

WHITE PAPER on both HEARTH Acts NAHASDA Formula Negotiated Rulemaking

Purpose

During the September 2013 NAHASDA Formula Negotiated Rulemaking session, members of the Negotiated Rulemaking Committee requested guidance from HUD on two laws entitled “HEARTH Act”. Both laws were enacted by Congress around the same time. Because both laws share the same name and are related to housing, understandably this has created some confusion. The purpose of this document is to provide a general description of both the Acts. In addition, this document provides members of the Committee with resources that contain additional information on each law that may be helpful in developing policy relating to the NAHASDA formula.

Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009

The McKinney-Vento Homeless Assistance Act (McKinney-Vento Act) is the law that authorizes HUD’s main homelessness assistance programs. Prior to NAHASDA, Indian tribes were eligible to receive direct assistance under the various McKinney-Vento programs. In 1997, Congress enacted Section 506 of NAHASDA. Section 506 made tribes ineligible to apply to receive grants directly under these homelessness assistance programs and instead, consolidated funding for tribes under one annual Indian Housing Block Grant.

On May 20, 2009, the Homeless Emergency Assistance and Rapid Transition to Housing Act of 2009 (HEARTH Act) was signed into law. The HEARTH Act made various amendments to the McKinney-Vento Act, including:

1. Revising the definition of “homeless” used in HUD’s McKinney-Vento programs. This definition is also commonly used in other HUD programs such as the HUD-VASH program which provides housing and supportive services assistance to homeless veterans. HUD subsequently published a final rule implementing this change in the “homeless” definition. Committee members expressed specific interest in this new revised definition. This definition is not currently used in HUD’s Indian programs.
 - For the revised definition of “homeless”, see the HUD Final Rule:
https://www.onecpd.info/resources/documents/HEARTH_HomelessDefinition_FinalRule.pdf
2. Consolidating two of HUD’s competitive homelessness grant programs (the Shelter Plus Care Program and the Supportive Housing Program) into one new competitive Continuum of Care (CoC) grant program and eliminating the Section 8 Moderate Rehabilitation for Single Room Occupancy Program. Codifying into law the CoC planning and application process.

3. Making programmatic changes to the Emergency Shelter Grants Program, including expanding the eligible activities to include short-term and medium-term rental assistance and housing relocation and stabilization services for people who are homeless or at risk of homelessness, and renaming the program the Emergency Solutions Grants program.
4. Creating the Rural Housing Stability Assistance Program which provides funding to local governments and nonprofits to provide assistance in rural areas to homeless persons, persons at risk of homeless, and persons with worst housing conditions.
 - For the full text of the McKinney-Vento Homeless Assistance Act, as amended by the HEARTH Act, see:
<https://www.onecpd.info/resources/documents/HomelessAssistanceActAmendedbyHEARTH.pdf>
 - For more general information on the HEARTH Act and its implementation, see:
<https://www.onecpd.info/homelessness-assistance/earth-act/>

The correct citation to the law is to the McKinney-Vento Act, instead of the HEARTH Act, and referring to it as the McKinney-Vento Act will reduce confusion.

Helping Expedite and Advance Responsible Tribal Home Ownership Act of 2012

The Indian Long-Term Leasing Act, 25 U.S.C. § 415, governs the leasing of tribal trust and restricted lands for residential purposes. The law requires the Secretary of the Interior to provide prior approval before these lands can be leased for certain purposes. On July 30, 2012, the President signed the Helping Expedite and Advance Responsible Tribal Home Ownership (HEARTH) Act of 2012 (Public Law 112-151). The HEARTH Act was designed to expedite the leasing approval process. The HEARTH Act amended the Indian Long-Term Leasing Act to authorize the following:

1. Tribes may directly lease tribal trust and restricted lands for residential and other purposes pursuant to tribal leasing regulations, without prior approval by the Secretary of Interior. In order to benefit from this provision, tribes must first submit their tribal leasing regulations to the Secretary of the Interior for review and approval.
 2. In order to receive approval, tribal leasing regulations must be consistent with the leasing regulations issued by the Bureau of Indian Affairs, codified at 25 C.F.R. Part 162. Tribal leasing regulations must also provide for an environmental review process that allows the public to be informed of, and have the opportunity to comment on, any significant environmental impacts of a proposed action.
- For the full text of the HEARTH Act, see: <http://www.gpo.gov/fdsys/pkg/PLAW-112publ151/pdf/PLAW-112publ151.pdf>
 - For more questions on the HEARTH Act, please contact the Bureau of Indian Affairs.