thank you.

Deborah Webster: Thank you, Laurie.

Chantel Key: Yes, we have another one. Betty, you have been unmuted.

Betty Kerr: Hi. I work for Wisconsin Native Loan Fund, and we are in the process of getting certifications through an Oweesta application that we're hoping to, they're hoping to do next fall. I've also worked for a TDHE, and recently passed the certification exam.

You know, working for a TDHE and living on the reservation and knowing what it takes to own a home on trust land, I can honestly tell you that the exam does not even remotely go there. I mean, it's got a lot of good stuff there, but it doesn't hit on what it takes to buy a home on the res, or those things that go with it. So somebody coming from outside of a tribal area to try and do homeownership counseling with individuals on reservations -- I don't think it would be even practical.

Another question I have is, so, if a TDHE has like a multiunit through a 501(c)(3), are they required to have homeownership counseling? Or we would probably be the only one north of

Green Bay in the state of Wisconsin where there's a HUD-certified housing counselor, if we get approved. So we would then be required to take the northern third of the state on for clientele? Is that how that would work? I guess that's just my statement and a couple of questions. Thank you.

Jad Atallah: Does somebody from the office of Housing Counseling want to answer Betty's last question?

Jerrold Mayer: Could you please restate the question portion, so I could address those for you?

Betty: If we are a certified housing counseling agency. We would be located in Lac du Flambeau, Wisconsin on the Lac du Flambeau Reservation. It would be the only housing counseling agency in the northern, close to half of the state. The most northern one is in Green Bay, which is 250 miles away from here.

Would we be required to provide housing counseling services on any referral from any place around us? I mean, I don't think we'll have a problem getting the 30 that we need to qualify, but we're also looking at staff capacity. There's 11 reservations in the state of Wisconsin. That's a lot of people. Including those that are non-tribal areas, that we would be required to serve, I think. And that's what I'm asking. Would we be required to serve all of those?

Jerrold Mayer: Yes, yes, of course. One of the things we look at when we approve a housing counseling agency is their work plan. And their work plan sets forth the populations they're going to serve, and what their service area will be. And so you would be carrying out housing counseling services according to that work plan. It is okay to limit your service area and where those clients come from. So we would work with any agency in order to ensure that they're serving their mission, and they're serving clients that they want to see.

Now if a person from outside of your service area were to contact your agency, you would look to see that that agency had a way of referring that client to another housing counseling agency that could meet their needs. And I hope that answered the question.

Betty: It did somewhat, but when you look at the state of Wisconsin and there's not one agency, you know, in the northern 250 miles of the state. Horizontally and vertically. Would you refer someone in Superior, which is 300 miles away ---?

David Berenbaum: This is David, and I'm going to jump in. And I really appreciate that question because it really speaks to the nuances and the needs being so distinct based on the community, the tribe, the state, regional and local real distinctions and how services need to be provided. I believe all the commenters have been very effective at communicating to us that as we move forward to find solutions to this issue, which is the commitment of HUD and the office of Housing Counseling. That's why we really appreciate your comments today. We will continue to engage on all these fronts with you to address these issues so that services can be provided and meet the needs of the tribal nations.

To your question: we are in an environment where we have many different types of housing counseling organizations. And in fact, there are many organizations that serve nationwide, using

the modality of telephone housing counseling, or even now of course, more frequently, some of the video tools that are available especially as a result of the pandemic. But in fact many organizations can provide services, and do, in all 50 states across the country.

Now, I'll leave it to each individual who's on the call to decide what's the most effective delivery of services in every community. But to some extent that is also a consumer choice. When they're choosing the counseling group they'd like to work with. But that's a great question and I understand especially with such limited resources. Thank you for it.

Betty: And I guess finally I'd like to say that I do think that TDHEs can do it themselves. And the 30 one on one counseling that's required -- housing authorities are all different sizes, you know? They should be able to do it themselves. Pathways is a great curriculum. So I'm done.

Chantel Key: Okay. We have another comment from Cielo. Cielo, you have been unmuted.

Cielo: Question: Is the 30 units law? I mean clients -- is that law? And the other thing that the last commenter mentioned, that made me wonder if I am a HUD housing counseling agency, if I have to follow that hypothetically, does that mean I have to serve non-Indians as well?

Jerrold Mayer: The 30-client minimum is found in 24 CFR, part 14, and I think it's point 303b, that lays out the requirement. It is a regulation; it is not part of the 1968 law.

Cielo: So it's regulatory? It can be waived?

Jerrold Mayer: Jad, would you like to weigh in on that?

Jad Atallah: Yeah, sure. So if it's a regulatory requirement that applies to the entity -- that it applies to; would this rulemaking effort that often some housing counseling effort here is to try to figure out how to structure the requirements that apply to tribal entities? From a technical standpoint, I don't see a prohibition against looking at that requirement, tweaking it, not applying it and so forth, for tribes.

That's the purpose of what we're doing here. If it was statutory, you don't have the choice, right? If it's a statute you're subject to it, you can't make a regulation that conflicts with the statute. Jerry said a regulatory requirement, and it's certainly something that I think they will look at while they're trying to develop this proposed and ultimately final rule.

Cielo: Would there be an amendment to the NAHSDA where TBHEs, as political subdivisions of tribes, are designated, or recognized as being equivalent to a 501(c)(3), such as the IRS does?

Jad Atallah: You can do anything in legislation. Depending on what folks' interest would be, obviously work with Congress -- you could structure this a million different ways. You probably don't have to -- depending on what you're trying to accomplish, you probably wouldn't have to structure it in such an indirect way. There are probably more direct ways to address it in legislation. But that's an issue for Congress.

I think for us, we have a Dodd-Frank provision that says the housing counseling has to be provided, and that through certified housing counselors as implemented by HUD, and we're trying to interpret the implemented by HUD piece through rulemaking. I don't think you would have to go around and amend the NAHSDA and change entities' status. There's a more easy, direct way to do it if you're going to go the legislative way. But as long as we're subject to the Dodd-Frank requirement, I think we're trying to make sure we structure a regulation and a rule that works for you all.

Cielo: What about the non-Indian question? And I am all for diversity, don't get me wrong. But when you all have limited resources, you know, a lady in Wisconsin could be serving all of Wisconsin.

Jad Atallah: That's a good question. I am no expert on this stuff, so I'll defer to the Office of Housing Counseling. I heard Jerry say that -- the housing counseling agencies submit service areas and plans, so maybe you can expand on that, Jerry, what that means and how it plays out.

Jerrold Mayer: Well, we work with many housing counseling agencies on their work plans and their service areas, and we work with any new applicant, including tribal ones, that we're able to qualify for the program on what their service areas would be and how they would handle various clients.

A lot of it is -- of course you want to serve the clients within your service area, and in the case of tribal entities, that means tribal land. And then we would look for how the housing counseling agency would handle referrals for clients that were not within their service area that might happen to call them and ask for assistance.

Cielo: Is there additional funding for -- let's say a TDHE is certified, or is that coming out on the NAHSDA? Because certainly it does take time and it does take money if you're suddenly blasted with a lot of clients and they're not part of your service area, I can just see all the administrative paperwork and the reporting. So what kind of funding, or has that been anticipated, that there would need to be some funding to support that?

David Berenbaum: So that's a very good question, and practically speaking, housing counseling is a program that -- many federal programs can be funded. And we would work very closely with regard to (block grant ?) programs that serve tribal communities, to try to facilitate that through future collaboration. Of course, ultimately, Congress determines the appropriations for these programs, so we are limited by that reality.

I also want to raise -- just follow up on your earlier point on whom you serve. And it would be an expectation that if someone is a resident to your service area, at least under existing civil rights laws, as well as requirements for Housing and Urban Development, that you'd serve populations equally. But there are many organizations that specialize for particular market segments. And that's fine, as long as they're also serving everyone in their service area.

Now, civil rights laws, tribal nations or tribal entities or communities: we want to be sensitive to that. But I'm just sharing with you what the current expectation is and perhaps that's something

as well that some of the leaders on this call or the comment can share with us additional information as well.

Cielo: Well, after this call, where do we go from here?

David Berenbaum: We'll cover that as we're wrapping. But it is our hope as has been shared, that we are going to begin a process where we're going to take the recommendations made to us and try to find solutions so we can expand services using excellent programs that exist, such as the conversations around pathways, or other work in the past that has been raised, and try to facilitate the provision of services, using the structure and expertise that exists in tribal nations and communities.

Now I can't get ahead of our process, because it's what we're based on what we're learning here, as well as future collaboration. And we look forward to that. What I will say is, the Office of housing counseling is making a commitment to move this forward, so the concerns you raise are at the top.

Betty: Will you include native organizations to collaborate in developing the solutions?

David Berenbaum: So today is the consultation process. We have to follow a process as far as developing rules at Housing and Urban Development, and we want to be respectful of that, but it is our hope to engage and learn moving forward as well. And to collaborate. I'm very optimistic we're going to have a very successful process here. And we'll follow up with all the stakeholders as we move forward. Again, it's a legal process so I'm limited in how much I really can comment today.

Deborah Webster: Chantel, are there a number of people in the chat room?

Chantel Key: There's no one else in the queue at this time.

Deborah Webster: There's no other comments in chat?

Chantel Key: There are some comments in the chat box, but no one wanting to speak or give their comments verbally.

Deborah Webster: Okay. And I think there was one question that we had early on, that I don't think we answered? It was the very first question. 1151, "Will it require a certain number of counseling sessions per month? If so, what is the opportunity to counsel if it's not available?"

Jerrold Mayer: I'd like to field that one. It's a 30-client minimum. The number of sessions is not in the regulation, Part 214. So it's really what you need to do in order to serve at least those 30 clients. And then more after that, should they ask for assistance.

Deborah Webster: Great. And I'm seeing that there's a number of people that would like to speak. Are you seeing them?

Chantel Key: I do now. Let me queue someone up for you.

Deborah Webster: Thank you very much.

Chantel Key: Tracy, you've been unmuted.

Tracy: Okay, thank you. First of all, I have a prepared statement to send. Can you please let us know where to send that to, again, maybe at the end of this? And then also -- so the HUD exam was originally set to be able -- the approved counseling agencies to have your counselors pass the exam by August 2020. And my question is, why are we now, just now, having our tribal consultation? I feel like maybe this should have been done ahead of that deadline. Does anyone agree with that?

David Berenbaum: Jad, I'll jump in, it's fine, and I think that's a very fair question. The certification process of course has been extended through August 1 of this year, as Jerry shared, as a result of several reasons, most notably some of the challenges as a result of the pandemic and how it affected providers across the country.

I would actually agree with you that in an ideal world, this process should have begun earlier. But it is begun now, and we are going to act on the recommendations and comments and try to move quickly to move forward. And I'll leave it at that. But I do believe this is an important process, one that's being taken very seriously at the office of Housing Counseling, as well as working (with alacrity ?) with other offices as well.

Tracy: Okay. Am I still on? I'm with the Choctaw Nation here in Oklahoma. And I do want to state that we have been doing counseling within the Choctaw Nation over 24 years. We joined HUD in 2004, we've been doing that for 16 years. And we've always tailored our counseling to the needs of our tribal members.

And so now, why is it that -- according for our counselors to be approved, and to be able to continue with their jobs, they have to pass this certification? I feel like, there's more than just taking a test. Anybody can take a test. There's great test-takers out there. But there is also people that struggle with that. A true counselor has more than just test taking. Yes, their intelligence is important. But also we're forgetting about -- what about their communication skills? Their acceptance?

You know, of our tribal members, accepting them where they're at? Their empathy and compassion. Their problem-solving skills, their dedication. And just the importance of building relationships. Our counselors are more than just sitting down doing budgets and reviewing credit reports. They are connected to our other tribal services. We have health care, we have education. We have over 160 other services that our counselors are connecting our tribal members to. And that's so important because it's more than just coming in and completing a budget with them.

And our reservation area -- we cover over 7 million acres -- is it 7 million acres? Yeah. I mean, it's ten and a half counties. So we have 7 million acres, to go from the north to the south of our reservation it's going to take you three to four hours just one way. And so, I just don't feel like --

I feel like we're using a cookie-cutter approach and putting all of our counselors into this shape and design, and we're forgetting about these other elements that are there.

Because we currently have six counselors. Let's say half of them can't even pass the exam. Because they don't know about the reverse mortgages. Guess what, we're not really counseling on that. We're not focused on that, that area. That's not important to us. It's important that we are working with our tribal members and meeting them where they're at. Some of our tribal members -- sometimes -- we have this one lady, it took us two years for her to be able to complete a budget sheet with us.

That's the true dedication on our counselor. Do you think another organization is going to come in and spend two years with a client, when they're not -- doing their part? So I think we're missing that piece as well. And our counselors have been through training, through NeighborWork. They are there for a week, for a specific training to where at the end of the week we're taking an exam and they're passing that exam.

So I just wanted to point those concerns out.

Deborah Webster: Thank you. I want to apologize, because it looks like we weren't seeing people who were in the queue for speaking. Olga, or Chantel, could you remind people how to say they want to speak, number one, and number two, for those who are left in the queue, we have six people who would like to speak and it's 1:12. So if we could be mindful of getting everyone a chance to say something, I would appreciate it. Thank you.

Jad Atallah: And before we do that, this is Jad. Thank you for sharing that -- your experience with Choctaw. Obviously we're hearing some concerns, particularly in the last session, about the elements you have to meet in order to become a housing counseling agency. I think on this session, we're hearing some concerns about the actual housing counseling exam, and having to pass the exam.

And what's in the exam in order to become a certified housing counselor. Just, if you had to step back and establish this, what do you think HUD should be doing in terms of establishing a requirement?

I don't mean to put you on the spot. But what should the Office of Housing Counseling do in terms of establishing requirements that are reasonable, that meet your community's needs, that ensure that there's competent counseling being provided to protect consumers, but also something that's properly tailored. Would you change the exam to be a tribal exam? Would you tweak the requirement that the agency, that the counselor work for an agency that's certified? Help us figure this out.

Tracy: Can you hear me? My first suggestion would be, come shadow us. Come see what it is that we're doing. Come meet with us and shadow our counselors to see what we're dealing with on a daily basis. Our counseling is tailored to our needs of our specific programs that we're offering through the Choctaw Nation. I really feel like we can go back to the drawing board on this and look at the specific areas of training that can be more specific to the areas. Because just

like on reverse mortgages. Does that really make a great counselor, just because they know, they can pass the test for that?

You now, that doesn't (apply ?) to us. Where we can break it down into smaller segments, smaller training, where it's specifically in that area. Then, you know, let's get our counselor certified in that area and even have follow-up training. Not just make an exam and then we're done. Because when we attend Pathways, or NeighborWorks, we come home with a big manual, we have resources at our fingertips, we have things to refer back to.

And honestly, the HUD exam -- I have not met one person who has ever said, Oh I passed it on the first time. No, they had taken it over and over, multiple times, and these are people from different states. It's not just Oklahoma; it's people I've met from New York, Washington. I continually heard that in our training, when we would go to these trainings. I feel like tailoring it to our needs of where we're trying to offer that to our tribal members.

Just focusing even just on how to create a budget with your tribal members -- what it is that we should be specifically working on that area, working on the work plan. Just like when we would go to NeighborWorks or Pathways, they would teach how to actually, how to teach a class. We'd spend a whole week on that. And I think that's just so important, to be able to truly tailor and get our counselors ready for this. It's not just, oh hey, you take this exam and if you pass, you're good, and if you don't pass, you're out on the street.

Jad Atallah: So can I ask -- would your recommendation be finding alternative courses like the Pathways or the NeighborWorks products -- a potential other way to meet the requirements, or, alternatively, have a tribal-specific HUD exam that's different from the one that you say people are having a tough time passing, and that it tests on stuff like reverse mortgages, that you guys don't really think is relevant, or fair housing laws, for instance, that may not be relevant. Would your recommendation be alternative exams, and/ or revising the HUD exam to create a tribal-specific exam?

Tracy: I'm going to tell you, I really think partnering with Pathways and NeighborWorks. I have never left a training and been like, that was a waste of time. They've really got it. Their classes are engaging, they're very beneficial, and they're just specific to those areas of what we're working on. And we're able to select and take the courses that we do need. And I think that helps us out so much. And I'm confident in the training to be able to send our counselors out there.

Jad Atallah: Okay, thank you.

Deborah Webster: Thank you. So we can go past the 3:30/1:30/12:30, wherever you might be, if folks want to continue to make comments, that would be great. Chantel, do you want to tell us who the next person was, waiting in the queue? Thank you.

Chantel Key: Valerie, you are up next. Before I unmute you, I do just want to restate that if you do have a comment and you want to be placed in the queue, please send us a note in the chat box, either to All Panelists, or to everyone, and we will get to you. Valerie, you have been unmuted.

Valerie: Okay, great. Can you hear me? So I'm also with Choctaw Nation Housing Authority, and I think we kind of hit our thing at the same time, so I won't talk very long, but just to say, absolutely yes, tailoring a test more specific to our tribal needs would be a great step in the right direction. We have been doing this for 20 years, and now we're looking at possibly our funding being affected because our counselors aren't certified.

But we are offering our counseling services specifically for our tribal members, and we do go way above and beyond what other agencies would do for our members. I really believe that. So we really need to look for alternatives, I believe. I think it's affecting our self-determination, as well, for our program. So that's my comment. Thank you.

Chantel Key: Kerry, you have been unmuted.

Kerry: Hi, this is Kerry; I'm also with Choctaw Nation. It's kind of hard to follow Tracy after all that. But I did have a question. We actually, Choctaw Nation Housing Authority, we have several departments that work together. We are a HUD-certified agency. So some of my questions are: we have all these departments that fall under this umbrella. I have a property manager who has an elder who has fallen behind constantly on their lease payment.

They're doing a lease to own with one of our programs. So now they've contacted us to help them, let's look at your finances, let's move forward, let's help you get back paying on time, and actually getting that payment caught up. So we're actually following the property manager. This is what I need, she can pay five, \$10 a month to get caught up. They're doing the payment plan, we're helping with this budget, to help her. And this is an elder; we've gained this trust because this is our community.

We have a counselor in all these small communities that are helping and gaining the trust of our tribal members. So is that considered counseling? Because the property manager is saying, we're at this point a referral for them. They're sending that repayment plan. We're actually giving them the tools and the resources. There may be another program available to help them get caught up; a tribal, Choctaw Nation tribal program. Hey, let's show you that you can do this, help you get caught up, and then we'll work with you for the next six months until you get your finances back in order and get you caught back up, because you only get paid once a month. Is this considered what you guys are saying, housing counseling?

David Berenbaum: Absolutely. And thank you for your good work. Clearly that celebrates the role of the counselor as a trusted advisor, which has really been emphasized in all the comments to date, today. And again, your specific knowledge of programs, community, the needs of this individual, the tenant -- that is classic counseling. Thank you for what you're doing.

Neil Whitegull: My name is Neil Whitegull. I'm the executive director of Ho-Chunk housing and community development in Wisconsin. And we're the TDHE for the Ho-Chunk Nation of Wisconsin. So I do have a couple questions, and the first one I'd like to say just for the sake of bringing it up. In regard to HUD's tribal consultation policy. So it has been a longstanding call by tribes for a tribal standing committee to be formed for just such occasions.

And to note that, I guess I'm not sure when HUD's tribal consultation policy was implemented, but there still has not been a tribal standing committee formed; and again to bring up the nature of tribal consultation to consult with government relations of our tribal leaders. And to note that many tribal leaders, while this call has gone out to a Dear Tribal Leader letter, would like to just say it again, the call to give tribal elected officials the opportunity to be consulted on a government to government basis.

So with that being said, just wanted to note that those two items, just quickly to voice some concerns or things that I would like to advocate for. I think what you're hearing both from last week's call and this week's call, is recognition of what NAHSDA stands for: the Native American Housing and Self-Determination Act. And under that determination, tribes have implemented for many years now the Pathways training course, and for homebuyer counseling.

So I think what you're hearing is, here is curriculum that has been developed by tribes for tribes, and been implemented with great success over many jurisdictions in the United States. And I think the benefits, you can see a lot of tribes' success stories in the eve of the nation's 184 programs. So the tribal Pathways has worked in our tribal communities. To say, what would we like to work? Well, it would just work if (there was ?) recognition of Native Pathways by the Office of Counseling.

The next comment I'd like to make is, so tribes do have a 501(c)(3), or are recognized by the IRS as a section 17 corporation. And for that consideration to be written into the regulation that, where it says 501(c)(3) status, or section 17 corporation. To be listed that is tribal corporation that can be formed very easily, without tribes having to create a new organization to become housing counselors. Or just recognition by Congress, for their housing authorities to be considered the same way public housing authorities are considered.

I think for the sake of time I'll leave with those comments there, but I would like to advocate for tribes to be housing counselors, and to have -- go through a certification -- that's recognized by HUD so we can participate in the office of Housing Counseling.

Jad Atallah: Thank you, Neil. On consultation, I don't know if you all got this last night. We sent out a Dear Tribal Leader letter. The President issued a presidential memorandum a week or so ago, directing all agencies to start a process of reviewing all our tribal consultation policies and revamping them, and ensuring that we're really meeting the spirit of past executive orders on tribal consultations, strengthening tribal consultations and nation to nation relationships.

So we are kicking off a consultation on consultation process over the next 90 days, and it's going to be an ongoing process where we really are probably going to do some of these ONAB-led webinars with you all, to try to get as much feedback as we can on ways we can strengthen tribal consultation and of course longstanding idea that we will certainly consider again under this new administration the creation of an advisory committee -- tribal interagency advisory committee. TIAC, as it's been called in the past. So it's certainly something that's still on the table, and we'll see how that goes.

I just have a couple questions. I know there's a lot of people who may have more questions. When forming Section 17 corporations -- I don't know if you know this, Neil. It's really a question for you. Are there requirements, specific requirements that you have to meet in order to create a section 17 entity, that would be problematic, or is it pretty easy for tribes to create section 17 entities that could potentially qualify as a housing counseling agency? I know there are some requirements about the board, and so forth. Sorry, go ahead.

Neil Whitegull: I believe the big difference between a Section 17 -- and again I'm not in corporate law or know much about the starting of the corporation -- but the big difference in 501(c)(3) and section 17 is, tribal governments can't have direct control of the 501(c)(3), whereas a tribal corporation has the same recognized sovereign immunity, with direct government control, of a tribally elected board.

Jad Atallah: Okay. Thank you.

Chantel Key: Yes, we have Heather. Heather, you've been unmuted.

Heather Rademacher Taylor: Hi, can you hear me? Perfect, thank you. So my name's Heather Rademacher Taylor. I'm the director of programs with the Oweesta Corporation. I have several comments here, and I'll make them quick in acknowledgement of the time we have left. First, we definitely agree and support the comments that have already been made. They really resonated with us, so I wanted to say that. And I think that they were very helpful and should be considered by HUD.

Some of the comments we had -- I think Betty mentioned, who joined us from Wisconsin -- she is part of the network that we are forming, a HUD counseling network, so we're working on giving -- network certified, getting counselor certified, so we're very much in it, deeply, right now. And so this was really fresh for us and we wanted to provide feedback that we hope is helpful.

One of the comments I would make is that there's a lot of ambiguity on the compliance and operations pieces, both in what's written and depending on who you work with at HUD, if you get one person you get one answer, if you get another person, you get another answer, in terms of the interpretations of the written compliance pieces.

So I think that's something that's been a struggle. There's also a lot of complexity. And even though everything is outlined on what counts as counseling services, there's still a lot of complexity with it, and we're seeing that as a challenge as folks are trying to fill out that 9902 data and kind of start building those muscles and processes and procedures, and so I just wanted to highlight that as well.

Another comment we had was around the timeframe and experience required for certified HUD housing counselors now. We would be hoping that there could be more flexibility. Both to account for -- there could be a lot of turnover at the organizations and we think that needs to be taken into consideration, which is something we see.

And it could be onerous, to consider that exam, especially when people need to focus on getting in the job and doing the work, working with our client, and to sort of piggyback on that, we also -- heard that the exam is very burdensome and difficult. It's useful in terms of an exercise to get folks to understand all the different key components and concepts of the programming, but other folks mentioned parts that are not as relevant, so that's also something we'd like to echo.

Another comment we had is -- and I'm hearing other comments folks have made -- there are a lot of check the box pieces, for compliance, that can be onerous for groups. People mentioned fair housing. Ours that we've run into is recommending lenders. When a native CDFI doing these operations, we might be the only lender for a hundred-plus miles they exist because they are the best option, because folks haven't been able to access lenders. And so there's pieces, just some things that have been a challenge as we've been working through the process and kind of explaining to folks, like, you have to check the box and do this, even though they are the best folks to serve their clients.

Another piece that kind of goes along with that is we see a lot of folks, CDFI, that have very small staff size. So the separation of duties can be very difficult between counseling and lending. So they have to create kind of burdensome -- okay, this is where we cut this off and this is where we start this -- when a lot of times, folks aren't trying to push clients into loans, but they are, as part of getting them into a loan, they are doing that counseling work. So that's a piece that can be very complex, especially if there's an organization, their staff is two people. It's really hard to make a lot of separation of duties there, so just wanted to highlight that as well.

Another thing that we would love for HUD to consider, an approved housing counseling activity could be coaching. Right now it's not currently approved, as far as we understand. Obviously counseling is; certain classes are; they follow up with counseling; but we haven't seen coaching specifically, and we've seen that in our work being very useful for the work folks are doing for their clients. Sometimes classes aren't enough, counseling isn't the right fit, but coaching is a very empowering way to work with clients, so, just wanted to share that too.

Finally, the last kind of TDAG piece I'd like to share is, we definitely think as much as possible, if HUD could be partnering with NeighborWorks America and NAIHC; they do such wonderful work and they're so helpful -- and so creative, supporting counselors, building capacity, to make them be able to do the best work they can, so we also want to echo that sentiment. I think those are all the comments we had. I wanted to run through that -- one final comment-- once again echoing something other folks have shared, but that 30-client threshold would be quite a lot, especially for some of our smaller Native TBFI's that are in very small communities.

So we'd love that to be taken into account or consideration as well, because we don't want to shut out some of those groups who are really doing critical work that might not be able to meet that 30 number, but are so necessary and really should be part of the certification network. So with that I'll turn it back over to you all but thank you for giving us this time.

David Berenbaum: Quick response. Thank you so much for all of those comments and thoughts. I just want to share that coaching as a model has been embraced by many of our agencies and partners across the county. It's actually a very empowering model and I applaud you for trying,

wishing to -- or are already doing it. Implementing it is complementary. Counseling is a word and it comes from our requirements of statutes and code that we have to use that word. But the coaching model is to be celebrated. Thank you for making that point.

Deborah Webster: I just want to remind everyone that we are going to stay longer. I think there are more people in the queue. Thank you.

Chantel Key: Katie, you've been unmuted.

Katie: Hi there, can you hear me? Okay. My name's Katie Miller and I'm from the Salish and Kootenay Housing Authority in Montana. And we honestly have a very successful homeownership program. We've been doing counseling for years. Whenever we hire a new housing counselor, we immediately send them through NIHD's Pathways. It's phenomenal. I would highly, highly suggest that Pathways would be the way to go for certification on the reservations. It deals with every level of homeownership on a reservation.

In regards to that, looking at lands and stuff, the Salish and Kootenay tribe has actually compacted. And we have our own title plant so we know home ownership. We also partner with NeighborWorks Montana and I sit on the board of NeighborWorks Montana as well because of the great partnership that we have. We have been asked to give trainings on how to do homeownership on reservations, through the Montana housing coalition, or through the Montana Housing Conference that they have -- not coalition; sorry about that. So we would love to be a certified housing entity.

We are a TDAG. We are the one-stop-shop on our reservation. We even have local banks who send people to our classes in everything. However, the test right now that's out there doesn't deal with half the stuff that my counselors deal with, that Pathways does. And so in the meantime we are running right now with the COVID and everything, they're trying to study for this test, learning stuff they're never going to use again, to be quite honest, except just for this certification. I think we need to have the ability to make TDAGs and whatever we have to do to be a counseling session. Because in Montana, especially us, we are the counseling center.

And I would just say, the other thing that's been left out when you look at the HUD counseling thing, is, even the culture of it. Our people, my counselors, will literally, because some of our tribal people are hesitant at going to banks, will literally walk with them into the bank and sit by them through the whole session. That's something even Pathways talks about. So I would just say that you guys should really look at the Pathways, work with NAHD, work with Anthony Walters, and make that available for the tribes instead of a test that we're never going to use again.

Jad Atallah: This is maybe a silly question on my part, and maybe it's a question for Tony, or anyone who knows. For the Pathways course, is there like a certificate, or something that you guys issue once the course is complete?

Katie: I don't know if they're on, but we have -- when I took it, and they still do this, you have to take a test at the end of it to get the certification.

Jad Atallah: Okay. So there's an actual Pathways certification at the end of it?

Katie: There is.

Jad Atallah: Okay. Thank you.

Deborah Webster: Are there people in the queue?

Jad Atallah: Do we have any?

Deborah Webster: I think there was -- was there an Elaine?

Chantel Key: No one in the meeting by that name right now.

Deborah Webster: Todd? Todd Francis, I believe?

Chantel Key: Thomas?

Thomas: Yes, can you hear me? Thank you for allowing me to speak. I'm looking for clarification on something. So I have fourteen years running a HUD-approved counseling agency here in Phoenix, Arizona. And we work with -- we're a CDFI, working with low- to moderate - income families ready for homeownership. And I've been out of the loop for about four years though. And I'm wondering, am I missing something?

Because my understanding is, nobody has to apply to be a HUD-approved counseling agency. Nobody's forcing anyone to do that. However, the reason we applied was that the incentive was for us to have that designation to provide, to tap into the federally assisted down payment program for our client.

And that was the main reason we stuck with the HUD approval. And right now I work with the CDFI. We're not HUD-approved as a counseling agency, but we do provide counseling, and we do provide the Pathways counseling. And right now there's no incentive for us to become a HUD counseling agency, because no one's mandating that. We can give the CDFI a loan without HUD counseling.

We can run our programs without the HUD counseling. However, we do Oweesta funds, which requires the HUD counseling. So for programs that require it, yes, you have to have the HUD counseling. But isn't it okay for programs that don't need the HUD-approved counseling, the Pathways programs that don't need it, they can continue to do their Pathways, they don't need to apply for the certification. Am I correct, or am I missing something?

David Berenbaum: I think on a day-to-day business model approach, you are correct. I will say though that in many urban and suburban areas of the country there is a trend because of the enhanced quality from counseling, meeting the needs in those communities, that more and more

financial institutions are requiring that their agencies have HUD-certified staff, as well as being HUD-certified themselves.

Now, that said, the Pathways program, the NeighborWorks program, and other options in tribal communities are all to be respected, and we're seriously listening and considering all your comments with that in mind today. But there's a trend across the nation where about 80 percent certification of our agency, that this is really elevating the quality and respect that the counseling community has.

Now our goal is to broaden that though. To meet the needs in tribal communities, and with tribal entities, and so again, we are going to take all the comments today very seriously as we move forward with rulemaking or our next step.

Deborah Webster: Jed, I don't know if you want to speak to the applicability of the housing counseling as it relates to the ICDBG again. That's what's really driving it. I don't know.

Jad Atallah: Yeah. Sure. So obviously there is a larger HUD requirement that's going to kick in in August, that is going to mandate how the counseling be done, by certified housing counselors who work for certified housing counseling agencies. Broadly, under different HUD programs, but specifically for any housing counseling that is funded with or carried out in connection with the Indian Housing Block Grant Program and the Indian CDBG program. There is a statutory requirement that that counseling be done by certified housing counselors, and that's what we're trying to figure out here with this rulemaking. We're trying to figure out how to implement that requirement.

So while it may be true that today, you can spend your IHBG funds do housing counseling that is not done by certified housing counselors, eventually HUD is required to implement this requirement, and that's what we're trying to do here. We're trying to implement this requirement but in a way that's smart and takes a good, smart, balanced approach that works for your community.

Deborah Webster: Thanks. And I think that, if I could, Chantel, I don't know if Elaine was still trying to get on, but she was logged on as Chris -E-H, and wanted to make a comment. I don't know if you can --

Chantel Key: Hi, Elaine, you've been unmuted.

Elaine: Hi, can you hear me? Okay. I just wanted to make the comment about the ratio for the clients to counselor. I will be taking the exam again. It was quite challenging. Lot of good information. Living on the reservation and providing services to the native community, I think, I believe I'm the only one who will be taking this exam, but I'm visiting with Chris, the TDHE [inaudible] the housing end. I think he's going to be taking the exam as well, so I'm over here just sharing some information with him.

My question was, if the ratio was 30 clients per counselor, the TDHE here has 1250 low-rent units. Eventually, the goal is to -- those that can afford -- have the income to purchase a home,

the TDHE here is to help them with the homebuying process, and they refer them to us. We're a nonprofit, we're 20 years old this year, and this is our mission, to assist tribal members with the home buying process.

Now, 40 counselors is what this TDHE would need. And so my question was, where would be get the funds to employ -- I don't know if it's feasible -- to employ 40 counselors? Because there's not enough staff to -- [to Chris in background] how many TSRs do you have?

[back on call] They have two or three tenant services representatives, and they should have nine. So that's one of the challenges we face on the reservation. The staff, the clientele is great here, and I'm not complaining, I'm just stating the facts. Even if Chris -- when he does become a counselor, and I'm planning to take the exam again at the end of the month -- two counselors is not enough. If they're recommending to be a HUD-certified counseling agency, the funding to employ the counselors would be an issue. That is all I wanted to say. Thank you.

Deborah Webster: Thank you. Chantel, I don't think there's anyone else in the queue, unless I'm seeing something incorrectly.

Chantel Key: Not at the moment.

Deborah Webster: Was there any lingering question in the Q&A?

Jad Atallah: Can someone answer her question? I think she was asking, if the requirement is that a housing counseling agency have 40 employees or 40 counselors, can someone clarify that?

David Berenbaum: Jad, I'll just jump in and say that that is not the requirement nor the expectation. The sessions per year are for the organization as a whole. Certainly work load or other issues are determined by each organization participating in the program as they apply for funds from any of the federal support points or the private sector.

Deborah Webster: And David.

Olga Mulherin: I just want to read aloud, Deborah, some of the written comments we've received, and just reiterate to folks that if you wrote in a comment, we are taking it down and including it in the feedback received from this session. So thank you so much for writing in your comments.

Rebecca Simmons wrote that, "I think tribes should be able to serve Natives only at their own discretion. However, 30 clients is too many for our area. HUD is imposing requirements that could shut down the progress that has been made and advanced of tribal members by beginning counseling programs. The impact could reverse the progress." So thank you, Rebecca, for that comment.

Hannah Taster commented that HUD is trying to solve an adaptive problem with a technical answer. "The problem is the system isn't inclusionary. The solution is to take a test. Those don't

meet. The solution will take work and a change in the way we do things." Thank you, Hannah, for that comment.

Lindsey Chima had to drop off -- she commented that, "Families needing these counseling services would fall through the cracks if counseling services are not available from the TDHEs in their own communities. In result, this will only add to the major asset disparity already present in Native communities."

And we did see some longer comments from folks who had already spoken earlier in the call, such as Robin and Tanya, I think you submitted other comments, so we've taken those out and added those to your written comments, I just wanted to say thank you for that.

Chantel Key: Cielo? You wanted to make some additional comments, Cielo?

Cielo: Yes. I just wanted to answer Jad's question. Pathways does have a certification. It is a four-day and night class. And there is a final exam, 117 questions, and in the very beginning, when Pathways was created, it was done in partnership, funded partly through HUD, NeighborWorks, and we provided Pathways during the NeighborWorks regular -- four weeks they do a summit. It used to be that NeighborWorks and NAIC would sign off on the certification. There's been a lot of changes in the players, now NAIC signs off on the certification. Also Pathways has a participant manual, and it is self-paced, instructor's manual.

And we also just -- NIHC, we just recently completed an e-learning homebuyer education class for participants to get certified. So we are going to work on another e-learning, but more of a virtual version of Pathways because of COVID. But it is funded by Fannie Mae, Wells Fargo. The material that was last done was all reviewed by Fannie Mae, Wells Fargo. It's been reviewed by banks. It is an intense class. The ideal way to do a Pathways class would be to have more money and to break it up into sessions. Because we have to work on it every night. But it has all the bells and whistles.

David Berenbaum: And if I could just ask a quick follow-up question. I respect Pathways; I'm very familiar with the program. I'm curious, because others have also mentioned NeighborWorks as a provider, if you feel that they also could be considered in that similar way.

Cielo: Well the course was a take-off, well, not really, but building the American dream. So when we went with Pathways, the course Pathways was offered under contract with, do NeighborWorks. But it always has been an NAIC course. That's basically it.

David Berenbaum: Thank you. Thank you.

Deborah Webster: Chantel? Olga. Are we ready to wrap up?

David Berenbaum: I think so. This has been extremely productive.

Deborah Webster: It's very important. Thank you all.

David Berenbaum: So I want to express my appreciation to everyone. The information you have shared with us, the comments, the suggestions, and most significantly, the solutions you have presented are pragmatic and are going to be taken very seriously as we try to address this issue so that it is no longer an issue moving forward.

Well, likely there will be some form of proposed rulemaking, but we will continue to engage with all the stakeholders who serve the community, are in the community, and we want to ensure that the programs provided and the training provided really meets the need of Native American communities, tribal entities, and frankly, we want to be extremely respectful of the independence of Indian nations. And this has been a very healthy process for the entire Office of Housing Counseling, staff -- And once again I want to express my appreciation for Jad for his role.

On the slide now, you see a list of resources, many of which were discussed -- all of which were discussed today. During this consultation, and we invite you to comment until the end of the period. We invite you also to reach out to the Office of Housing Counseling. If you would like to give us more feedback, informally through meetings and the like, we are always available and want to be much more engaged with tribal communities moving forward.

And then just hearing all the good work that you are doing, especially in these challenging times. Not only meeting the challenges for housing in tribal communities, but as a result of the health emergency. Thank you for all of your efforts in everything you do. And I'll add in a closing note, I look forward to visiting, in fact, some of the housing providers in tribal communities, and I'm going to make an effort to do that when travel becomes the norm again for our nature as a whole.

Is there anything on the next slide? So this is our second of two tribal consultations. If you'd like to submit comments in writing, the address is tribalconsult@HUDexchange.info Please put "tribal consultation" in the subject line. Again, we're collecting this information through March 19. All comments from all sources are welcome.

Also, take a look at the Housing Counseling Tribal Consultation page, which is on the HUD website, at the HUD Exchange, I believe, and you will find additional resources there, which I think you'll find helpful in responding to this invitation for comments.

And with that I'd like to thank everyone, and wish everyone health and happiness. Thank you for joining us.