

FCAS Work Group Notes

- Rules of the work group
 - Discussion more informal. Robert's rules used to gain order and then a vote for majority and minority
- Issues to add
 - **NAHASDA Amendments 1998-2008 (attached paper) Red is amendments**
 - Section 302
 - 2000: PL 106-568 amended §302(d)(1)(A) [IMPLEMENTED]
 - **This amendment, dealing with small tribe "hold harmless" funding, was implemented in the last Neg Reg session (§316(b)(2)).**
 - Doesn't require regulation
 - Is a 2000 issue, should have been addressed in 2003 NegReg
 - ** Any statutes/amendments since 2008 will incorporate everything in the time span between 2003-2008.
 - 2000: PL 106-258 added §302(d)(1)(B) [IMPLEMENTED]. **See above.**
 - Regs for Title III of NAHASDA would typically fall under Subpart D which is expressly off limits under Charter
 - Was addressed with another issue
 - PIH notice 200(c)(1) 50
 - May still be in affect don't know about expiration date
 - Under HUD notice should it be formula?
 - FCAS issue
 - 2008: PL 110-411 amended §302(a)(1) clerical change.
 - 1000.312, 316, 318, 322(without respect to the subsections of this amendment)
 - 1000.312
 - NAHASDA Assisted units – on the list already (5th item)
 - How should they be counted
 - Apples and oranges on the different types of units
 - Demolished units do not have regulations
 - 2008: PL 110-411 added §302(a)(2)(A).* **The conduct of HUD's study, and an acceptable definition of "consultation," should be the subject of NegReg discussion. ***
 - 1000.312, 316, 318, 322(without respect to the subsections of this amendment)
 - 2008: PL 110-411 added §302(b)(1).***This change amends the criteria for when a unit ceases to be counted for FCAS purposes. ***
 - 1000.312, 316, 318, 322(without respect to the subsections of this amendment)
 - HUD identify areas that were dealt with internally and bring them to light
 - Get a list of the notices and see what applies to Formula

- As a group look at all of them in a group and say what notices are related to formula
- There should be a double check to see if things are not missed
- She believes that it is on COTALK
- Everyone notice that PIH has issued is on the web, but some notices had an expiration date/extended/reissued- this is what makes it difficult to get a definitive list
 - Technical Assistance is needed **
 - Bring it up to the full committee
- TO DO: for this list HUD will provide, work on it in between the sessions
- Get together on email
- Get from HUD
 - 1. Percentage of funding that goes to all the different types of funding
 - 2. Treatment of these units and how HUD treats them currently under FCAS and how many we will get
 - Treatment – what method/calculation they apply for these units
 - All we know is the FCAS numbers and what they tribe gets. We don't get to see for other tribes how the pie is divided.
 - Basically she wants more transparency, but it may all be on the codetalk
- Section 102b broken down by regions that are on the matrix
 - Section 4 of the statute is definitions on family and Alaska was proposing a change to the definition.
- **NAIHC Reauthorization Matrix Formula issues (attached paper)**
 - Section 4(6) Family- NA - Need
 - Need issue because of overcrowding with family
 - UNAHA Section 102 (b) 2(B) statement of need – NA - Need
 - Need issue
 - UNAHA Section 203, Use of grant amounts over extend periods – NA - other
 - Other issue
 - Use of grant amounts not related to Formula?
 - 203 F is an FCAS issue
 - NWIHA Section 301 Annual Allocation -
 - NAHASDA funded units
 - Already covered on the list
 - GLIHA Section 302(c) other factors for
 - Service area issue already on the list
 - covered
 - On other list already
 - UNAHA section 302 (b) (2) the extent of poverty

- Already on the list
 - Nevada/Cal Section 302(c) (3)
 - Other already on the list
 - Nevada/Cal Section 302(c)(4) – NA – Need
 - Need issue
 - Should get FCAS, but they already do
 - Because they get the FCAS and qualify for need but if they get FCAS funded they don't need the Need funding
 - Infrastructure for remote areas
 - Infrastructure for all areas not just for remote areas.
 - It is a Need issue that we need to bring up to them. (Our group just marked it as other, so it goes to the need)
 - FCAS and seven variables underneath, an maybe one of those factors should be infrastructure and
 - FCAS units already have infrastructure in place
 - Should it matter if a unit is no longer owned by TDHE and funding?
 - Ownership and if it's owned by tribe, still counted?
 - You have to maintain things that you own, and it should still count
- Matrix
 - Motion to stay in large groups (same size) and not a small group
 - Layout of matrix
 - Need and FCAS goes to FCAS group
 - Need and other goes to Need Group
 - Other is in Other
 - All groups is all groups
 - FCAS Definitions (do after going through matrix)
 - 1. AEL
 - 2. DOFA
 - 3. FMR
 - 9. MHOA
 - 10. National per unit subsidy
 - 12. Section 8
 - 13. Section 8 unit
 - Definition of a small tribe (**MOVED TO NEEDS**)
 - 250 and the minimal funding
 - There is no current definition of a small tribe
 - There is a prior to NAHASDA definition of a small tribe. Small tribe used to be 250 or less. We can't redefine what happened in 1996.
 - Minimum grants is how in the past we define small tribe
 - How we define small tribe doesn't come into FCAS but more of a Needs issue
 - Minimum Needs tribes do not have FCAS

- They can get a minimum needs allocation if their grant for FCAS is under 200,000
 - Modernization is part of FCAS and can be used to define it partially, but not a concrete definition.
 - TABLE IT? Send it to Needs?
 - Voted to move it to Needs
- **1. NAHASDA Assisted Units** (number 1 on the list for the next meeting)
 - If it is other it will go to Needs and FCAS
 - Subsidized NAHASDA Units, 100%/50% tax credit is that a NAHASDA Unit, or anything not under the Act
 - This is a HOT issue
 - Could we schedule a couple hours at the next meeting to address this issue and have people assigned that are strongly for and against it and have time to put together arguments on this issue.
 - In the past there was lots of time put forth in this issue.
 - Maybe an area that needs its own set different work group?
 - Work groups in the past developed after this issue was discussed and to work out differences. Not in the beginning of the process this was not started with a work group.
 - Let's have a nice debate on it, it's a hearty issue.
- **2. Data Challenge Procedures**
 - There is regulation on this 1000.336
 - Data Challenges 315/319 define how HUD is to give information and how you return it.
 - 319 has the three year time to take action
- **3. Continued use of FCAS *factors* and definitions**
 - Looking at the FCAS formula because it is a factor of the FCAS Calculation
 - The bigger issue may be to look at the FCAS calculation and not just the TDC Factor
 - TDC were put in to take in perspective construction costs around the country can be different (AEL is like this too)
 - Maybe look to see if we should still provide a factor like that.
 - Maybe update the factor if it was put in place a long time ago
- Technical corrections that may be needed in other areas of the formula and regulations based on any changes we make
 - It kind of falls into all – keep on list
- **4. Review of all regulations under subpart D and any statutory changes *if not otherwise covered also***
 - Combine also 2008 Statutory amendments
- Tribal Needs protection from FCAS draws (Keep on list not numbered)

- Person that proposed this was from a small tribe and maybe looking to protect his FCAS
 - Once the sequester happened the Needs funding went down compared to FCAS
 - Covered by other areas relating to the breakdown of the calculation
- How many small tribes are there? (Move to Need)
 - We already went over this and it is a need issue
- Comparisons of total small tribes' funding to total funding
 - Already covered
- Agree to variable that will be looked at before doing data runs
 - Compare variables that are used. Variable being used in FCAS with us and Need with Need.
 - Remove it is as a process issue, not permanent unless the proposer want to run it
 - Issue is to control the amount of runs. Pay attention to the issues and then run the runs. You don't want to runs prematurely
 - All agree not to overwhelm HUD?
 - More than that you pit people against each other, but look at the issues and then run runs. Don't create polarity in opinions and run runs to early.
- **5. Recipients of FCAS money but have no needs**
 - There is a situation where folks get needs but no FCAS.
 - See the data and see how many people are in this situation
- **6. HUD processes/practices that could be conflict with proposals**
 - A form that covers both sides of Formula
 - We will focuses on the practices and processes later once we get into it.
- Section 302 C (1)
 - Given to Other work group
- **7. Put a time limitation on a grantee expenditures**
 - If FCAS money is supposed to be given to units be repaired, and people don't use it, or spend in four years you lose it.
 - Prior to 2011 and earlier when HUD received an appropriation it said available until spent (know you money)
 - In 2012, congress changed the language saying until 2016 you can obligate the money. You have the money and if you don't spend it you have five years after that until HUD collects it.
 - It may affect more FCAS money than needs with the new proposal
 - Voted on to add it to the list
- **8. 1000.306 C/Section 8**
- **The updated FCAS Matrix List** (as of 3:00pm)
 1. NAHASDA Assisted Units
 2. Data Challenge Procedures

3. Continued use of FCAS *factors* and definitions
 4. Review of all regulations under subpart D and any statutory changes *if not otherwise also covered*
 5. Recipients of FCAS money but have no needs
 6. HUD processes/practices that could be conflict with proposals
 7. Put a time limitation on a grantee expenditures
 8. 1000.306 C/Section 8
- More issues