

1 U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
2 INDIAN HOUSING BLOCK GRANT FORMULA  
3 NEGOTIATED RULEMAKING COMMITTEE

4

5 Wednesday, June 11, 2014

6 8:31 a.m.

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19 Hilton Scottsdale

20 Salon 4

21 6333 North Scottsdale Road

22 Scottsdale, Arizona 85250

- 1 PARTICIPANTS
- 2 ANNETTE BRYAN, Co-Chair
- 3 JASON DOLLARHIDE, Co-Chair
- 4 JASON ADAMS
- 5 JAD ATALLAH
- 6 RODGER BOYD
- 7 GARY COOPER
- 8 PEGGY CUCITI
- 9 MINDI D'ANGELO
- 10 PETE DELGADO
- 11 SAMI JO DIFUNTORUM
- 12 SARA FIALA
- 13 DEIRDRE FLOOD
- 14 KARIN LEE FOSTER
- 15 CAROL GORE
- 16 DAVID GREENDEER
- 17 SANDRA HENRIQUEZ
- 18 DAVID HEISTERKAMP
- 19 RICHARD HILL
- 20 LEON JACOBS
- 21 BLAKE KAZAMA
- 22 PAM KILLS IN WATER

- 1 PARTICIPANTS (CONTINUED)
- 2 TERI NUTTER
- 3 SAM OKAKOK
- 4 DIANA PHAIR
- 5 MICHAEL REED
- 6 S. JACK SAWYERS
- 7 MARTY SHURAVLOFF
- 8 RUSSELL SOSSAMON
- 9 MICHAEL THOM
- 10 BEN WINTER
- 11 DOUG YANKTON
- 12 ANEVA YAZZIE
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1 P R O C E E D I N G S

2 MR. DOLLARHIDE: Good morning, everybody. I'd  
3 like to welcome everybody to the fourth annual  
4 Negotiated Rulemaking Committee meeting. It is 8:31  
5 a.m. So we will go ahead and get started.

6 I will -- I have asked Sandra to open us up this  
7 morning with a prayer. So if everybody could stand,  
8 please?

9 MS. HENRIQUEZ: Let us bow our heads in prayer.  
10 Heavenly Father, Mighty Creator, Lord of all of  
11 us, who knows all things before they have come to be,  
12 who knew us before we were and has guided our steps  
13 every single moment of our lives, thank you for waking  
14 us up this morning and starting us on our day.

15 Thank you for letting us see sights that our eyes  
16 behold the wonders of your works here on Earth. Let us  
17 appreciate just how awesome you are, and let us always,  
18 always praise your holy name.

19 Bless us here as we take on this work. Make sure  
20 that we come with open hearts and open minds to do the  
21 best possible for all we represent. Make sure that we  
22 do right by them, we do right by our ancestors, we do

1 right by future generations. And in all things, let us  
2 make sure that we are true to you and your direction.

3 Bless all of us here as we go forward, dear Lord,  
4 as we praise you and honor you in the work that we do,  
5 as we take care of each other, for we are our brother's  
6 keepers. And let our actions and our deeds profess our  
7 faith and our belief.

8 In your name, great God, and in Jesus Christ, your  
9 son, we all say amen.

10 (Pause.)

11 MS. BRYAN: We're going to start with roll call.

12 Jason Adams?

13 MR. ADAMS: Here.

14 MS. BRYAN: Rodger Boyd?

15 MR. BOYD: Here.

16 MS. BRYAN: Annette Bryan? Here.

17 Heather Cloud?

18 MR. DOLLARHIDE: She has a -- she has a --

19 MR. GREENDEER: I'm standing in. David Greendeer  
20 standing in for her.

21 MS. BRYAN: Thank you.

22 Gary Cooper?

1 MR. COOPER: Here.

2 MS. BRYAN: Pete Delgado?

3 MR. DELGADO: Here.

4 MS. BRYAN: If you're an alternate, please let me  
5 know that, too. You get the knee-knocker.  
6 Sami Jo Difuntorum?

7 MS. DIFUNTORUM: Here.

8 MS. BRYAN: Jason Dollarhide?

9 MR. DOLLARHIDE: Here.

10 MS. BRYAN: Earl Evans?

11 (No response.)

12 MS. BRYAN: Deirdre Flood?

13 MS. FLOOD: Here.

14 MS. BRYAN: Karin Lee Foster?

15 MS. FOSTER: I'm here.

16 MS. BRYAN: Carol Gore?

17 MS. GORE: Here.

18 MS. BRYAN: Lafe Haugen?

19 (No response.)

20 MS. BRYAN: Sandra Henriquez?

21 MS. HENRIQUEZ: Here.

22 MS. BRYAN: Richard Hill?

1 MR. HILL: Here.

2 MS. BRYAN: Leon Jacobs?

3 MR. JACOBS: Here.

4 MS. BRYAN: Teri Nutter?

5 MS. NUTTER: Here.

6 MS. BRYAN: Sam Okakok?

7 MR. OKAKOK: Here.

8 MS. BRYAN: Diana Phair?

9 MS. PHAIR: Here.

10 MS. BRYAN: Michael Reed?

11 MR. REED: Here.

12 MS. BRYAN: Jack Sawyers?

13 MR. SAWYERS: Here.

14 MS. BRYAN: Michael Thom?

15 MR. THOM: Here.

16 MS. BRYAN: Marty Shuravloff?

17 MR. SHURAVLOFF: Here.

18 MS. BRYAN: Russell Sossamon?

19 FEMALE SPEAKER: (Inaudible) sitting in for  
20 Russell Sossamon.

21 MS. BRYAN: Sharon Vogel?

22 MR. YANKTON: Doug Yankton. I'll be sitting in

1 for Sharon Vogel.

2 MS. BRYAN: Doug, when you talk, just push your --  
3 Did you get your letter? I'll see if she emailed  
4 me.

5 Aneva Yazzie?

6 MS. YAZZIE: Here.

7 MS. BRYAN: We have a quorum.

8 Next on the agenda, we have a welcome from  
9 Secretary -- Assistant Secretary Sandra Henriquez.

10 MS. HENRIQUEZ: Good morning, everyone. Welcome  
11 to steamy Phoenix. I got off the plane yesterday, it  
12 was 109 degrees.

13 Okay. First and foremost, as you know, this is my  
14 last session with you. But I'm leaving you in terrific  
15 and fabulous hands, and I'd like to take a moment to  
16 introduce to you the General Deputy Assistant Secretary  
17 Jemine Bryon. That's J-e-m-i-n-e, and it's Bryon, B-r-  
18 y-o-n. Annette is an "a-n."

19 And Jemine will be the Acting Assistant Secretary  
20 until the President nominates and the Senate confirms  
21 an Assistant Secretary. And so, with that, I'd like us  
22 all to welcome Jemine.

1 MS. BRYON: Good morning, everyone.

2 (Applause.)

3 MS. HENRIQUEZ: Her background, for the past 5  
4 years, she's been the chief procurement officer for all  
5 of HUD nationally, based in headquarters. Prior to  
6 that, though, she's got a long, rich, deep experience  
7 and history working with public housing authorities,  
8 and so she knows housing issues and development issues  
9 really well.

10 Like me, she comes to the job not steeped in  
11 issues in Indian Country. But like me, she, too, is an  
12 avid sort of learner and interested in all of the  
13 issues in Indian Country and I know will be a vocal  
14 advocate for the issues, and so we will carry on the  
15 tradition, if you will.

16 So thank you very much. Again, I'm going to say  
17 not good-bye at this point, but I do want to say that  
18 I'm hoping we get a lot accomplished at this session.  
19 This is one that people asked to do as a tuck-in prior  
20 to my leave taking, and I'm looking forward to us  
21 rolling up our sleeves and really getting a lot of  
22 stuff done today or the next couple of days.

1 Thank you very much.

2 MS. BRYAN: Good morning. Jason and I would also  
3 like to welcome you to the fourth session of Indian  
4 Housing Formula Negotiated Rulemaking.

5 Yes, good to see you all. They are turning on the  
6 air conditioning in this room. So if you feel like  
7 you're having a hot flash, it's just really, really hot  
8 in here.

9 (Laughter.)

10 MS. BRYAN: So not just me. We have hotel  
11 logistics and housekeeping items from Sara Fiala.

12 MS. FIALA: Hi. Good morning, everyone.

13 Just really quickly, it's sort of the same thing  
14 as usual, nothing new. Just to go through really  
15 quickly.

16 So this is the hotel map. I think probably  
17 everyone is pretty familiar. There has been one  
18 change, as you've already noted, that we did switch the  
19 general session space from Salon 1 and 2 to now Salon 3  
20 and 4. So the breakouts are also switched. The  
21 breakouts now are going to be in Salon 1 and 2, which  
22 are the two rooms that you walked through.

1           They are going to be shutting the air walls right  
2 now. So instead of cutting through, from now on you're  
3 going to have to walk around the perimeter and come in  
4 through the side doors.

5           Here is some tentative workgroup assignments. If,  
6 for some reason, the space does not fit the group, we  
7 will make some adjustments. But I think for now, I  
8 don't know if the needs group, I believe that they're  
9 going to meet together as another full group. So I  
10 think that they should go into Salon 2 for now. And if  
11 they split out, we can also use Sonora C for the needs  
12 group.

13           And the FCAS group can go into Salon 1. So Salon  
14 1 is right next to the registration, and Salon 2 is  
15 next to it. And Sonora is right around the corner when  
16 you pass coming in from the hotel.

17           And then caucus room assignments, if you decide to  
18 caucus, we have a space set aside there as well. And  
19 we will print these out and make them available at the  
20 registration desk if you need to refer back to them.

21           And then here is Wi-Fi log-in information for the  
22 meeting space. If you're staying as a guest in the

1 hotel, it is free throughout the hotel and the pool.  
2 The meeting space, you do have to log in, and the log-  
3 in information is there as well.

4 So I think that's about it. If you have any  
5 questions, as always, you can find me or any of the  
6 staff that's around. We will always have someone over  
7 at the registration table, and so we'll be around. So  
8 we're just here to help you.

9 So thank you very much.

10 MS. BRYAN: Thank you, Sara.

11 Next we would like to move to committee review and  
12 approval of the proposed agenda. Are there any  
13 additions or conversations that you all would like to  
14 have to the agenda?

15 Jack?

16 MR. SAWYERS: Yes, I'd like to perhaps meet here  
17 early on and discuss a couple of problems before we get  
18 into our workgroups. I'm not sure. Should we just go  
19 ahead and --

20 MR. DOLLARHIDE: Yeah, go ahead.

21 MR. SAWYERS: We've been looking at the needs  
22 problem for a while, and I think everyone agrees that

1 we're a little concerned about the poorest tribes in  
2 the United States getting a real big hit in the needs  
3 portion. And we'd like to discuss, I think, some  
4 alternatives. Some of the things we've talked about  
5 would be to have a freeze for a period of time until we  
6 had enough time to discuss all the alternatives, look  
7 at different programs, BIA, Indian Health, Roads, and  
8 even ACS and perhaps do some things with it.

9 But I'd like to have that discussion early on  
10 because I think it certainly is primary to all the rest  
11 of the week. And so, what I've talked to a few folks,  
12 and I don't think there's anyone here that wants to  
13 hurt other tribes, and so I would like perhaps to have  
14 a discussion before we break into our workgroups.

15 And with that, I think that I would like to hear  
16 from other folks and see how they feel. Because I  
17 would just hate to rush over this negotiation and then  
18 leave it open-ended. And so, I'd like to have an  
19 opportunity for us to discuss, work on, and so on to a  
20 point where we feel like at least we've tried the very  
21 best we can to negotiate.

22 And if it includes some of us having to pay our

1 own ways and so on, then that would be fine with me.  
2 But I would really like to see the discussion now  
3 instead of waiting until after. And so, with that,  
4 I'll leave it to others.

5 MS. BRYAN: Sandra?

6 MS. HENRIQUEZ: So thank you, Jack, for that. I  
7 was going to raise a similar issue. I want to say  
8 thank you for putting that on the table since I think  
9 it is of concern to a lot of people, at least to begin  
10 the conversation and maybe try to figure out the  
11 starting point and how that starting point can be  
12 modified and adapted.

13 And I would like us to have a very full and frank  
14 discussion about proposals that we may have seen or all  
15 of you may have seen or things that other people might  
16 want to put on the table for us to really sort of try  
17 and flesh some of this stuff out as a way to move  
18 forward.

19 So thank you.

20 MR. DOLLARHIDE: I believe that whenever we do the  
21 approval of the agenda here shortly, we can put that on  
22 under the FCAS and need workgroups review on the

1 agenda. And that way, we can have that as an agenda  
2 item before we go into our breakout sessions. And that  
3 way, it can be discussed within our groups if that's  
4 what needs to happen.

5 Did you have a comment, Jason?

6 MR. ADAMS: I thought we were having that  
7 discussion now. So I'll wait until then.

8 Thank you.

9 MS. BRYAN: Yeah, if it's all right with the rest  
10 of you, we'd like to propose going through the 9:30  
11 a.m. item on the agenda and then adding the discussion  
12 after, before we do our breakout so that it's in place  
13 on the agenda. Is that -- can I get thumbs up or down  
14 for that proposal?

15 (Response.)

16 MS. BRYAN: Is there a proposal to the proposal?  
17 Okay. So let's do that. Let's move forward on the  
18 agenda. We'll do the FCAS and need workgroup review,  
19 starting with Jason Adams and then Sami Jo and Carol  
20 Gore.

21 MR. ADAMS: Madam Co-Chair, I would defer to the  
22 ladies first.

1 MS. BRYAN: Sorry. Sorry. Yeah, that's fine. I  
2 am reminded by Jason, which is a good catch, that we  
3 have to review and approve the minutes from the third  
4 session. My apologies.

5 Do we have those? Have you all had a chance to  
6 review them?

7 Yeah, they're not in front of me. So if you guys  
8 want to table that until after the need workgroup  
9 review, or do it next?

10 Karin?

11 MS. FOSTER: Are the minutes available on the  
12 site?

13 (Pause.)

14 MS. BRYAN: Yes, Sara?

15 MS. FIALA: The minutes are under the "member  
16 documents" under "session."

17 MS. BRYAN: Minutes are under "member documents,"  
18 under "session," and so you'll have to log in to look  
19 at them. And then Sara is going to be passing them  
20 out.

21 So, in the interest of time, can we start with  
22 updates? And Jason has deferred to the ladies to do

1 their update on the needs workgroup.

2 MS. DIFUNTORUM: Thank you. Sami Jo Difuntorum.

3 What? I'm "the honorable." Thank you.

4 (Laughter.)

5 MS. DIFUNTORUM: Sami Jo Difuntorum, Housing

6 Director for the Confederated Tribes of Siletz.

7 Carol Gore and I co-chair the needs workgroup. So  
8 during our last meeting, we had decided to break into  
9 two subgroups, two sub-workgroups. And when we got  
10 around to actually doing that, we realized that there  
11 were going to be maybe two people in one of the groups,  
12 and everyone else was going to be in the one tackling  
13 the issue of data source.

14 So I'm really glad that you brought that up this  
15 morning, Jack. I think that's something that's going  
16 to come back to this group at some point, and we might  
17 as well start the conversation here because we didn't  
18 get very far, from my perspective, in the workgroup.

19 Where we went was looking at the different data  
20 sources and making a list of pros and cons to each one.

21 But I didn't feel, when I left on Thursday, that we  
22 were any closer to advancing a proposal. That was just

1 my perspective on it.

2 And so, I think the work probably continued.

3 Carol can speak to what they did in the afternoon and  
4 on Friday. But at the point that I left on Thursday,  
5 that's the work that we had done was pros and cons and  
6 trying to vet some of the issues related to all of the  
7 data sources that had been identified at that point.

8 So thank you.

9 MS. BRYAN: Carol? Excuse me.

10 MS. GORE: Let me just continue by saying on  
11 Friday, our last day of meeting of the needs group, I  
12 think we had five TA requests that we thought would  
13 help us navigate this week. You know, I pressed pretty  
14 hard on that last day to suggest to the workgroup that  
15 we need to bring something back to the committee this  
16 week.

17 But I agree with Sami. It's kind of a slow-go.  
18 It would be very, very helpful to get some direction  
19 from the actual committee to help the workgroup really  
20 focus because, otherwise, it's going to be hard to find  
21 a place to start. I think we're far from having any  
22 actual proposals because we're really just examining

1 studies and looking at data runs, not even knowing what  
2 dataset to use for those runs.

3 So I want to thank Jack as well for bringing that  
4 to the committee so that maybe we can be more focused  
5 for the next 3 days.

6 Thank you.

7 MS. BRYAN: Thank you, Carol. Jason?

8 MR. ADAMS: Just a quick review. Jason Adams,  
9 Executive Director, Salish Kootenai Housing Authority.

10 As far as the FCAS workgroup, when we finished in  
11 our last meeting, when we had begun the session in  
12 reviewing what we had brought from Session Number 2,  
13 and right now the workgroup, when we started our last  
14 meeting, we have nine items on our list to address. We  
15 began delving into the issue first and foremost on our  
16 list, and as we reordered those in order of tackling  
17 them, we talked long and hard about a regulation that  
18 is needed in a new part of the statute in regards to  
19 rebuilding a demolished unit.

20 And we spent a lot of time in that area, and we  
21 actually finished that work. And as I reported last  
22 meeting at the end, we have some language to propose on

1 that that's coming through our drafting workgroup.

2 And so, after that discussion, we moved on to the  
3 FCAS factors and definitions and started looking at TDC  
4 and AEL. And a big part of that work, we focused in on  
5 some homework that needed to be done, and again, I  
6 believe I shared this with all of you. There was a  
7 pretty substantial study done in 2008 on the very issue  
8 of local cost adjustment factors, and that's really  
9 what the issue is boiling down to. That's what AEL  
10 does for you in the formula.

11 We all know and we've heard a lot of stories in  
12 our workgroup and around this table that AEL is kind of  
13 an old thing that was frozen in time years ago, kind of  
14 does it really mean anything today or not? And so,  
15 we've heard all the stories about that.

16 Some people's AELs historically were too low, and  
17 those are frozen in time. So an adjustment that was  
18 made to that several years ago was the fair market  
19 rents, and so now you get the better of the two. And  
20 in some areas, those fair market rents aren't  
21 applicable either because if you don't have a market,  
22 if affordable housing is all that's provided on the

1 reservation and a market doesn't exist, fair market  
2 rents are kind of off the table also.

3 And so, the study was done in 2008, and that was  
4 part of the FCAS workgroup's homework was to read this  
5 study. I think it was quite a document, 124 pages  
6 long, I believe. And it basically boils down to  
7 suggesting that another local adjustment factor be  
8 added, and that is the 515 program.

9 And there is a lot of information in the study on  
10 the 515 program, and that's a USDA program. And so,  
11 that's a big part of where our workgroup, I'm sure,  
12 will start today as far as discussing if that's going  
13 to be something we bring back to the committee, full  
14 committee or not.

15 And the last thing we talked about before we broke  
16 in our last session was data challenge procedures, and  
17 we're beginning that discussion on that issue. So as  
18 far as an update, that's where we're at, and once we  
19 get through those items, we're going to move on to and  
20 try to get through the other.

21 That would leave us six more items to get through  
22 and -- between now and when we're back here in August

1 to be finished with our work. So, hopefully, we'll get  
2 that done.

3 Thank you.

4 MS. BRYAN: Thank you, Jason.

5 So we have the minutes that have been handed out.

6 I'm going to ask to take a few minutes to review those  
7 minutes and see if we can get to approval for those.

8 (Pause.)

9 MS. BRYAN: Do we have a motion or suggestions for  
10 modification or questions for clarification? Carol?

11 MS. GORE: I move to approve the minutes from the  
12 last session.

13 MS. BRYAN: Thank you. We have move for approval.  
14 Do we have a second?

15 MR. COOPER: I'll second.

16 MS. BRYAN: Gary. All in favor, thumbs up.

17 (Voting.)

18 MS. BRYAN: Good job. We got minutes approved.

19 Next on the agenda, we will move to the topic of  
20 discussion, and I'll open it up, open up the floor for  
21 the discussion. Jack had introduced the concern that  
22 he has rushing through the formula rulemaking sessions

1 that we're having in light of the new dataset that's  
2 being proposed.

3 So I'm going to open up the floor for comments and  
4 discussion. Jason?

5 MR. ADAMS: Jason Adams, Salish Kootenai Housing  
6 Authority.

7 I just wanted to add to the discussion here and,  
8 well, maybe kick off the discussion officially on this  
9 issue. As I read through the work of the needs  
10 workgroup last meeting, getting prepared for this  
11 meeting, and then I sat in for just a brief time. I  
12 think it was the last day. And it seemed like -- and  
13 again, just not being involved in the workgroup, but it  
14 seems like that this issue of dataset is really the  
15 primary issue for that workgroup right now.

16 And so, taking these couple of meetings so far and  
17 being focused on that, I like this idea of a workgroup  
18 or a study group or some kind of group that we take  
19 this issue to, and we have a commitment from -- and  
20 hopefully from HUD and everybody that wants to be  
21 involved. And my comment is basically to say that  
22 there is precedent for this. There has been study

1 groups similar to this over the years. I've been  
2 involved in a few of them over the years.

3 I know Jennifer Bullough and I worked through some  
4 of these issues on a workgroup. And this was outside  
5 of formula negotiated rulemaking. It was a work put  
6 together. The two I was involved with was on DC&E  
7 years ago, when HUD had a group that went off and did  
8 this work.

9 And I think HUD's commitment to the issue, if I  
10 remember correctly, is that they paid for the location  
11 of the meetings, but everybody involved had to pay  
12 their travel to get there. I might be wrong on that,  
13 but that's what I recall.

14 And the next item and issue that was similar to  
15 this was the IHP and the APR, and we had a workgroup  
16 that worked through that, HUD staff and anybody across  
17 the country. And I think -- well, in that request, I  
18 think we went to each region and asked for two people  
19 from each region to be involved in that work.

20 And so, again, there is precedent for something  
21 like this, and so that's kind of what I hope this issue  
22 takes on is a life similar to that. I, again,

1 represent a region that has a lot of tribes and  
2 historically and can be documented as fact that have  
3 the poorest counties in the United States, and those  
4 tribes are going to lose money with ACS.

5 And so, that's why we have a pretty good  
6 groundswell in our region as to why this is very  
7 concerning, how we've got a lot of tribal leaders now  
8 that are concerned about this very issue.

9 And so, the idea of freezing the formula on the  
10 needs side for 3 years and having a commitment to study  
11 this issue and trying to find some way to -- and I'm  
12 not saying it will take us 3 years. But you know, at  
13 least the workgroup can get started and within the  
14 first year realize if there's something out there or  
15 some new way of doing this, new way of thinking.

16 The last time we met, in the presentation that was  
17 given, I was just really troubled by the presentation  
18 that basically said that for these tribes that are  
19 going to lose money, there is an out-migration of  
20 people. I just do not see that.

21 If anything, there is an in-migration of people  
22 coming home because programs and welfare benefits off

1 the reservation are drying up, and so they're coming  
2 home to be with family. And so, I just -- I just can't  
3 accept that as an explanation for that ACS numbers and  
4 why the big shifts.

5 But again, we're here to hopefully find a medium  
6 here that can be studied, and I hope that there will be  
7 support around this table for this to move in that  
8 direction. My thought is that if we have this  
9 discussion here this morning, get that issue addressed,  
10 and then the needs workgroup can move past the dataset  
11 issue and start working on other issues. And we kind  
12 of take care of this issue and take a new track with  
13 this issue.

14 So that's my comments. I hope there will be  
15 consideration for that.

16 Thank you.

17 MS. BRYAN: Thank you, Jason.

18 Just a reminder to turn your tent cards up, if we  
19 could do that? It's hard for us to see all your hands,  
20 and we will look for your tent cards. I don't see  
21 anyone up here helping us this time. So be patient  
22 with us, please.

1 Sandra?

2 MS. HENRIQUEZ: I just have a question for  
3 clarification. So, Jason, what you're suggesting then  
4 is really for us to talk about the UNAHA proposal.  
5 Correct?

6 MR. ADAMS: If we are ready to talk proposals,  
7 yes.

8 MS. HENRIQUEZ: And is that to talk about the  
9 UNAHA proposal up against ACS or to talk about both of  
10 them? I assume that that's where the conversation  
11 would get into the pros and cons of both proposals, et  
12 cetera.

13 MR. ADAMS: Both proposals, I'm not sure --

14 MS. HENRIQUEZ: Well, using ACS or some successor  
15 to census data and the new UNAHA proposal that's been  
16 talked about.

17 MR. ADAMS: As far as freezing -- freezing the  
18 needs side, yes, for 3 years. Yes.

19 MS. HENRIQUEZ: Okay. Okay.

20 MR. ADAMS: That would all be encompassed, yes.

21 MR. DOLLARHIDE: Sami Jo?

22 MS. DIFUNTORUM: Thank you. Sami Jo Difuntorum.

1           That is similar to the question I was going to  
2 ask. Not everybody here is as familiar with the  
3 concept of freezing the needs part of the formula. In  
4 fact, I don't know if everybody here is aware of the  
5 proposal. So it's really a question, is there going to  
6 be something presented for the full group to look at?

7           MR. ADAMS: Again, I appreciate the opportunity to  
8 have the discussion here. If we're ready for  
9 proposals, as far as this discussion, we would offer  
10 that as a proposal that we freeze the needs portion for  
11 3 years and begin a study group that would take this  
12 issue on.

13           And anybody that wanted to participate, I don't  
14 know the logistics. I touched a little bit on those  
15 logistics as far as some past practices. But if that's  
16 something that HUD would be willing to help and assist  
17 with the cost, and I'm sure you're going to have a lot  
18 of staff that would commit and be involved in this, as  
19 I've seen other workgroups work on issues in the past.

20           We are willing to present that as a proposal here  
21 this morning and kick off this discussion with that  
22 proposal. It's, again, freezing the needs portion for

1 3 years while we study this issue and try to come up  
2 with either better numbers and a better way through the  
3 existing census and ACS data that helps define or  
4 understand the migration of numbers from these  
5 reservations. Or if there's another dataset out there  
6 that better captures this information, we'd like all of  
7 that studied.

8 Thank you.

9 MR. DOLLARHIDE: Carol Gore?

10 MS. GORE: Thank you.

11 I want to speak in favor of hold harmless. I  
12 think predictability of funding sources really matters  
13 to tribes. And when we talk about sustainability, it's  
14 really difficult to have those kinds of conversations  
15 when the funding is not predictable. So I want to  
16 speak in favor of that.

17 A couple of things. At the last session, the  
18 needs workgroup looked at a study that Dave Heisterkamp  
19 actually brought to the workgroup that studied really  
20 every dataset that we currently use and some that we  
21 have not. And it listed the pros and cons of all of  
22 those datasets. The one that's missing is ACS.

1           So I'm looking to have a better understanding of  
2 what the study group would look at because there's  
3 already been a pretty serious investment from tribes  
4 and HUD and third parties on those other data sources.

5           So if I could get some feedback from you about what  
6 the study group would actually look at?

7           Would it be specifically ACS? And if there are  
8 other ideas, what would those be? So that we can have  
9 some clarity of what to discuss in the needs workgroup.

10          Thank you.

11          MS. BRYAN: Sandra?

12          MS. HENRIQUEZ: So I find that interesting that  
13 we're -- I think I've said this in comments before and  
14 that we -- whatever dataset is used, we just want to be  
15 able to be able to run it and that it's consistent and  
16 predictable. I think that's the right thing. So I  
17 agree with what Carol has suggested as well.

18          You raise a point that I probably should know  
19 about but didn't, and that's that Dave Heisterkamp  
20 proposed lots of datasets and the pros and cons. I  
21 guess my question to Dave or to someone who's talked to  
22 him about the datasets is why was not ACS in that mix

1 since then?

2 If we're really going to talk about pros and cons  
3 of everything and how they play up against each other,  
4 it would be -- I think it would be helpful to know sort  
5 of the full body of the information, as opposed to just  
6 certain things. So that was my question would be it  
7 would be helpful for HUD to understand.

8 MS. BRYAN: Jack is yielding his time to Dave.

9 MR. HEISTERKAMP: Thanks. The study everybody is  
10 talking about was not our study. It was not my study.

11 It was from the archives of the NegReg Formula  
12 Negotiated Rulemaking 14 years ago. It's not current.

13 That's why it doesn't contain anything about ACS and  
14 2010 decennial census.

15 It was a starting off point to show what had been  
16 done last time. So it's not something our office  
17 produced. It's something HUD and their contractors at  
18 the time at the University of Illinois had produced.

19 But it was put together as an example of what we  
20 might want to do this time and discuss in that context  
21 whether all those data sources still exist, whether  
22 there is additional data sources that need to be

1 examined. We just brought it out of HUD's Web site  
2 archives to show the workgroup how 14 years ago the  
3 issue had been approached.

4 MS. HENRIQUEZ: Can I just ask a follow-up? So  
5 that suggests to me that, that seeing the different  
6 datasets and how they were the sources, how they were  
7 used to get to where we are today is still the same  
8 sorts of things we could look at or the committee could  
9 look at applied to ACS, I assume. Is that not correct?

10 MR. HEISTERKAMP: I think that's part of what the  
11 proposal that the UNAHA region is making, would entail  
12 some kind of examination with the new datasets that  
13 weren't available 14 years ago, including ACS. But  
14 there's probably a bunch of others out there that we  
15 haven't thought about that have been developed over the  
16 last decade as well, and so I think that would be part  
17 of that discussion, were it to happen.

18 MS. BRYAN: Thank you. Michael?

19 MR. THOM: Michael Thom, Karuk Tribe.

20 As a tribal leader, I would like to thank Jack and  
21 Jason for bringing this forward. But I think that  
22 freezing it for 3 years would be kind of hard because

1 you could work on it for 3 years and not get nowhere,  
2 and then you're in the same position.

3 So if you did it maybe a year at a time with a  
4 report from that committee or that group of people, I  
5 think I could understand that process.

6 Thank you.

7 MS. BRYAN: Thank you, Michael. Sami?

8 MS. DIFUNTORUM: Thank you. Sami Jo Difuntorum,  
9 Confederated Tribes of Siletz Indians.

10 So mine's kind of maybe a little bit in the weeds,  
11 but the question -- and I'm not necessarily opposed to  
12 the idea. But what I'm not understanding is what  
13 happens at the end of, say, a 2-year freeze period?  
14 What is the proposed outcome?

15 There is a study. People look at data sources,  
16 and then what? Negotiated rulemaking resumes, or the  
17 information is just out there and the formula has been  
18 frozen? That's the part that I'm struggling with to  
19 understand.

20 MS. BRYAN: Jack?

21 MR. SAWYERS: Your Honor, I'm not sure I can  
22 answer all of that.

1 (Laughter.)

2 MR. SAWYERS: But I look at it this way. If we --  
3 if we negotiate for a period of time, whether it's a  
4 year or 3 years, whatever, and look at this as much as  
5 we can and as well as we can and study it and put some  
6 time and some money into it, we still can go back to  
7 where we are right now. In other words, HUD has told  
8 us that they'll probably use ACS if we can't come up  
9 with something.

10 My proposal is let's try really hard to come up  
11 with something. If we don't, we're no better or worse  
12 off than we are right now.

13 So I think that it would definitely will try to  
14 lead somewhere, and in the meantime, I would hate to  
15 leave this negotiation without doing everything we  
16 possibly can to get a better study. So I don't -- I  
17 don't see that the time is as important as the effort  
18 that we're going to try to put into it.

19 MS. BRYAN: Thank you. Yes, Karin?

20 MS. FOSTER: Karin Foster, Yakama Nation Housing  
21 Authority.

22 I think that an effort like that would -- the

1 success of it would depend on having some technical  
2 assistance and some money to be able to bring in some  
3 people who could provide the kind of, you know,  
4 background and professional information that we would  
5 need.

6 So I guess, you know, if there's money to be able  
7 to do that from somewhere, if HUD could help us with  
8 that, that would influence whether I would think that  
9 would work.

10 MS. BRYAN: Jason?

11 MR. DOLLARHIDE: I think, tentatively, I would be  
12 in support of that proposal. Obviously, like Carol  
13 said, you know, there were several questions that I  
14 would like to ask before I make that solid commitment  
15 to the proposal.

16 I think, you know, Karin brings up a good point,  
17 and I believe Jason kind of hit on it a little bit  
18 earlier. I would just about imagine from -- from the  
19 tribal standpoint, I'm sure that the tribes would have  
20 to put up some type of financial obligation also, along  
21 with HUD, because I'm sure that HUD cannot sustain the  
22 burden itself, especially, you know, we're always

1 concerned about just having money for these six  
2 meetings.

3 I think if we continue on, whether it be a NegReg  
4 committee, whether it be whatever committee that would  
5 be that, you know, the tribes would have to -- have to  
6 take into serious consideration to putting in some of  
7 the block grant funds or whatever to come up with it.

8 You know, I know it's very, very early in this  
9 discussion. But I know one thing that as we look at  
10 the alternative data sources, the current data source  
11 that we do have now with ACS, you know, something that  
12 I would throw out there that I don't know how the  
13 committee would feel about. But like Michael said, we  
14 go back to the 2-year freeze or whatever that may be,  
15 and then, you know, we're back here to square one right  
16 now trying to determine what we're going to do in the  
17 future to move forward.

18 As far as technical assistance, et cetera, I would  
19 really like to see that committee invite the census  
20 data as another data source to see because, you know,  
21 though it's not perfect and though there is a lot of  
22 issues that come along with it, they do seem like they

1 want to work with the tribes more so than I feel like  
2 they have in the past.

3 So as far as that technical assistance, as far as  
4 even maybe even bringing them to the table to have  
5 their input with this discussion as ACS. I'm not  
6 saying that's the route that we're going to go, but  
7 it's definitely another option out there that could --  
8 that I could foresee, you know, as in the direction  
9 that we will be going.

10 So I would definitely encourage the committee,  
11 whoever that may be, to invite the Census, the ACS to  
12 the table to have that conversation, to perhaps revamp  
13 their survey to better incorporate the needs of what --  
14 in Indian Country.

15 Thank you.

16 MS. BRYAN: Aneva?

17 MS. YAZZIE: Good morning. Thank you. Aneva  
18 Yazzie, Navajo Nation.

19 I was not completely in full attendance at the  
20 last session because I had a Labor Commission hearing  
21 and some things I was needing to attend to. But from  
22 what I've seen and heard back from my representatives

1 that were at the table, there is still a lot of  
2 unknowns with respect to ACS.

3 And just looking at the runs and the impacts to a  
4 lot of remote large based land tribes, it just does not  
5 make logical sense that there would be reductions, but  
6 rather increases, one would say. So I am -- we are in  
7 support of a study to really identify those datasets.  
8 But to identify those key sources then to derive at  
9 those datasets is what I would be interested in.

10 I've not been privy to the specific proposal of  
11 UNAHA. I think if we can look at that, if we are going  
12 to be considering a proposal, I would like to have an  
13 opportunity to look at that and maybe even caucus  
14 within our region if that is a consideration.

15 A question, though. How many meetings is  
16 contemplated in this 3-year period? And because that  
17 then drives the amount of monies, I guess, with respect  
18 to tribes making contributions towards providing or  
19 participating in the study. And I guess that's just a  
20 logistical question.

21 And then why 3 years? Has that been because of  
22 the experience from the other study groups that took

1 place, and just a question with respect to the 3-year  
2 process.

3 But I would agree that we need more time to  
4 understand because this is a significant change from  
5 how the formula had been generated from years past, and  
6 I think it merits a specific focus on the process. So,  
7 with that, Madam Chair, that would be my comment.

8 MS. BRYAN: Thank you. Jack?

9 MR. SAWYERS: Again, I think that to answer some  
10 of the questions, Jason. I think if we have a limited  
11 time, 3 year -- I mean, we said 3 years. It may take a  
12 year. It may take 2 years, whatever. But the idea is  
13 to negotiate.

14 If it fails, then, of course, and we don't come to  
15 some agreement, of course, then HUD uses whatever means  
16 they feel inclined to. Well, I wouldn't say inclined,  
17 but would be best for the study.

18 So I think that this freeze would not be a waste  
19 of time. I hope that we could get a commitment from  
20 HUD that we can look at other areas.

21 You know, when we first negotiated the first  
22 negotiated rule, HUD said they would do because

1 everybody realized that census was not a perfect way to  
2 look at Indian populations so on. So, and HUD kind of  
3 at that time said they would do a study and some  
4 negotiation and so on. We didn't push it. They  
5 didn't. And so, consequently, most of the data is  
6 pretty old.

7 So what I was hoping is that if we get a freeze  
8 and we work as hard as we can -- and maybe it'll be  
9 this committee because it's already here, the ones who  
10 want to work on it from this committee because we have  
11 a vested interest. We started this process. Whatever  
12 happens.

13 But I'm saying that I really do believe that we  
14 really need to spend some time, effort, and some money  
15 to get the very best product we possibly can. If it  
16 fails, we can't agree, we're right back to counting the  
17 way we're doing now where our -- whatever comes out of  
18 this negotiation.

19 MS. BRYAN: Thank you. Carol?

20 MS. GORE: Thank you. I have a couple of comments  
21 and maybe some questions.

22 First of all, I want to make sure that if this

1 proposal moves forward, we make some accommodation for  
2 small tribes because if we're asking them to pay their  
3 own way and we want them to have a voice at the table,  
4 we should accommodate that. I think that would be  
5 appropriate.

6 I think we're all familiar with studies that at  
7 the end of the study, you get to the same answer. I  
8 don't want this to sound negative, but at the end of 3  
9 years, we're not going to find a perfect dataset.

10 I'm all in favor of improving the count and  
11 finding ways to do that. So my comments are really  
12 intended to suggest that we need a very tight framework  
13 for this study group so that at the end of 3 years, we  
14 don't throw up our hands and say we still don't have a  
15 perfect dataset, and we have to restart this process.

16 So I want to caution the committee and the  
17 workgroup to be careful about how we frame that study  
18 workgroup and ask if UNAHA would be receptive to  
19 running an ACS set during those 3 years as a ride-  
20 along, if you will, so that we continue to see whether  
21 or not ACS is improving, if our work has an impact to  
22 ACS.

1           So that at least we have some -- we don't get  
2           distracted and let ACS run on its own without our  
3           input. I think we have an opportunity. I want to  
4           seize that.

5           I also don't want to get in the weeds, but I think  
6           this is very complex. Freezing the formula sounds  
7           pretty simple, but there are tribes who may today be in  
8           the process of challenging their data and challenging  
9           their counts. And I don't want to take those rights  
10          away from them.

11          So I do want to say that this is a lot more  
12          complicated than just a simple word of saying "freeze."

13          So this is a big ask, and it would take a lot of  
14          input.

15          And my final comment is in the needs workgroup and  
16          speaking as a committee member, we've spoken pretty  
17          clearly that in the absence of an opportunity to run  
18          data, we cannot talk about factors and weights. So if  
19          this is the proposal that the committee wants the needs  
20          group to work on, then the needs workgroup has a very  
21          limited work topic because almost everything that we  
22          work with in that workgroup relies on a dataset.

1           So I want to make sure that we're all being  
2   authentic with each other here in what we're  
3   suggesting. So that would tell me we focus on this  
4   proposal, and we complete our work on FCAS, and we  
5   would be done until the study group is done.

6           Thank you.

7           MS. BRYAN: Thank you. Leon?

8           MR. JACOBS: Leon Jacobs, Lumbee Tribe.

9           I think Carol brings up some very important points  
10   that making sure that the small tribes can have a voice  
11   in what is done and so forth. I do support a freeze so  
12   that we can move forward in a positive way, but I do  
13   have a problem with us setting up another committee and  
14   so forth with the continuity that is already  
15   established here.

16           Also with the National American Indian Housing  
17   Council, the funding possibility might be that it would  
18   not be a cost proposition to the tribes if we can do  
19   some congressional mandates and ask that the money that  
20   is given for technical assistance be improved or and  
21   use the National American Indian Housing Council.  
22   Because I'm very concerned about the time it will take

1 to establish a new committee and so forth and losing a  
2 lot of the continuity that has been established not  
3 only this session, but the last session and so forth.

4 I agree with what Karin has proposed that we need  
5 to bring in professionals that could work with us to  
6 make sure that we're using the right tools in getting  
7 the information that's needed, including making sure  
8 that the small tribes are included and so forth, and  
9 move forward with some type of continuity, whether it's  
10 this committee or whether it is working with the  
11 National American Indian Housing Council and so forth.

12 MS. BRYAN: Thank you. Sandra?

13 MS. HENRIQUEZ: Thank you. Just a couple of  
14 points for clarification that I need as I think through  
15 and listen to the discussion.

16 I guess I would ask, my first and foremost  
17 question is, why -- why the proposal doesn't -- the  
18 process in the proposal doesn't do what we did -- I was  
19 sitting at the table when there was a decision to use  
20 the U.S. census data initially. And that was to use  
21 the census data and then to change the weights, the  
22 measures, et cetera, so that it more -- it was more

1 refined and more tuned or attuned to deliver the kind  
2 of if you want to say hold harmless policies that  
3 you're looking for in this proposal we're talking about  
4 now.

5 So was there ever any consideration to use ACS as  
6 a consistent dataset and then to apply some of the  
7 criteria being proposed in the UNAHA proposal, I'll  
8 just quote "no winners, no losers"? So a hold  
9 harmless. And to look at tweaking at that data to get  
10 the outcome so that there's no harm or no large harm to  
11 smaller tribes, landed tribes, and so on?

12 So that's one issue. And if not, why not? As  
13 opposed to what seems to be more a categorical  
14 rejection out of hand.

15 The other point I just would like to put on the  
16 table, one of the other points is, as I said the last  
17 time we met, the ACS is an evolution from the census,  
18 traditional, more traditional census data collection.  
19 And you heard from technicians from the U.S. Census  
20 Bureau about making it more culturally competent,  
21 sampling sizes increasing, et cetera, et cetera, to  
22 have a better set of outcomes and better data for

1 tribes and others in Indian Country.

2 And so, with that in mind, virtually every other  
3 Federal agency, in fact, every Federal agency that I  
4 can think of that does business in Indian Country --  
5 IHS, BIA -- are all moving and migrating to the ACS  
6 because that's where the U.S. Census Bureau has been  
7 migrating its work.

8 And I'm not sure why there needs to be sort of a  
9 Federal agency, HUD, out of synch with that if, indeed,  
10 you're able to do challenges, change the dataset, look  
11 at weights and measures, and really retool it and think  
12 about retooling it in a way that holds harmless as the  
13 data improves year after year after year.

14 And I do want to understand the issue of freezing.  
15 Does that mean that what you get today is what you get  
16 for the next 3 years? Is that what freezing means? Or  
17 is freezing at least using the current system for the  
18 next 3 years? Which is it? Because that makes a big  
19 difference because one I can do legally and statutorily  
20 and regulatorily and one I cannot.

21 MR. DOLLARHIDE: Sami Jo and then you, Jack.

22 MS. DIFUNTORUM: You can let Jack respond to that

1 and come back to me.

2 MR. SAWYERS: Not really responding exactly to  
3 that. But I felt like that we would use the data, the  
4 ACS some. We'd looked at all of the other elements,  
5 the other studies and so on. But you know, and we may  
6 through those other areas tweak ACS for our use. I  
7 don't think we have an argument there.

8 I thought freezing was just freezing the count the  
9 way we're doing now. So it wouldn't eliminate the  
10 challenges or any of those kind of things. We would  
11 just use the data we have now to freeze it.

12 So I wouldn't say that we just do a freeze, and  
13 everybody gets exactly what they have. It's just that  
14 we would use the criteria we're using now. So I think  
15 that that would be a lot easier for HUD and -- well, in  
16 fact, that's what I had in mind. I don't know what  
17 others had.

18 MS. HENRIQUEZ: Can I just do a follow-up? Thank  
19 you, Jack. That's helpful.

20 Because if it's to use this ACS among other  
21 datasets to figure out what to tweak and all of that  
22 stuff, then isn't that what the needs committee was

1 charged to do anyway? And so, I'm confused. Because  
2 if indeed -- if indeed the underlying thought was to  
3 take some part of ACS and use it and tweak it and  
4 change it to be more robust or whatever you want to  
5 call it, then I thought that's what the work of the  
6 needs subcommittee was in the first place.

7 And so, then now I'm even more confused about  
8 what's the -- what is the starting point of data --  
9 what's the starting dataset point by which this study  
10 group would do its work? And then how is that  
11 different from what we've all understood, at least I've  
12 understood that the needs committee was working on in  
13 the first place?

14 MR. DOLLARHIDE: Jason, do you want respond to  
15 that? Okay. I'll let Jason in. I'll get you, Gary,  
16 in just one second.

17 MR. ADAMS: Jason Adams, Salish Kootenai.

18 I guess in response, I guess the idea really comes  
19 down to the issue of a dataset and having a study  
20 because from the beginning, as Jack mentioned earlier,  
21 from the first negotiated rulemaking that, you know,  
22 historically did great work in a limited amount of time

1 to get this program kicked off.

2 I mean, I think we forget that because some of us  
3 around the table maybe weren't around or in housing at  
4 that time. But there was some historic work done in a  
5 short amount of time to get the regulations in place to  
6 kick this program off.

7 As part of those discussions and part of that  
8 work, I think that workgroup, I had my former boss was  
9 part of that and was really heading up a lot of this.  
10 And had made reference that, you know, and in the  
11 minutes of those meetings you can see that the dataset  
12 issue was an issue that was talked about pretty heavily  
13 because when you matched the statute up with what  
14 you're supposed to use as a dataset, there could be and  
15 some people around the table believe there was a little  
16 bit of a disconnect using census.

17 So that's really the hope is that this study group  
18 would study all datasets, whatever datasets out there,  
19 including ACS and census. And if there's additional  
20 information that we can glean from those, from existing  
21 ACS information to better suit that, then that would be  
22 part of this workgroup, this study group that would be

1 out there.

2 But my fear is that if we don't take the time now  
3 to do this that it will never happen, that we will just  
4 always come back to this table and look at census and  
5 look at ACS when there might be something out there  
6 that would better serve us. We don't know that unless  
7 we go study this issue. That's, I think, what's behind  
8 the hope here is that we have this time.

9 And my recollection is in 2004, when we were at  
10 this table for negotiated rulemaking on the formula,  
11 that the Assistant Secretary at that time had mentioned  
12 that there was going to be a study of datasets, and  
13 that, of course, didn't happen. And so, again, we're  
14 just hoping that there would be a study, a time to just  
15 study the issue of dataset.

16 That's -- I hope I've answered your questions.

17 MR. DOLLARHIDE: Thank you, Jason. Gary? Are you  
18 giving your time to Rusty?

19 MR. COOPER: Yes.

20 MR. SOSSAMON: Thank you, Mr. Chairman.

21 Yeah, as far as the freezing, what I would -- how  
22 I would envision that is continuing to utilize the

1 dataset we have now and the systems and methods that we  
2 use now for this time period. It appeared to me at the  
3 meeting when the Census Bureau came and presented the  
4 ACS survey data and their methodology that a lot of  
5 folks were unaware of exactly what they do, how they do  
6 it, and their efforts to reach out to the tribes.

7 And obviously, if we're unaware of that, then the  
8 tribes aren't engaged with the Census Bureau to give  
9 their input. In the areas that we've heard, this  
10 committee and others who attend these meetings point  
11 out some of the shortcomings that they see in this  
12 survey.

13 From my perspective, I believe that it's  
14 worthwhile to work -- the tribes and HUD and the Census  
15 Bureau work together so that we can exchange and  
16 communicate our issues that we have with the survey and  
17 give the Census Bureau the opportunity to respond to  
18 those and improve the community survey for our  
19 community specifically. Because our community is a  
20 community within the larger community in our unique  
21 status.

22 Now I'm not for throwing out the -- any and all

1 work by the Census Bureau and simply starting from  
2 scratch and re-creating the wheel. I think it's a  
3 great place to start. But as they pointed out and many  
4 here, even just some of the cultural nuances from one  
5 tribe to another that have to do with language or  
6 seasonal traditions of the tribes, I think the Census  
7 Bureau, just they're unaware of it.

8         And those are the type of things that I think the  
9 tribes themselves need to be engaged. Their  
10 professionals who do data study for the tribes, the  
11 professionals from the Census Bureau and from the  
12 agency that understand datasets and data collection  
13 work together so that at the end of the process we can  
14 say this is the optimal way to collect data.

15         And then, and here's the dataset that's collected.

16         After everyone has had their input and tried to  
17 accomplish fairness and equity and have confidence in a  
18 dataset that then we can utilize to determine, okay,  
19 now let's look at the factors and talk about the  
20 weighting.

21         Simply to manipulate the weighting or the factors  
22 to achieve that hold harmless is kind of an artificial

1 way of doing it. There's no basis for why would you  
2 weight this, other than we're trying to hold harmless.

3 So that's why I'd recommend just keep the system in  
4 place that we have now and enhance ACS and Census  
5 Bureau's efforts and really engage with them, the  
6 tribes engage with them.

7 They said they want us to work with them to help  
8 improve it. I say let's take them up on that offer.  
9 But the tribes themselves can't do it alone. We need  
10 our partner HUD right there with us working on it.

11 MS. BRYAN: Thank you. Sami Jo?

12 MS. DIFUNTORUM: Okay. Jack agrees with me, and I  
13 haven't spoken yet. I'm glad to hear that.

14 (Laughter.)

15 MS. DIFUNTORUM: So if the goal to doing a study  
16 is to keep tribes from losing money, what's the  
17 objection to doing a hold harmless? And I'll admit, I  
18 didn't have an opportunity to look at the spreadsheets  
19 that were posted at the Web site. I got them, I think  
20 maybe Monday I finally got time to glance at them.

21 So I haven't studied them to understand if there's  
22 a significant shift or if you can even really do a hold

1 harmless. But what would be the objection to doing  
2 that?

3 MS. BRYAN: David?

4 MR. GREENDEER: Good morning. (Speaking Native  
5 language.)

6 I wanted to just make a comment. As a new -- I  
7 guess a stand-in alternate, I want to be mindful of the  
8 fact that I haven't participated, you know, through the  
9 last few sessions. But there is just kind of something  
10 glaring that I wanted to bring to the attention of the  
11 group.

12 And one of the, I guess, key issues that I've seen  
13 Carol kind of brought it up and touched on it, usually  
14 with data, there's always some sort of tangible goal,  
15 and that's usually identified through some sort of  
16 methodology.

17 In this case, having reviewed the ACS, having  
18 reviewed the past, the census, and looking at the  
19 current formulas, you know, you can see that the  
20 shortcomings for certain tribes. You know some of us  
21 here stand to lose. Some of us here stand to gain, as  
22 well as the tribes in our region.

1           But I think that bringing this back through some  
2 sort of I guess I don't want to call it a Government  
3 workgroup, but that's really what it ends up becoming.

4           Three years is not a tangible way to do something like  
5 that.

6           The question still hasn't really been identified  
7 at this point. The problems haven't been identified.  
8 So if we're going to actually go out and say we work  
9 through this, hire an outside group, you're still going  
10 to have the same issue. Are you going to actually hire  
11 an outside group to come in to tell us how to be Ho-  
12 Chunk or how to be Indian and tell us what our needs  
13 are?

14           Because we have to determine exactly how we want  
15 this formula to be identified or those critical areas  
16 of the formula to be changed. So that means that  
17 that's something that we have to do.

18           In terms of what the direction is of the work  
19 moving forward, I know that that's -- we're going to  
20 have to figure out some way to come up with, I guess,  
21 an accepted methodology of how to agree on what we're  
22 going to accept and not accept, and looking at

1 proposals moving forward, I see this discussion, and  
2 I'm glad it happened this morning instead of coming  
3 and, you know, sending it to the workgroup and then  
4 having to bring it back and then waste everyone's  
5 times. And so, I'd actually like to say thank you, you  
6 know, Jason and Jack, you know, for bringing those  
7 things forward early on this morning.

8 The ACS data, I mean, if you're looking at it from  
9 a holistic point, we have data right now that's  
10 probably one of, I guess, one of the better attempts to  
11 actually collect data around the country. And you're  
12 looking at the way that the formula is actually  
13 reviewed through the 25 years. I mean, it's a whole  
14 new approach in a way. It's been adjusted.

15 I agree with, I believe, I can't see next to Gary.

16 But what's -- Rusty. Agree with Rusty's analysis as  
17 well, you know, saying that we should be looking at  
18 merging something with the census, maybe asking for  
19 some improvements. But it shouldn't be at the cost to  
20 nations to lose things.

21 Carol brought it up earlier saying, yes, there is  
22 going to be an impact to nations, and you know,

1 proposing a freeze without actually looking at all the  
2 impacts and having things in front of everyone, I've  
3 seen the documents that have been sent out from time to  
4 time, and I've seen how fast they're coming out. And  
5 they're still, again, the critical elements are not  
6 being identified. The critical questions are not being  
7 brought forward.

8           So those are some of the things that -- in this  
9 workgroup, those are the things that should be  
10 discussed and identified. If that was -- this is the  
11 wish of the direction of the committee to go. But in  
12 terms of a proposal, I just think I want to say thank  
13 you. I think it's great that somebody did bring  
14 something forward for discussion.

15           I just would think that we would be in support of  
16 it. I would think that the majority of our tribes, you  
17 know, in the Great Lakes region would be in support of  
18 it, but I think we can also look to possibly bring back  
19 some solutions as well and some recommendations moving  
20 forward.

21           MS. BRYAN: Thank you. Gary? Yield to Rusty.

22           MR. SOSSAMON: Yeah, just a couple of things. Is

1 the point of this to ensure that tribes don't lose  
2 funds? I would say yes in the short term. Because of  
3 the impact of switching from the current way and  
4 dataset that we're using now and the current systems  
5 and methods to distribute the funds to applying a new  
6 dataset, it had a great impact in the form of losses  
7 for a large number of tribes.

8 And I know there's been all kinds of speculation  
9 about the reason or the variables at work that resulted  
10 in this, which many of them, I'm not -- I'm highly  
11 skeptical of. I think it's more an emotional response  
12 to loss of money when you have a severe need that needs  
13 to be met.

14 But what I also think in the longer run, it is not  
15 to prevent money from moving from one area to another  
16 based on need factors relative to all of the tribes,  
17 given the limited amount of money to distribute out.  
18 So, but there again, that's where confidence in the  
19 dataset needs to be there if we as tribes can come  
20 together and agree to use a dataset. We've all got to  
21 have a comfort level and confidence in that dataset.

22 And that, to me, is ultimately what we're trying

1 to accomplish is to have a dataset we all have a  
2 relative comfort level with and confidence in. I still  
3 believe, no matter how you do it, when you're looking  
4 at 566 tribes across the United States and Alaska,  
5 you're not going to find a perfect way that someone is  
6 not going to have some criticism of it.

7 But I think we can minimize the shortcomings of it  
8 if the tribes themselves, individually, engage with the  
9 folks who are conducting these surveys. So that's  
10 where our confidence in the numbers are going to come  
11 from.

12 We want it to be tribally driven. So I think  
13 that's the way you do it is that you engage with the  
14 folks whose responsibility it is to collect this data.

15 And I believe the Census Bureau, that's what they do,  
16 and I believe they're the ones to do it. They're this  
17 third party, independent third party that really has no  
18 interest in the outcome as far as the funding  
19 distribution. Their interest is in the best and most  
20 accurate data.

21 And if we see that they're not achieving that in  
22 our area, we're the ones that can collaborate with them

1 to improve that and increase the confidence in those  
2 numbers. So, to me, that answers, I think, your  
3 question, Sami Jo, about what is the point of it.

4 And it also addresses the issue of, no, I don't  
5 think this is to hire someone else, some other outfit  
6 to come in and tell us what our needs are. I think  
7 it's for us to work with the professionals who conduct  
8 these surveys and collect the data to make sure that  
9 what they are collecting accurately reflects what our  
10 need is because we do know it better than anyone. So  
11 we've got to engage with them.

12 Thank you.

13 MS. BRYAN: Thank you. Jason?

14 MR. ADAMS: Jason Adams, Salish Kootenai.

15 I just wanted to add that I think as far as the  
16 proposal that come from our region, a lot of the  
17 discussion has centered around I think we're at a  
18 critical time, a critical juncture in time here as far  
19 as dataset and the discussion of dataset. And I agree  
20 wholeheartedly with what Rusty has been saying. He's  
21 been very eloquent in his comments as far as making  
22 sure that tribes have the opportunity to come and

1 engage, be engaged in this.

2 We all saw from the last meeting, you know, that  
3 there was information presented to us from NCAI that  
4 was very critical of an ACS information and the study  
5 data. And so, I think that in light of what Rusty has  
6 said and those comments and what our region is looking  
7 at is it's a very critical time to look at a dataset  
8 and have this discussion on dataset.

9 If ACS is the dataset that comes out of this  
10 workgroup and can answer some of these questions and  
11 appeases some of these tribes, and we get some answers  
12 to some of the critical articles that are out there as  
13 far as these issues, I just think that and our region  
14 believes that the timing right now is we have this  
15 meeting and two other meetings. And to hurry through  
16 these without having that opportunity to appease the  
17 tribes and have the tribes come to the table and have  
18 an opportunity to dispute some of these things, it  
19 would really be helpful to have a study group, and it's  
20 ours. It's us.

21 It's us coming and studying this issue. It's not  
22 -- we have outside professionals that can come and help

1 us and bring us data and bring us information and  
2 answer tough questions, but it's us. It's our  
3 workgroup. It's our opportunity to really study this  
4 issue.

5 My hope is then if we study it, we answer these  
6 questions. Then at the end of the day, when 3 years or  
7 2 years or however long it takes, then the tribes that  
8 are going to lose some money if we make this move, then  
9 can really understand how come they're losing money.  
10 Because right now, I've got tribes in my region that  
11 are losing money, and I cannot and nobody within our  
12 region can justifiably tell them why.

13 And I asked the question of Census at the last  
14 meeting, and the only explanation I got was an out-  
15 migration of people, and that just doesn't sit well  
16 with the tribes in our region because we don't believe  
17 that.

18 And so, it's my hope that there has been  
19 conversation around the table as to why we need to do  
20 this. All of the points that have been made are  
21 relevant that we need to have this time, take this  
22 time, this opportunity to do this study and answer

1 those questions and be able to answer the tribes out  
2 there that are saying, "Why are we losing money?"  
3 Because I can't do that right now.

4 Thank you.

5 MS. BRYAN: Thank you, Jason. Sandra?

6 MS. HENRIQUEZ: Thank you.

7 So I know we're a little off schedule, but we did  
8 do some runs. FirstPic did some runs with PD&R looking  
9 at different ways to introduce the ACS with different  
10 ways of holding harmless with the ACS that's been  
11 posted online. And what I'd like to propose, maybe  
12 just a quick run-through if we take a break and just  
13 look at it.

14 So that people -- because we've been talking about  
15 the proposal, as opposed to what's really in the ACS  
16 and what it might do. And maybe just get some people -  
17 - all of us to understand better what a hold harmless  
18 might look like or however it gets data tweaked.

19 I also just want to say that while no one at this  
20 table, including HUD -- I want to underscore no one at  
21 the table, including HUD, wants to have tribes take a  
22 hit, an enormous hit, we all know that there's not

1 enough money in the pot in the first place. But this  
2 is, unfortunately, as all things are with budgets, a  
3 zero-sum game.

4 So, to try and minimize, hold harmless, try and  
5 minimize "the hit" that someone will take a decrease so  
6 that people aren't seen as winners and losers. It is a  
7 sort of more leveling out based on whatever criteria as  
8 a committee you come up with that you want built into  
9 this new formula.

10 But it's not just because it's a regional issue.  
11 What you're doing is you're setting national policy,  
12 and I want you to always remember that as well and how  
13 that gets as uniformly applied as possible.

14 So if it makes sense to try and have a  
15 conversation about -- a little bit about ACS and then  
16 come back and talk about next steps, whatever the  
17 committee's pleasure is, might be helpful to everybody  
18 as a suggestion.

19 Thank you.

20 MS. BRYAN: Thank you, Sandra.

21 And just to clarify for the record, Russell  
22 Sossamon was not a stand-in, or we weren't yielding

1 time to him. He showed up, and his alternate went away  
2 from the table. So I wanted to clarify. Rusty?

3 MR. SOSSAMON: Thank you. And I appreciate the  
4 Assistant Secretary's comments and agree with her  
5 comments.

6 And I believe that not only have folks here  
7 pointed out some ways that the ACS could be improved  
8 and I've expressed that I believe the way that that  
9 will happen is the tribes themselves that point these  
10 shortcomings out in their areas engage to close those  
11 gaps.

12 However, I do also believe we do need to look at  
13 it as a national approach, and that makes it incumbent  
14 on each tribe to engage in their area with the counts  
15 to improve them if they see the shortcoming. I have  
16 confidence in the bureau's methodology and approach.  
17 However, I do recognize some of the issues that have  
18 been pointed out.

19 And as Jason said, just like we here need to  
20 educate ourselves on ACS, I believe back in our areas,  
21 the tribes are, again, unaware of it and need to be  
22 educated on it. And that's what I -- one of the

1 outcomes I hope we'll get by taking this pause, okay?  
2 So no one is harmed, and they're not reacting  
3 emotionally, but they -- we have an opportunity to  
4 educate ourselves, to understand is there truly an  
5 outflow, or is this an opportunity to improve the  
6 survey to better reflect what we believe is going on in  
7 our area?

8 Census will be better informed and educated. The  
9 tribes will. And I believe it will inform, give HUD  
10 more information for them to make the decisions they're  
11 required to make.

12 So that's why I am willing to entertain and  
13 possibly support this recommendation to this committee.

14 It's not to in any way say I have no confidence at all  
15 in ACS, but it is to allow for improvement to that  
16 methodology and that system. And it's also to give  
17 time to educate myself, my tribe, and the Census Bureau  
18 and provide better information to HUD as well for the  
19 decisions they have to make.

20 So I agree that perhaps we should look at after  
21 the break, go on and look at some of this results of  
22 the TA request, and maybe that will assist us in

1 formulating what we really want to propose to the  
2 committee.

3 Thank you.

4 MR. DOLLARHIDE: Thank you, Rusty. Jack?

5 MR. SAWYERS: When I introduced the subject, I  
6 thought that we would introduce it, talk about it, kind  
7 of chew on it for the couple of few days, come back,  
8 and I appreciate Rusty's comments, as others, and I  
9 think that I wouldn't be prepared to vote right now. I  
10 think there are some things that we need to look at,  
11 talk about during the week, and I'd like to propose  
12 that we come back day after tomorrow and spend some  
13 real time on this.

14 I really appreciate the opinions we've had so far  
15 and the respect we've had for one another. And that's  
16 what I would propose.

17 MR. DOLLARHIDE: Carol?

18 MS. GORE: Thank you.

19 I know we're about ready to go on break, but what  
20 I was going to suggest is when we come back from break,  
21 I'd like to see maybe some guiding principles that the  
22 needs workgroup could use to focus their conversation

1 because there's been a lot of -- a lot of things  
2 brought to the table here, one of which I don't  
3 understand, but I hope maybe the Assistant Secretary  
4 could clarify when we come back from break. And that  
5 is what's doable under the statute and the regulations,  
6 so that we don't wander too far in the weeds and come  
7 back with something that can't be done.

8 So I'd like some clarification on that, and I'd  
9 also, as a member of the needs workgroup, like some  
10 guiding principles. And it could be just very, very  
11 simple, just a brainstorming session that helps us get  
12 an understanding of what the committee members are  
13 thinking.

14 Thank you.

15 MR. DOLLARHIDE: Jason Dollarhide, Peoria Tribe.

16 That was essentially what I was going to speak of,  
17 Carol. You know, when we brought -- when Jack brought  
18 this out, it's very understandable that there's going  
19 to be lots and lots of questions that's going to be  
20 asked and going to need to be answered.

21 And especially for the needs group, which  
22 direction that they're going to go, you know, I would

1 hate for the needs group, which I'm a part of, to sit  
2 in the workgroup and spin our wheels, saying -- and  
3 come up with solutions, and then we bring them back to  
4 the table and they're of no use because we're going in  
5 a different direction.

6 I think that, you know, I believe there's, like I  
7 said, questions that need to be answered. You know, is  
8 those questions need to be answered right here, today?

9 Does this discussion carry on today with this full  
10 committee, or does it go to the workgroups? You know,  
11 I'm kind of tossed up about that. What direction we go  
12 to now because we have brought this out?

13 So that's my opinions. If everybody -- I don't  
14 see any cards up. So, David, is your card up to make -  
15 - do you have something that you need to say or --

16 Okay. I was just making sure. So if we need to -  
17 - well, I want to let Rusty speak, and then we will  
18 take -- we'll take a short break.

19 MR. SOSSAMON: Thank you, Mr. Chairman.

20 I'd recommend that we let the need workgroup work  
21 on crafting a proposal for this committee to consider  
22 because in that workgroup we can frame out the criteria

1 and the parameters that will put the proposal in  
2 context and then come out with specific language for  
3 the proposal to accomplish the outcomes that we've  
4 identified within that context. And I think that would  
5 be better done in a workgroup than in the full  
6 committee at this point.

7 MS. BRYAN: Thank you.

8 We're going to take a 15-minute break, and we'll  
9 come back and try to get some direction to where we're  
10 going to be going the rest of the morning.

11 (Recessed at 10:02 a.m.)

12 (Reconvened at 10:17 a.m.)

13 MS. BRYAN: All right. We're going to go ahead  
14 and call our session back to order. I see the time is  
15 gone from the clock.

16 So, from here, we need to figure out where we're  
17 going to go based on the discussion that's in front of  
18 us possibly in the form of a formal proposal, but more  
19 of a discussion. The agenda calls for breaking into  
20 workgroups at this time.

21 Did HUD have anything to offer on the suggestions  
22 or questions that were raised as part of the

1 discussion? Sandra?

2 MS. HENRIQUEZ: Yes, I'd like to yield my time to  
3 Jad Atallah to answer and be responsive to the  
4 questions that Carol raised about what's possible  
5 statutorily, et cetera.

6 MR. ATALLAH: Good morning. Jad Atallah, with  
7 HUD's Office of General Counsel.

8 I'll just kind of comment for purposes of the  
9 committee on the legal framework that we're dealing  
10 with, where we have some legal flexibility and where we  
11 don't have legal flexibility. It's not a policy  
12 position the department has taken, but I want you guys  
13 to kind of get a sense of the parameters within which  
14 we can operate in terms of the dataset that we can use,  
15 whether we can choose to continue to use a certain  
16 dataset and whether we can change the dataset.

17 To put it in a very simple, simple way, I would  
18 say that we have flexibility in terms of which dataset  
19 we use administratively. So whether we choose to  
20 continue to use the 2000 census data and age it, as  
21 we've discussed extensively, the regulations in their  
22 current form support that.

1           Whether we choose to move to the ACS dataset and  
2 incorporate that data, we can also do that under the  
3 regulations.

4           What the department cannot do is voluntarily  
5 choose to not implement or ignore regulations that are  
6 on the books right now. So some things that may be  
7 proposed may require changes to the regulations before  
8 we can legally do them. Probably the most obvious one  
9 is if this proposal to freeze the current approach that  
10 we have, if that proposal means freezing dollar amounts  
11 or percentages of dollar amounts.

12           So, in 2014, if you received 2 percent of the  
13 total pot and the proposal is you get 2 percent of the  
14 total need pot for the next 3 years, we don't think we  
15 have the legal authority to do that.

16           If the proposal is HUD, we want you to use the  
17 2000 census data and not move to the ACS data for a  
18 period of 3 years administratively while we figure out  
19 another dataset, we think the regulations do allow us  
20 to do that. The reason why is because can do that  
21 without changing the regulations. We can do that under  
22 current law.

1           So we can't freeze dollar amounts. We can't  
2 freeze grant amounts based on percentage of the needs  
3 pot that you got in 2014. What we can do is legally,  
4 legally agree to continue to use the 2000 census data  
5 or agree to move to the ACS census data.

6           Hopefully, that's pretty simple.

7           MS. HENRIQUEZ: While Jad is here, are there any  
8 other questions for him on this issue?

9           MR. ATALLAH: I want you to know I also take DUI  
10 cases and divorces.

11           (Laughter.)

12           MALE SPEAKER: I think Jack needs to talk to you.

13           MS. HENRIQUEZ: Jad is getting married in another  
14 week. So I'm cutting him some slack. It's okay.

15           MS. BRYAN: Jack?

16           MR. SAWYERS: So when we finish, I propose that we  
17 go to our groups, meet, give us time on Wednesday to --  
18 actually, it would be discussed in the needs, and then  
19 we go on with our discussions and come back.

20           But I would like to ask for, if we do this, that  
21 we have sufficient time on Wednesday to discuss this.  
22 Or Friday, excuse me. It is Wednesday. That's it.

1 MS. BRYAN: Thank you. Michael?

2 MR. THOM: No.

3 MS. BRYAN: Sami?

4 MS. DIFUNTORUM: Thank you. This is for Jad, I  
5 guess, on what HUD can and cannot do.

6 What about the idea of a hold harmless? Is that  
7 something that HUD can do?

8 MR. ATALLAH: What we can do is amend the  
9 regulations because the Negotiated Rulemaking Committee  
10 is charged with proposing a proposed rule to the  
11 Secretary. What we can do is do that by amending the  
12 regulations. Yes, we have the legal authority to do  
13 that. But it will require amending the regulations.

14 If you look at your regulations, in the back of  
15 the regulations in your orange book, there is an  
16 appendix. And that appendix sets out the regulations  
17 and the mathematical formulas that are codified that  
18 govern how the need component of the formula works.

19 So if this committee came to a consensus on a hold  
20 harmless provision, for instance, we would draft  
21 changes to that appendix, necessary changes to the  
22 regulations, and then when it goes through the

1 rulemaking process, it will be in effect. So we can  
2 legally do it, but it will require a change to the  
3 regulations.

4 The 3-year freeze proposal is more of an immediate  
5 proposal, and the reason why it's legally problematic,  
6 if it is based on dollars and not the dataset, is that  
7 the proposal is that it'd be implemented immediately  
8 rather than wading through the whole rulemaking  
9 process, which takes time. And that's why we're  
10 raising legal concerns about that proposal if it's  
11 based on dollars. Not if it's a proposal based on us  
12 just using the census dataset for an additional 3  
13 years, at least from a legal standpoint.

14 MS. BRYAN: Thank you. Any other questions for  
15 HUD?

16 (No response.)

17 MS. BRYAN: So, at this time on the agenda, we  
18 have breaking out into workgroups. I'm going to take a  
19 comment from Leon.

20 MR. JACOBS: Madam Chair, I don't think we gave a  
21 proper notification to one of our members who was just  
22 elected as the chair of the National American Indian

1 Housing Council. So I think we should give her a round  
2 of applause for this honor.

3 Thank you very much.

4 (Applause.)

5 MS. BRYAN: Thank you, Leon. And congratulations,  
6 Sami Jo Difuntorum, the new chairwoman of the Native  
7 American Indian Housing Council.

8 So, with that, shall -- oh, Mr. Jason Dollarhide?

9 MR. DOLLARHIDE: Thank you.

10 I guess my short question is, does -- is directed  
11 toward Carol Gore and is that do you have a direction  
12 or where you're going to be going in your needs group  
13 after this discussion?

14 MS. GORE: Well, this is maybe not an appropriate  
15 time, but I know the co-chairs and HUD know that I will  
16 not be serving as a co-chair of the needs workgroup  
17 with Sami Jo. My dad is very ill, and I think the  
18 needs workgroup needs consistent leadership, and I  
19 don't want to risk, you know, changing the guard in the  
20 leadership of that needs workgroup.

21 So I'm going to be a strong participant, I hope,  
22 and I hope that I'm going to be here. But I'm going to

1 abdicate my co-chair responsibilities for that needs  
2 workgroup, and I know you all understand how close I am  
3 to my parents.

4 As for the needs workgroup, I would really leave  
5 that up to Sami Jo. But say that, you know, I think  
6 maybe there's a two -- there's a two-line process here.

7 There's been a lot of good discussion and a lot of  
8 good data put together on the idea of a hold harmless,  
9 and I would like to see the needs workgroup talk about  
10 that.

11 It could potentially be that short-term fix to the  
12 formula that we all seek while we're trying to enhance  
13 ACS or whatever data source that others might imagine  
14 is the right national data source. But I think it's  
15 kind of a two-pronged approach for the needs workgroup.

16 That's certainly, as a participant, how I'm hoping to  
17 proceed.

18 Thanks for asking, Jason.

19 MR. DOLLARHIDE: Sami Jo, do you want to add on to  
20 that before I have Sandra comment?

21 MS. DIFUNTORUM: Go ahead and take comments, and  
22 then I'll answer that at the end.

1 MR. DOLLARHIDE: Okay. Sandra?

2 MS. HENRIQUEZ: Thank you.

3 I thought that we had agreed before the break that  
4 we might do a short presentation on an ACS run with  
5 hold harmless provisions in it so that you might see  
6 what that looks like in full committee, and then that  
7 may be a nice segue into the needs workgroup as well.

8 MR. DOLLARHIDE: Thank you. Sam?

9 MR. OKAKOK: Yeah, thank you. Sam Okakok, Native  
10 Village of Barrow.

11 I really appreciate a lot of the comments that are  
12 being spoken here, especially Sandra's. I'm looking  
13 forward to that presentation.

14 And I think when we get to the talks, there is  
15 some real things that are going to happen to the  
16 tribes, especially with major cuts, draconian cuts.  
17 It's really, really bad, especially for the small  
18 tribes, and I'm real glad we're able to talk about some  
19 of the things that are going to happen with the smaller  
20 tribes if this were to take place.

21 And some of the huge cuts that are going to  
22 happen, they're not just reductions in programs. But

1 there's going to be actual cuts in the programs, entire  
2 programs, and cuts of jobs and -- and many of the  
3 tribal members that we serve are really going to feel  
4 that also. And how long it takes to get services to  
5 their houses, these are very real, and that's what  
6 we're dealing with.

7 And I think that would be a very good thing to do  
8 is to remember that these are real cuts that are  
9 happening, and I really appreciate some of the  
10 solutions that Jack and Jason have been talking about,  
11 and Carol, about the hold harmless. You know, I think  
12 these discussions are really needed, and hearing from  
13 tribal members that are going to feel the cuts, maybe  
14 it's going to take a couple more years to be on the  
15 wait list, those are some of the things we're looking  
16 at in my region.

17 So I really hope that we're going to be able to  
18 make at least some headway in some of the solutions. I  
19 appreciate it.

20 MS. BRYAN: Sami Jo?

21 MS. DIFUNTORUM: Hi. Sami Jo Difuntorum.

22 So my understanding -- and correct me if I'm

1 wrong, people at the table -- what the needs workgroup  
2 is charged with at this point is developing, looking at  
3 hold harmless possibilities in the interim period  
4 because a freeze is not possible, and developing a  
5 proposal for that and also for a study group in the  
6 interim. So the hold harmless would have a specific  
7 timeframe attached to it instead of a freeze.

8 MR. DOLLARHIDE: Jack?

9 MR. SAWYERS: As I understand it, the freeze would  
10 probably be the way we're counting now. Not  
11 necessarily a freeze, but the process we're counting  
12 now for the 3 years. Instead of saying hold harmless,  
13 we would just -- we would just continue the way we're  
14 counting at this time, which is you wouldn't have to  
15 make any changes.

16 I just wanted to put that as part. You may want  
17 to do hold harmless also. But if you desire, I just  
18 wanted to bring that out that we aren't asking for a  
19 freeze. We're asking to continue counting the way we  
20 do -- we are right now.

21 MR. DOLLARHIDE: Jason Adams?

22 MR. ADAMS: I also want to make sure that we don't

1 lose -- get lost here with some of this. The proposal  
2 was that we proceed looking at an opportunity to move  
3 in this direction and have -- maybe have the vote on  
4 Friday.

5 But I hope that the needs workgroup would talk  
6 about the logistics of how we put together this  
7 opportunity to do the study and that that would be part  
8 of the needs work discussion that then would come back  
9 on Friday and say we've thought through some of the  
10 mechanics. You know, if it takes a congressional  
11 appropriation of money that somebody brought up or if  
12 the regions are going to pitch in or if individual  
13 tribes are going to help, something that answers some  
14 of these questions as to how we do the study for the  
15 next couple of years, 3 years possibly.

16 And then the other piece is what Jack had already  
17 mentioned, that we continue to fund our tribes for the  
18 next 3 years based on the current practice and not use  
19 ACS because the preliminary numbers on ACS have some of  
20 the tribes, that that information is out there already.

21 It shows that tribes will lose money, and some tribes  
22 significantly.

1           And so, that's the hope of the proposal that's on  
2 the table from our region.

3           Thank you.

4           MS. BRYAN: Karin?

5           MS. FOSTER: Karin Foster, Yakama Nation Housing  
6 Authority.

7           Such a great discussion. I mean, it takes us back  
8 to the very beginning of developing these rules and  
9 developing them with an imperfect dataset and everyone  
10 recognized it and grappling with this and truly  
11 addressing it as a problem that we can solve and that  
12 we can work on, given enough time and, you know,  
13 dedication to do it, rather than just kind of agreeing  
14 that we'll put on more band-aids.

15           I really appreciate being a part of that. So  
16 thank you for bringing this proposal forward.

17           I'm -- I appreciated Jad's explanation to us that,  
18 you know, if we don't adopt a regulation that brings in  
19 ACS, then we're pretty much going with the status quo.

20           What I -- what I don't want to see happen is I don't  
21 want us to, you know, decide to go with the status quo  
22 rather than ACS and a hold harmless and focus our

1 energies that direction, which, for me, right now, you  
2 know, is an attractive option to stay with what we've  
3 got rather than to adopt ACS in any way while it's so  
4 imperfect.

5 I don't want HUD to feel that they're somehow, you  
6 know, going to move the ACS direction unilaterally, and  
7 I guess I'd like to have that -- you know, if what I'm  
8 hearing from Jad is that absent a change in the  
9 regulation, of course, we wouldn't be moving to ACS  
10 yet. I know that, I mean, these are HUD's regulations  
11 at the bottom, and I would want that assurance that HUD  
12 is not going to do that unilaterally if what we decide  
13 is we want to continue with the status quo and not  
14 address -- not adopt a hold harmless.

15 MS. BRYAN: Thank you. Sandra?

16 MS. HENRIQUEZ: So I'm struggling here, trying to  
17 figure out how to say this as tactfully as possible.  
18 So most of you know me being pretty direct. So I'll  
19 just be pretty direct.

20 I want to comment back first to what Jason said,  
21 and that is asking the needs committee to do what seems  
22 to me to do the work of putting -- shifting the focus

1 of the needs, potentially shifting the focus of the  
2 needs committee's work to be that of actually adopting  
3 the proposal put forth by UNAHA as the proposal for the  
4 committee. I understand we would have to come back and  
5 vote on that.

6 But it seems to me, and if that's the will of the  
7 steering committee, so be it. But it feels a little --  
8 I guess what I'm reacting to is if, indeed, there is a  
9 consensus among the steering committee that we are  
10 going to -- that the committee wants the status quo  
11 moving forward for a specified number of years, let's  
12 say 3, while this other study work goes forward, then I  
13 guess, to my mind, we don't need to come back tomorrow  
14 or Friday to talk about next steps.

15 We should adjourn, go home, or figure out the lay  
16 of the land moving forward and go home early because  
17 you've now got something else moving forward. It just  
18 seems why are we going to spend a day and a half more  
19 doing something that the consensus is that's the step  
20 we're going to take. It doesn't look like that work  
21 gets started here.

22 I don't know. Maybe it does. So I'm struggling

1 with trying to figure out all the moving pieces at this  
2 point.

3 Second of all as to Karin's question, I go back to  
4 consensus is consensus, and in negotiated rulemaking,  
5 the rule on negotiated rulemaking is that you work to  
6 consensus to change a direction. If there's no  
7 consensus, then the status quo stays in place.

8 So while I believe HUD could unilaterally move to  
9 implement ACS, it's not ever the posture we have taken,  
10 at least not in the 5 years I've been at the table with  
11 you on issues, whether it's formula or the  
12 administrative language. So while not preferable  
13 because I do believe that there are enough datasets  
14 around, and maybe this presentation will help people  
15 understand that better, that we could work from, you  
16 know, it depends on what the committee says.

17 Rodger and I are just -- well, in fact, we are  
18 each individual members and may or may not vote the  
19 same way with other members of the committee. So I'm  
20 not prepared to say yes or no to your question, Karin.

21 I just think I would let how we've operated in the  
22 past speak for itself.

1 MR. DOLLARHIDE: Thank you, Sandra. Rusty?

2 MR. SOSSAMON: Thank you, Mr. Chairman.

3 Yeah, well, just for the record, I believe ACS is  
4 the direction we need to move toward as a basis in the  
5 future. Given some of the cultural shortcomings of the  
6 system and the methodology used, I do feel like that we  
7 have an opportunity to enhance that. So as far as HUD  
8 imposing it unilaterally, it wouldn't necessarily be  
9 unilaterally from my perspective because I agree that  
10 is what we need to move toward.

11 As far as adopting the UNAHA resolution, I just  
12 want to be clear, that is not what I'm doing and will  
13 not do because the basis of the resolution I disagree  
14 with. I think some of that basis was contrived by a  
15 cottage industry with a different agenda and, therefore  
16 -- and put to some of the folks who are in a desperate  
17 situation in facing impact of ACS.

18 I care about the people that are facing that  
19 impact, and again, I don't want them to have that  
20 impact on them without understanding, as Jason said,  
21 understanding even why or having the opportunity to  
22 say, but let's look at how we can improve this to

1 address what we believe are some of the cultural  
2 shortcomings in this survey.

3         So that's why I'm willing to hold the status quo  
4 as a hold harmless measure while we really focus on  
5 this ACS to improve that dataset. And if we want to  
6 also then work on regulations that allow us to present  
7 and have considered alternative datasets in conjunction  
8 with this primary dataset to ensure a more accurate  
9 picture in our areas, then I think we need to have that  
10 conversation, too, as well as looking at the challenge  
11 process, which may include being able to introduce  
12 other datasets.

13         So, and it's done from a position of good faith  
14 and trying to be fair and equitable and empathy,  
15 putting myself in their position, and I would want the  
16 same consideration. But I want to be clear, again,  
17 that it's not an endorsement of the UNAHA resolution.  
18 But it is an acknowledgment of how they feel because in  
19 looking at some of the measures that they proposed in  
20 that resolution and trying to move toward them in good  
21 faith to address some of these issues.

22         So I just want to be, again, real clear to

1 everyone. That's where I'm coming from. It's not an  
2 endorsement, but yet it is a concern for the tribes in  
3 that region and the impact of moving from the old  
4 dataset that we had to this new dataset.

5 I believe we all want a better dataset. I also  
6 believe as we improve it, there's going to be folks who  
7 have reductions, okay? That's what the formula is  
8 designed to do is to shift the funds around based on  
9 the relative changing need, okay, which is you've got  
10 566 variables that determine that.

11 So whatever the ultimate dataset we use, funds are  
12 going to move from one place to another. I just want  
13 everyone to fully understand what's going on and why  
14 they're moving and to have the greatest confidence in  
15 that dataset that they can.

16 And I believe a lack of understanding of ACS  
17 allows for stories to be told, and out of desperation  
18 and fear because of that desperation, they believe  
19 them. And I just want the facts out there and the  
20 tribes to be able to see what the facts are, not a  
21 story that someone's told them.

22 Thank you.

1 MR. DOLLARHIDE: Carol?

2 MS. GORE: A couple of comments, one request.

3 Jack, I hope you will join the needs workgroup  
4 because we'll need someone from UNAHA to guide that  
5 workgroup and what your intent is so we can navigate  
6 that. And I know we have folks from HUD that joined  
7 that needs workgroup, but it's going to matter that you  
8 be in that room as we're having this conversation.

9 My comments. Three years from now, the same  
10 people won't be at this table. Three years from now,  
11 Sandra and Rodger may not be at this table. We'll have  
12 a different administration.

13 I've been through, this is my third negotiated  
14 rulemaking, and I've enjoyed the partnership we've had  
15 with the Assistant Secretary and the Deputy, Rodger.  
16 Several of us have been at this table before, and we  
17 know that relationship has not always been an effort to  
18 work together and get to yes.

19 So I want to mention that because we can't predict  
20 the future. So, as we think about the "as is" for some  
21 period of time, I'm a little worried about the "what  
22 if" at the end of a what's being described as a 3-year

1 period of a study group. If HUD has no money to meet,  
2 HUD may decide at that time to move to ACS, and our  
3 negotiated rulemaking could be 5 to 8 years from now.

4 So I'm just suggesting to this committee and maybe  
5 to the needs workgroup that there may be several steps,  
6 and we have to consider the timing. How long could we  
7 stay with at the "as is"? What happens at the end of  
8 that time period, whatever that is? No matter what  
9 dataset we pick, if we choose a different dataset,  
10 there is going to be a cliff for some.

11 So the idea of a hold harmless is a conversation  
12 that we seem to be engaged in today, and I think we  
13 have a duty to finish that conversation because of the  
14 "what if" at the end of that time period. No matter  
15 the dataset, there's going to be a cliff for some. And  
16 if we really care about that, this is our opportunity  
17 to do something about it now.

18 And also to speak in support of Rusty's comments,  
19 which is we have a new dataset that's scaring all of us  
20 because we don't understand it as well as maybe we'd  
21 like to. I think we have a duty to engage in how to  
22 improve that, and I think that's the third step.

1           And we really have to engage in all three of those  
2 ideas because the future is not necessarily ours. It  
3 belongs to who follows us. And we have a duty to them  
4 to make sure that we are engaging properly here to set  
5 them up for success 3 years, 5 years, 8 years down the  
6 road because some of us are not going to be here.

7           I don't want people to point back and say, wow,  
8 that committee didn't do their work. I want to be able  
9 to say that we did the right thing and we engaged at  
10 the robust level that we needed to. So sorry for a  
11 little bit of a cheerleading session here, but I feel  
12 pretty emotional about the idea that we have to get on  
13 with the hard work and not miss a step.

14           Thank you.

15           MR. DOLLARHIDE: Jason Adams?

16           MR. ADAMS: Thank you. Jason Adams, Salish  
17 Kootenai.

18           I just wanted to touch on a couple of things maybe  
19 again. But this issue of getting to work in our  
20 workgroups and if we take this tact of, you know, just  
21 working on this workgroup or study group idea, that  
22 that will in some way take away from the rest of the

1 work, I don't necessarily believe that.

2 I hope that the needs workgroup would really get  
3 to work and talk through these issues because that's  
4 why we have workgroups. We have workgroups that take  
5 the work from the big issues that are presented at this  
6 table and go into the fine detail work that needs to be  
7 had, the discussions that need to be had, so that a  
8 product can be brought back and proposed here.

9 My concern is that if we continue the discussion  
10 in the big group, my FCAS workgroup members will, at  
11 some point, get discouraged and say when are our issues  
12 going to be talked about because the workgroup is not  
13 going to get a chance to meet if we just stay at this  
14 table. So I wanted to make that point.

15 The other point I want to make, and I've raised it  
16 already is, is the whole issue of dataset. I think  
17 that we owe it to that first Negotiated Rulemaking  
18 Committee that initially met -- and there are some  
19 folks in this room that were part of that process. It  
20 was, again, as I mentioned earlier, historic process.

21 But they acknowledged the shortcoming of census as  
22 a dataset, and they had, you know, acknowledged those

1 issues and agreed that at some point in time in the  
2 future, there would be a significant study of dataset.

3 I hope, and again, I'm kind of repeating myself, that  
4 we would, you know, take this opportunity now and take  
5 the opportunity to have the discussion on dataset.

6 Have the full and outright discussion so that I  
7 can go back and be educated on this and go back with  
8 some options to some of our regions and say the  
9 committee agreed that we're going to study this issue,  
10 that tribes can come to the table and be a part of this  
11 discussion, that we can understand some of the shifts  
12 that are happening and have a discussion on a dataset  
13 that if there is something out there that could  
14 possibly be used, let's exhaust that discussion.

15 Because since day one, since NAHASDA has been in  
16 effect and we agreed, and maybe some tribes tentatively  
17 agreed that we would use census data, that at some  
18 point in time in the future there was going to be this  
19 commitment that there would be a discussion on dataset.

20 That's been pushed off. It's been pushed off. It's  
21 been pushed off. I would hope that we would just at  
22 least have that discussion.

1           As part of that workgroup or study group or  
2 whatever we want to call it that goes off and does this  
3 work, that there would be the opportunity that's  
4 already been talked about extensively here this morning  
5 on the comments of educating tribes. We've got a tribe  
6 in this room today, a tribal leader from a tribe in our  
7 region that loses substantial amount of money. And as  
8 I pointed out earlier, I cannot explain to that  
9 councilwoman who is here today why.

10           And so, I would hope that they would have the  
11 opportunity to come to the table and say, okay, if we  
12 continue on and we do transition to ACS, why are these  
13 numbers taking so much money away from our tribe?

14           And another part of the discussion that hasn't  
15 happened yet today is that there is another entity,  
16 another piece to this that is tied to the housing  
17 formula, and that's transportation. Transportation  
18 picked up this formula, use of the same formula here a  
19 year or so ago.

20           And so, our tribes have had that discussion and  
21 have realized that, you know, if we move to ACS not  
22 only is housing dollars affected, but transportation

1 dollars are affected, too. And so, we're concerned  
2 about that.

3 So that's my comments. I hope I've answered some  
4 questions. I think we've had great discussion on this  
5 issue. You know, I would hope that the needs workgroup  
6 would continue this discussion and get into the details  
7 on how we move this process forward.

8 If we want to continue here, if that's the will  
9 and the wish of the committee to continue the  
10 discussion and exhaust this discussion here, then so be  
11 it.

12 Thank you.

13 MS. BRYAN: Thank you, Jason. Sandra?

14 MS. HENRIQUEZ: Just two things for points of  
15 clarification. It's come up a couple of times that  
16 there was supposed to be then a study of datasets I  
17 guess undertaken by HUD or HUD committed. And I've  
18 learned that HUD did ask for the funding for Congress  
19 to do that, and it was not funded. And therefore, that  
20 study was not done.

21 Jason just mentioned point number two that DOT has  
22 taken up the same formula that we're using. It's only

1 partially correct. They use the 2010 AIAN numbers in  
2 their part of their formula, but it is the only part of  
3 the 2010 census that they use in doing their formula  
4 for the Department of Transportation, not the full set  
5 of what we do here.

6 MS. BRYAN: Thank you.

7 So I'm hearing we're at a point where we're going  
8 to -- okay, have this discussion or move forward, and I  
9 do see a card from Rusty and then Jason.

10 MR. SOSSAMON: Thank you, Madam Chairman.

11 You know, because it does affect other funding  
12 agencies that are critical to the tribes, this is a  
13 conversation that is going to take place whether we do  
14 it publicly and try to get all of the stakeholders, the  
15 Federal agencies, the tribes at the table and have this  
16 discussion among ourselves and solve the problem. Or  
17 if we do it through our own channels individually  
18 through the political process. It's going to happen,  
19 okay?

20 I believe it's a better way to and a better use of  
21 those resources and our time and energy to have this  
22 open, public, transparent discussion and deal with the

1 issue and bring everybody to the table rather than  
2 spending all the time and effort fighting each other  
3 politically behind the scenes. And perhaps come up  
4 with a political solution that's worse than where we're  
5 at now.

6 So, again, that's why I'm wanting to reach out in  
7 good faith and support this idea to create this  
8 opportunity because of the immense impact not just on  
9 us and now, but all of our tribes as we move into the  
10 future in many different programs. And I just -- I  
11 believe the best way, again, to use those resources  
12 instead of fighting each other politically is to come  
13 together and let's work together for the good of all of  
14 us.

15 Because if not, then we're just going to be  
16 subject to the shifting of political power will  
17 determine. Not need, but political power. And to me,  
18 that's not a very good way to develop a formula.

19 MS. BRYAN: Thank you. Jason?

20 MR. ADAMS: Yeah, Jason Adams, Salish Kootenai.

21 I just wanted to yield some time to Dave  
22 Heisterkamp because some tribes in our region have been

1 involved and been in contact and working with the  
2 Transportation folks. And so, I wanted to give some  
3 rebuttal to Sandra Henriquez's comments in regards to  
4 the effect to Department of Transportation funds.

5 So, Dave?

6 MR. HEISTERKAMP: Issue that's not well understood  
7 by the housing folks, but what the transportation  
8 formula actually uses is whatever NAHASDA says the  
9 population is. If currently NAHASDA says the  
10 population is 2,000 adjusted census, it uses that, and  
11 that's what it's locked into.

12 If we change that through this process,  
13 transportation will use whatever this group decides  
14 that population figure is. It is locked into what the  
15 NAHASDA formula decides the population figure is,  
16 whether that's from census data or from ACS data, from  
17 another dataset, and that comprises about 39 percent of  
18 their formula money.

19 So that's why they have a much bigger -- where  
20 it's 11 percent of our needs component right now, a  
21 fairly small factor in our formula, it's a fairly large  
22 factor in the transportation formula. And so, that's

1 just a further clarification of how it plays in and how  
2 it may affect funding in those programs.

3 MS. BRYAN: Thank you. You still got your card  
4 up, Rusty?

5 Okay. I did hear Rusty's comment that we keep  
6 this conversation open as a public idea. The other  
7 idea is to break into workgroups. So I'm going to ask  
8 you all what you're hearing.

9 We do have a presentation that has been offered to  
10 us before the break. Are we ready for the  
11 presentation? Maybe we can look at that and it will  
12 give us some ideas on where we go from here?

13 Who's doing the presentation?

14 (Pause.)

15 MS. CUCITI: I've asked Sara to bring up the TA  
16 request on hold harmless that was done, the summary  
17 page, and it's slightly different than is on the Web  
18 site that just will make this discussion as a group  
19 slightly simpler. I've added more numbers. I know  
20 that sounds like an oxymoron.

21 But this TA request arose out of the needs group  
22 when one of the committee members who was trying to

1 protect the tribes that faced significant losses due to  
2 the introduction of new data came up with a variant of  
3 the freeze proposal, which was, in effect, to say for a  
4 period of 3 years while we attempt to improve the ACS  
5 data, that we take an either/or approach.

6 Just like the solution that emerged after we  
7 introduced the last data, the last 2000 census data and  
8 we had the controversy over single and multi-race,  
9 Congress directed us to take an either/or approach  
10 using single race data in one run, multi-race data in  
11 another run, and give the tribes the better of the two.

12 So the variant of a hold harmless proposal was  
13 that for 3 years we should run the old data, figure out  
14 a grant. Use the new data, figure out a grant. Give  
15 the tribe the better of the two. And then make  
16 adjustments backwards so that we stayed within the  
17 total appropriated amount. And so, it's just like the  
18 single/multi.

19 As the task force or the working group continued  
20 to discuss hold harmless, two issues were raised that  
21 grant variability is not simply a function of this one-  
22 time introduction of 2010 census data and ACS, but that

1 if we continue to introduce ACS as it becomes  
2 available, potentially there are disruptions from year  
3 to year due to that introduction of new data.  
4 Hopefully, smaller, but nevertheless, for some tribes  
5 it could turn out to be significant.

6 And so, the question was, was there some kind of  
7 hold harmless provision that could be designed that  
8 would solve the problem forever going forward, or at  
9 least until some future negotiated rulemaking? It also  
10 was designed to come up with ones that didn't  
11 potentially give us the same problem 3 years from now  
12 because the either/or mechanism still left open that we  
13 had to have a resolution in 3 years or we presumably  
14 were reverting either to the base or to the new data,  
15 one or the other, and there would be changes then.

16 So Ben from PD&R and I and other -- FirstPic and  
17 other HUD staff members came up with some options, and  
18 I think that's why it was important to present because  
19 the committee in effect asked us to look at some  
20 options. And you need to see whether they are of  
21 interest to you.

22 The first option, in addition to -- I mean Option

1 1 is the either/or option. Option 2 was to guarantee  
2 that a tribe's grant is equal to 90 percent or more of  
3 its prior year grant. That was a pretty  
4 straightforward one because it could be done at the end  
5 of the formula after we've done minimum needs  
6 allocations and fiscal year '96 hold harmless. It just  
7 tacks on at the end.

8 From the -- let me go through all the options, and  
9 then we'll go back to the numbers and how to look at  
10 them. In every option, you always have to come up with  
11 a mechanism for recovering funds needed to make the  
12 hold harmless provision work. And in all of the  
13 instances, we did it by taking money in proportion to a  
14 tribe's gain.

15 So we would look at the difference between your  
16 new funding with the new data, your funding with the  
17 old data. And if a tribe accounted for 10 percent of  
18 the total gains of all the tribes, it contributed an  
19 amount 10 percent of the amount needed to make the hold  
20 harmless provision work.

21 So that's also a policy choice, but what this  
22 whole thing is designed to do is moderate the

1 variations. So more of the burden happens for the real  
2 big gain tribes to compensate the big loser tribes.

3 In Option 3, we try to do something similar to  
4 Option 2 but do that hold harmless earlier in the  
5 calculation to say if what we're dealing with is  
6 variability that's due to the introduction of new needs  
7 data, that perhaps the hold harmless needs to take  
8 place at the calculation of the needs allocation, as  
9 opposed to in the total grant.

10 So, potentially, Option 2 would have helped a  
11 tribe that was having a big loss due to FCAS changes.  
12 Option 3 only focuses on the changes in needs. And in  
13 order to do that, the hold harmless took place before  
14 the calculation of minimum needs. But that's maybe a  
15 detail.

16 Option 4 was yet a further variant, and it takes  
17 us a little further afield from what we've been doing  
18 with the formula thus far. It's modeled on a hold  
19 harmless provision that exists in the Department of  
20 Education for Title I funding. Title I focuses on  
21 helping provide special education, not special ed in  
22 the sense of disability-type special ed. But education

1 services for poor, high-poverty children.

2 And so, they, in thinking through their hold  
3 harmless, basically said that we think the capacity of  
4 a grantee to absorb a change in their grant differs to  
5 some extent based on their initial need. And so, in  
6 effect, they did a hold harmless guarantee that was  
7 stronger for high-poverty local areas than for other  
8 areas.

9 And so, this required the introduction of totally  
10 new data from the ACS that you haven't seen before,  
11 which is actual poverty data. It differs from our low-  
12 income households in that it uses a common national  
13 standard, which is the poverty rate, and as opposed to  
14 the local median -- the formula median income. All  
15 right?

16 And what we tried to do in that one was we held  
17 harmless the needs allocation such that tribes with,  
18 what was my cutoff, 35 percent or more poverty in  
19 either their single or multi-race data -- because  
20 poverty rates are a little bit different depending on  
21 which population we focus on.

22 So if their poverty rate is higher than 35

1 percent, you were guaranteed that you would get 90  
2 percent of your needs allocation. If you were a very  
3 low poverty tribe, you were guaranteed 70 percent. And  
4 the cutoff for that was 12 percent poverty rate, again  
5 either single race or multi-race.

6 So what you get on here, on the chart is  
7 regardless of whether we applied the hold harmless to  
8 the needs allocation or the grant allocation, what  
9 we're reporting on that table is your total grant.

10 Is this working? Yeah.

11 So we've put -- this is not on the -- what's on  
12 the Web site yet, but we carried this forward down here  
13 in this position so that we could see everything all at  
14 once. It's just a reordering.

15 And this is what you had seen before in TA request  
16 number one, which is what was the effect of introducing  
17 the new census and ACS data? And that's where, in  
18 fact, we saw the big losses that occurred in the Denver  
19 region and the Phoenix region as a result of  
20 introducing that data. So that's in this lower panel  
21 here.

22 When you go to the either/or scenario, it has some

1 moderating effects, but not large, and it -- you can  
2 see, and it would only be in effect for the 3 years or  
3 at least as it was written. Option 2, I don't know,  
4 really, basically, we didn't see much impact on helping  
5 the regions that were taking the big losses until we  
6 got to Option 3 and Option 4.

7 Questions?

8 MR. WINTER: Still works. No, you did a really  
9 good job explaining that. The only thing that I would  
10 add is just a little explanation of these two tables  
11 here, or these two columns.

12 And so, in this column here, the percent of tribes  
13 benefiting for the grant from the guarantee, that's  
14 basically the number of tribes who are actually -- who  
15 the hold harmless is applying to, right? Who lost a  
16 lot of funding, and this hold harmless provision  
17 actually helps. So --

18 MS. CUCITI: The percentage of tribes in the  
19 region.

20 MR. WINTER: Yes, percentage of tribes in the  
21 region that are helped by the hold harmless policy.  
22 So, for instance, in Alaska, on Option 2, 30 percent of

1 the tribes are helped by this hold harmless policy.

2 And the total grants change is 3.6 percent.

3 So of all the grants in Alaska, Alaska is getting  
4 3.6 percent more funding from what they would have  
5 gotten if we make absolutely no change to the formula  
6 and don't introduce any new data. Right?

7 So then you move over -- so, and then you see in  
8 Denver, only 9 percent of tribes are helped with this  
9 hold harmless policy. So let's continue on with Denver  
10 over to the Option 3. Option 3, 22 percent of tribes  
11 are helped by this hold harmless policy, and Option 4,  
12 you have almost 40 percent, which is the highest amount  
13 of all the regions.

14 So in Option 4, you have Alaska, Denver, and  
15 Phoenix kind of being the top three folks that are  
16 helped by this one particular hold harmless policy.

17 MS. CUCITI: I might just add that there was  
18 another TA request that also came from the needs  
19 committee that was also designed to deal with concerns  
20 about the accuracy of the data in the American  
21 Community Survey. We were handed several papers in  
22 that workgroup last time that documented the

1 differences in the counts of persons in the ACS  
2 relative to the counts of AIAN persons in the 2010  
3 census, with the implicit assumption being that the  
4 2010 census, being a comprehensive count, is the more  
5 accurate data.

6 And we were asked to do a simulation where we  
7 adjusted the ACS data by a factor that reflected, in  
8 effect, the undercount. And I use that word with  
9 hesitation, undercount, because there are lots of  
10 reasons why the ACS could have been lower than the  
11 decennial count.

12 But you can take a look. That's on the Web site  
13 as an alternative TA. Theoretically, it could also  
14 address some of the concerns with the ACS.

15 It didn't do much in terms of moderating the  
16 losses, at least as they show up at the regional level.

17 But what that comes down to is you -- it really hinges  
18 on a belief that the 2010 census counts are accurate.  
19 And because even Denver and Phoenix had some losses in  
20 persons, not only the losses in the ACS.

21 MR. WINTER: Yeah, I know you just said this, but  
22 I just want to reiterate. That TA request is not a

1 hold harmless policy, right? So let's say that that TA  
2 request fixed the ACS. I mean, to the extent that  
3 there is any problem, which we don't really know that  
4 there really is.

5 But let's just say, in effect, that tweaking that  
6 we did still creates really big gainers and really big  
7 losers. It doesn't actually fix the big variation that  
8 happens when you introduce brand-new data into a  
9 formula. These do address that specifically.

10 MS. CUCITI: So let me just also reclarify,  
11 remember that the AIAN person counts that were the base  
12 for the adjustment factor and the numbers that get used  
13 in the transportation programs, were we to update our  
14 data files, are decennial census counts, not ACS  
15 counts. The AIAN person counts that we would at least  
16 thus far have put in the simulations are all the  
17 decennial census counts.

18 MS. BRYAN: Jason?

19 MR. ADAMS: Yeah, I guess the couple questions I  
20 have, first and foremost, is, you know, maybe not a  
21 question, but a statement is, you know, we're still  
22 using ACS data and just manipulating it in different

1 ways in all of these options. Correct?

2 MS. CUCITI: Well, they all --

3 MR. ADAMS: And maybe even --

4 MS. CUCITI: They implicitly make use of the -- in  
5 the first year, they implicitly --

6 MS. BRYAN: Can you go on the mike, please?

7 MS. CUCITI: In the first year, they implicitly  
8 still use the old data because the base against which  
9 the hold harmless is determined is based on the old  
10 data. As you would move forward, you would effectively  
11 be using all ACS because it's always tied to the prior  
12 year grant.

13 So it would take some time, I guess, is the way  
14 I'd have to think about it. Because if you had a big  
15 adjustment through hold harmless because you were a big  
16 loser from the introduction of the ACS, the grant that  
17 would carry forward in year two is your hold harmless  
18 adjusted grant. So the most you would ever lose in a  
19 given year is whatever your hold harmless protection  
20 level is, the 90 percent or the 80 percent or whatever  
21 was defined in the formula option.

22 But in general, yes, you would be moving to new

1 data sources and/or new data sources after they had  
2 been changed via census challenge. Whatever was in the  
3 database.

4 MR. WINTER: Okay. So a couple --

5 MR. ADAMS: The other part of my -- go ahead.

6 MR. WINTER: I was just going to clarify one other  
7 thing. Just to be clear, Options 2 -- none of these  
8 hold harmless are actually tweaking ACS. This is a  
9 tweak to the formula, not the data. So I just wanted  
10 to make that -- because I think your question was, do  
11 these actually change the ACS data? It doesn't change  
12 the ACS data. It just changes the formula.

13 MS. CUCITI: The ones up here.

14 MR. ADAMS: Well, my next question then is in  
15 Option 4, you had mentioned, if I heard correctly, that  
16 it's getting some new ACS data that hasn't been used  
17 before in the formula as far as poverty?

18 MS. CUCITI: Yes. It's a poverty --

19 MR. WINTER: It's the same ACS data. It's just a  
20 different tabulation. It's a different variable that  
21 we constructed using the ACS. So it's still ACS data.  
22 We didn't change the actual ACS. We just used a

1 different variable.

2 MS. CUCITI: But it's also a poverty weight,  
3 remember.

4 MR. WINTER: Right.

5 MR. ADAMS: But that's -- okay, you said what I'm  
6 getting at. You're taking a new variable that's made  
7 available through ACS --

8 MR. WINTER: Yes.

9 MR. ADAMS: -- and then implementing that. And  
10 so, that is a significant change.

11 Now my last comment is in the detail on the  
12 information that's on the Web site, under Option 4, I  
13 was looking at this. And it says in there under final  
14 grant, after implementing Option 3, is that supposed to  
15 say Option 3, or should that be Option 4?

16 MS. D'ANGELO: We just changed it.

17 MS. CUCITI: We just changed it.

18 MR. ADAMS: Oh, okay. Okay.

19 MS. D'ANGELO: We just uploaded. I think once  
20 it's uploaded, it will change that --

21 MR. ADAMS: Okay. Because I was confused then if  
22 that then should be the numbers that we would look at

1 as far as if Option 4 is implemented, that would be the  
2 tribe's effect.

3 MS. CUCITI: Yes.

4 MR. ADAMS: Okay. Thank you.

5 MS. D'ANGELO: Jason, if you go back and download  
6 it again, it's correct now.

7 MR. ADAMS: Okay. Thank you.

8 MS. BRYAN: Thank you.

9 Other questions or comments on the data  
10 presentation?

11 (No response.)

12 MS. BRYAN: Okay. Other comments on proceeding  
13 forward from this point? I've heard two different  
14 ideas. One that we break into our workgroups, and we  
15 discussed that option. We also heard a proposal that  
16 we continue this discussion in the public forum around  
17 this table.

18 So I'm going to open it up to the group for what  
19 you think you've heard or what you're passionate about  
20 in terms of what you would like to see happen.

21 Sami Jo?

22 MS. DIFUNTORUM: Hi. Sami Jo Difuntorum,

1 Confederated Tribes of Siletz Indians.

2 This is actually a little bit off of that. This  
3 is kind of an add-on to what Rusty was saying earlier,  
4 and I don't want to offend anyone, but I need to just  
5 say this.

6 One of the things that bothered me about the  
7 proposal that I saw was there is a statement on there  
8 that said that basically folks were getting ready to go  
9 to Congress to have this changed. And I just want to  
10 say that I don't really care for that while we're all  
11 sitting at the table negotiating.

12 I mean, tribes are going to do what tribes are  
13 going to do, and that's their right. But for those of  
14 us that are here at the table trying to find common  
15 ground and reach a solution, you know, that, from my  
16 perspective, kind of flies in the face of that a little  
17 bit.

18 And if we're all going up to the Hill and we're  
19 all saying different things, trying to push our  
20 respective positions -- and I don't know that I even  
21 have a position at this point -- you know, it really  
22 puts Congress in the situation of not knowing who to

1 listen to, and I don't think it benefits us in the long  
2 run. I think it creates division.

3 And I would just suggest that, you know, until we  
4 have a consensus opinion, if we have one, from this  
5 group at the table, that we might want to consider  
6 refraining from that.

7 Thank you.

8 MS. BRYAN: Thank you, Sami. Jack?

9 MR. SAWYERS: I agree with you. It was never my  
10 intent or I think the intent of UNAHA to go to  
11 Congress. I don't know how we got involved in that  
12 portion.

13 But let me assure you there's no intent for as far  
14 as I know for our organization to go to court or -- I  
15 mean, to court, to Congress, which is court. We want  
16 to do this ourselves. We want to negotiate, and I can  
17 promise you that that's not even a factor.

18 MS. BRYAN: Thank you. Jason?

19 MR. ADAMS: I guess the other part of this is --  
20 is a statement that maybe should have been made early  
21 on in some of the activities that are happening within  
22 our regions and within our tribes is that, you know, we

1 are here at the table. We are working through some of  
2 these issues. But I think it's important to remember  
3 that there's tribes out there that aren't at this  
4 table.

5 There's tribes out there that aren't apprising  
6 themselves of this process. And all's they hear and  
7 all's they see is big dollars going out the door  
8 potentially. And it's those tribes that I can't speak  
9 for because they're going to do what they're going to  
10 do.

11 They're going to go to the Hill. They're going to  
12 talk to their congressional delegation. They're going  
13 to try and mitigate that loss in whatever means they  
14 have to.

15 And so, we might have a situation here where UNAHA  
16 is, at least my seat, I represent my tribe, and I  
17 represent, you know, our region. And we're here.  
18 We're here to negotiate. We're here to try and put our  
19 best foot forward to work with all of you to make this  
20 move forward.

21 But there's going to be things happening in the  
22 background by tribes and tribal leaders I can't affect.

1 I can't have a say in that. They're going to do what  
2 they're going to do.

3 MS. BRYAN: Thank you. Sandra?

4 MS. HENRIQUEZ: Thank you.

5 So I basically agree with you, Jason. Tribes are  
6 going to do what they believe is in their own best  
7 interests. But I think that I would say that as  
8 committee members here, we have a collective  
9 responsibility to at least when we hear the issues and  
10 we know that this committee is working on those issues  
11 and that this committee has maybe some other  
12 information that would be helpful for a tribe to know.

13 It may not change their direction or their  
14 decision, but I think it's incumbent upon all of us to  
15 make sure that we share whatever the appropriate  
16 information is about what's being discussed at the  
17 table and what its implications are. And then people  
18 can do, of course, what they will do.

19 But at least we would have been responsible enough  
20 to say, okay, but let me talk to you a little bit about  
21 what really happened and what it really means. And  
22 somebody did champion your position, and this is the

1 discussion that ensued. So at least we're spreading  
2 the message of the work that's being done by this  
3 committee.

4 MS. BRYAN: Thank you. Aneva?

5 MS. YAZZIE: Thank you, Madam Chair.

6 I really appreciate that discussion, and I'm  
7 really pleased to hear Jack say that the position of  
8 UNAHA is not to go to Congress with respect to specific  
9 issues that impact that region. Because we did come to  
10 this table, and I think, as a new member to this  
11 committee, we all came in good faith to talk about any  
12 formula-related discussions should remain in the realm  
13 of this negotiated rulemaking in good faith with the  
14 Government.

15 And I'm hoping that we continue to honor that  
16 agreement. I believe that was what was said earlier.

17 But to the question that Madam Chair just posed to  
18 the committee members with respect to the remaining  
19 discussion, I just have a question in one respect. If,  
20 indeed, we are looking at a study group, that should be  
21 discussed fully by the full committee. And because of  
22 the parameters and because, I think, of the various

1 perspectives that have been voiced at the table thus  
2 far, additionally, what does that mean for the FCAS  
3 group if we do go into the respective subgroups? What  
4 does the FCAS committee then work on?

5 Because I think everything is contingent upon the  
6 datasets and really identifying what are we talking  
7 about in terms of those parameters. And the  
8 expectations and the framing of the discussion of a  
9 study group I think bears further discussion. And as  
10 the full committee, I would recommend that we do that.

11 But I just need some clarity as to the options of  
12 having the full discussion versus breaking into  
13 workgroups and just having an understanding. I do have  
14 some members on my team that I have ready to  
15 participate in both workgroups, as well as myself. And  
16 so, if I can get some distinction in that regard, Madam  
17 Chair?

18 MS. BRYAN: Thank you. What's your question,  
19 Aneva?

20 MS. YAZZIE: Some clarification and distinction of  
21 whether we break into workgroups, and if we do, what is  
22 the charge of the workgroups relative to this

1 overarching discussion of a study group, Madam Chair?

2 MS. BRYAN: Thank you very much. And that is the  
3 question that's here in front of us as a workgroup now  
4 on the table.

5 I just want to make a comment, defer chairmanship  
6 over to Jason.

7 Annette Bryan, Puyallup Nation Housing Authority.

8 I, too, appreciate the discussion on the table,  
9 and I'm glad that it's open and there are not  
10 resolutions floating around behind the committee's  
11 work. As a new member, my question is why didn't we  
12 bring up this question at the first meeting? And here,  
13 we're sitting at the fourth meeting, and we've already  
14 had three negotiated rulemaking sessions. And so much  
15 time has passed, and we have three new meetings  
16 scheduled to do our work.

17 And you all know me. I'm a little impatient and  
18 can tend to get frustrated by too much process. So I  
19 do appreciate that we are talking about this and having  
20 this conversation. I'm just curious -- not suspicious,  
21 but curious -- why we're having it today in the middle  
22 of our fourth -- in the beginning of our fourth

1 session? So I appreciate that it's here. I know it  
2 needs to be talked about.

3 I also am hoping that HUD could be really  
4 transparent. And if we are steering towards the ACS  
5 dataset, as all other Federal agencies have adopted and  
6 are using, and if we're going to be using it, then if  
7 we could know that -- and I know you want to stay open  
8 and see if we have a solution. But I hope that you're  
9 hearing that we do not have a solution to propose to  
10 you or we're not getting to that. So that we could put  
11 weights and measures around ACS and do some work here  
12 in the negotiated rulemaking session.

13 So those are my comments. I felt like I couldn't  
14 sit here any longer. I had to say those things. And  
15 again, I appreciate everyone's good discussion and  
16 helping me to learn and be patient with this process.

17 It is a process, and I do understand that. So I  
18 do appreciate all the comments that we're having.

19 MR. DOLLARHIDE: Jason?

20 MR. ADAMS: Jason Adams, Salish Kootenai.

21 I guess just in response to Aneva's question, as  
22 far as the FCAS workgroup, being the chair of that

1 workgroup, there is nothing on our list of nine that is  
2 directly related to dataset. And so, our work is in  
3 regards to changes to the statute in some areas that  
4 affect regulation and existing regulations and some new  
5 issues that are coming to the table that are -- you  
6 know, because FCAS gets funded first with the funding  
7 formula.

8 And a lot of that information is not dataset  
9 driven. It's information that's regulation on FCAS  
10 units, which is, you know, how do I say this? It's  
11 prior to census data. It's information that you're  
12 getting funded for those units.

13 And so, some of these issues that we're bringing  
14 up that are on our list are specific to NAHASDA units  
15 and how you fund those, you know, if you receive FCAS  
16 money today, if you don't have any needs money or  
17 you're not receiving anything for needs. So all of  
18 those kind of issues are specific to formula current  
19 assisted stock, which comes from a '37 act.

20 So just wanted to clarify that. Thanks.

21 And we do have plenty of work to do and would like  
22 to get on with that work.

1 MS. BRYAN: Thank you, Jason. Leon?

2 MR. JACOBS: I guess I want to ditto what has been  
3 said. One, our protocol and our mission hasn't  
4 changed. We've got a lot of work that needs to be  
5 done. This was brought up as a concern, and we've  
6 discussed it. And I think we need to go into the  
7 meeting with the groups and continue the work that  
8 we're here to do.

9 We have two more meetings after this, and we might  
10 surprise ourselves by addressing all of these and have  
11 a product that HUD can use. So my recommendation is  
12 that we go into the sessions.

13 MS. BRYAN: Thank you. Sandra?

14 MS. HENRIQUEZ: Thank you. I think we do need to  
15 get on with the work. I do want to address some of the  
16 comments and questions you asked, Annette.

17 So, by the time I hear rumors, whether it's in the  
18 HUD building or around negotiated rulemaking and ONAP,  
19 et cetera, it's probably been around a while. I get --  
20 you know, I'm a "come lately" to the party.

21 So, but that also has taught me that by the time I  
22 hear them, there's got to be some kernel of truth to

1 what I'm hearing. And then I have to decide whether or  
2 not I want to try and run it to ground or dismiss it or  
3 exactly what action I want to take.

4 So you asked why now? You were curious, you said,  
5 not suspicious, but curious why now? I said that's  
6 really a good question. The rumor I've heard is it  
7 comes up now and the rumor is in anticipation of the  
8 Denver meeting when there will be much more pressure  
9 brought to bear. I'm just telling you what I'm  
10 hearing.

11 I will tell you that in terms of HUD's  
12 transparency, if you look at the transcript from our  
13 April meeting, in the section that I had people pull  
14 out for me, and it's quoted in part of the UNAHA, I  
15 guess their recitations, the whereas, at the beginning.

16 Where I -- it says that I announced -- "HUD has  
17 announced its intention to use data from the ACS in the  
18 NAHASDA formula beginning in fiscal year 2015 unless  
19 the committee can reach consensus on some alternative."

20 That's a direct quote from the resolution, as it  
21 was given to me. And I went back and pulled the  
22 transcript and had them pull out what I said. And what

1 I said exactly was, because that statement didn't go  
2 far enough. But I did say, "If we don't reach  
3 agreement, if there's no consensus about where we  
4 start, then consistent with past practice, HUD will  
5 implement the ACS data into the formula for FY '15 --"

6 Now here's the part that people dropped off, "--  
7 unless the committee agrees, in accordance with  
8 committee rules, to do otherwise.

9 "We'd prefer that we talk about this and figure  
10 out a way to come at this issue as a committee. As you  
11 know, with working with me in the past 5 years, I would  
12 much prefer to have a consensus around how we approach  
13 this together.

14 "The current rules, tribes -- under the current  
15 rules, tribes already are allowed to challenge data  
16 with your own surveys if you believe the census and,  
17 therefore, now the alternative potential ACS  
18 understates your population need."

19 So I think I've been pretty transparent about  
20 where we are. But we've had this discussion this  
21 morning. I guess I'd say better late than never.  
22 Better late than never.

1           Going to Congress and having Congress decide this  
2 issue, I've heard rumor that that's a strategy by some  
3 in this room. Doing your own legislation, I've heard  
4 that's a strategy. I've also heard that there are  
5 tribes that have already hired lobbyists to begin that  
6 conversation in Washington. I've heard it all. I've  
7 heard it all.

8           So I have to say, quite honestly, personally I'm  
9 not sure it's not HUD that's not being transparent. I  
10 think there are some underlying and competing agendas.

11          And to put this on the table and have a discussion of  
12 it today is a good thing, I believe.

13          I'm not sure we've gotten it all aired out. In  
14 fact, earlier on in the discussion, I'm thinking, well,  
15 gee, this is Wednesday. People want to preserve the  
16 status quo for the formula for the next 3 years and go  
17 off and do study groups.

18          Maybe I can go to my room and try and see if I can  
19 get a plane out first thing tomorrow morning and save  
20 us all -- because if we're going to move forward in  
21 that direction, then why prolong coming back and having  
22 discussions today, tomorrow, and coming back on Friday,

1 unless there is a move to move it and prolong it to get  
2 to Denver? I just don't know anymore.

3 And so, I'd like us to figure out where we all  
4 should be as a committee, to the maximum extent  
5 possible. And for us to then move forward in a way  
6 that gets us as close to yes as possible. That's --  
7 and as I will reiterate, even though I know every time  
8 I say it and then there's buzz around among tribes, the  
9 only agenda HUD has is you give us a formula that we  
10 can convert and actually run and do what the committee  
11 negotiated.

12 That's as transparent as I think we could ever be.  
13 That's where we've always been. That's where we will  
14 continue to be until this process evolves to someplace  
15 where we have consensus.

16 Thank you.

17 MS. BRYAN: Thank you. Jack?

18 MR. SAWYERS: Let me first answer why I think that  
19 we waited this long. I don't think we realized, as  
20 Sandra said, early on that if we come to any conclusion  
21 that ACS would probably be in '15, it would be what we  
22 would go by.

1 I don't speak as well as I used to when I was  
2 little. But I want you to know that there's a lot of  
3 things kicked around. We did have meetings, and in  
4 Denver, there's a lot of things that kicked around.

5 As Jason said, we can't -- we cannot be  
6 responsible for what any tribe does. But as UNAHA,  
7 there is no intent for us to go to Congress. We want  
8 to work with this group and to a solution that's good  
9 for all of us. And first of all, I better check with  
10 the chairman of UNAHA. But it's not our intent to go  
11 to Congress or anything else.

12 But I think -- I think the realization of how much  
13 we lost as some of the tribes, the poorest tribes lost  
14 in this -- in this process brought us to this point  
15 right now. A lot of things were said. A lot of things  
16 happened that everybody talks about. But the  
17 conclusion was that as far as I'm concerned, we're here  
18 to negotiate, and we appreciate the discussion.

19 And maybe, maybe Sandra is right. Maybe if we  
20 decide to have some kind of a process where we decide  
21 that we can stay the way we are, status quo, maybe we  
22 don't need to meet. Maybe we need to meet at other

1 times after we've decided.

2 But I still think there's a lot that we can do,  
3 and I don't think that we need to get an early flight  
4 out. I think there's enough stuff that we can go  
5 through. And I appreciate your comments, and I wanted  
6 to be as honest as you have about our position.

7 So I think from UNAHA -- Jason, would you agree  
8 that from UNAHA, we -- we're here to negotiate. And we  
9 appreciate the discussion. We appreciate you folks  
10 looking at our situation as well as your own, and I  
11 think we can come to some conclusion that will help us  
12 all.

13 Thanks.

14 MS. BRYAN: Thank you.

15 So it's almost lunchtime, and I would like to  
16 propose, based on what I'm hearing -- and just tell me  
17 if I'm off base here -- that we go into our workgroups  
18 after -- after the break, lunch break. Is that where  
19 we're at?

20 And this overarching discussion, Aneva, that we're  
21 having, I think will factor into the discussions that  
22 we're having at our workgroups. And then we were

1 requested to have more time, if needed, for discussion  
2 on Friday as a whole group on this topic.

3 Carol?

4 MS. GORE: Just a clarification. The agenda  
5 suggests that we come back from the workgroups and  
6 report back to the full committee at I think it's 3:45  
7 p.m. every day. So I think, just to be clear, the  
8 committee could then change the agenda if we felt we  
9 were ready to have a more robust discussion on  
10 Thursday.

11 So I would hate for the record to reflect that  
12 we're not going to come back and talk about it until  
13 Friday because we might be ready.

14 MS. BRYAN: Good point.

15 MS. GORE: So I just want to make sure that we  
16 have some flexibility with the agenda.

17 Thank you.

18 MS. BRYAN: Good point. And thank you for  
19 reminding me about agenda flexibility. I tend to be  
20 fairly rigid.

21 You also remind me that we are coming back.

22 Jason?

1 MR. ADAMS: Yeah, I wanted to -- Jason Adams,  
2 Salish Kootenai.

3 I wanted to bring up a point as far as the agenda.  
4 I didn't raise this earlier, and I apologize. But  
5 we've had, you know, kind of some flexibility already  
6 this morning in the agenda.

7 From our experience in the past couple of  
8 meetings, when we have -- we've set aside an hour this  
9 afternoon to have reports from workgroups to the  
10 committee, and my experience, and I think it'll  
11 probably be the same today, is that report might take  
12 15 minutes, if we're lucky. Because from now on until  
13 the afternoon, we're just -- we're going to have some  
14 good discussion, but I don't think we're going to have  
15 much to report to the full committee.

16 So I would hope we'd bump that workgroup time this  
17 afternoon out to about 4:30 p.m., 4:40 p.m., and then  
18 come back in here and report out and see what the  
19 committee wants to do for the evening. So that's just  
20 a suggestion.

21 Thank you.

22 MS. BRYAN: Thank you, Jason. I was actually just

1 going there in my thought process as well. Given that  
2 we're going to be breaking for lunch and then coming  
3 back into workgroups, we need more time in the  
4 workgroups, actually.

5 So let's plan on coming back at 4:30 p.m. We'll  
6 have 15 minutes for reports from workgroups and then  
7 public comment.

8 And so, lunch will be from -- what time will we --  
9 how long will we need for lunch? 12:15 p.m. to 1:30  
10 p.m. So it's 12:00 now, or it's quarter till.

11 If you come back at 1:00 p.m., that's an hour and  
12 10 minutes. Is that enough, or would you like 1:15  
13 p.m.? Or 1:30 p.m. is being proposed.

14 Workgroups, 1:30 p.m.? Okay. We are going to --  
15 are we adjourned?

16 MR. DOLLARHIDE: No.

17 MS. BRYAN: We're going to take a break for lunch  
18 and workgroups.

19 (Recessed at 11:47 a.m.)

20 (Reconvened at 4:40 p.m.)

21 MS. BRYAN: Okay. We'll go ahead and call the  
22 meeting back to order, resume from our break.

1           A lot of good progress today. So welcome back,  
2 everybody. We're going to go ahead and start with  
3 reports from workgroups to the committee.

4           And I'm going to start with FCAS, if you don't  
5 mind, Jason?

6           MR. ADAMS: Well, thank you, Madam Co-Chair.

7           As far as the FCAS workgroup, we did reconvene and  
8 had some good discussion. We spent some time again.  
9 You know, it's amazing how in 7 weeks, you can kind of  
10 forget the work that you did 7 weeks ago. I think  
11 that's about where we're at since we last met.

12           But we got back to the table. We kind of dusted  
13 off the issues that -- the nine issues that we are  
14 tasked with getting through. The first issue that we  
15 did want to get back to and we agreed to go in this  
16 order was the issue of the demolition language. And  
17 so, we revisited that.

18           I think at the last report-out I did before, at  
19 the end of our last meeting, I stated that our drafting  
20 committee was working on some language. That language  
21 is actually there now out on the Web site, available.  
22 And our workgroup did final approval of that language

1 unanimous today, without any objection.

2 And so, you can go to the workgroup, FCAS  
3 workgroup. I think it's the proposed -- yeah, that's  
4 what we're proposing to present at whatever time that  
5 the committee chooses to actually act and start  
6 negotiation on issues. We have this issue queued up  
7 now and ready to negotiate on.

8 So, as you read this, it's 1000.318, and the new  
9 language is (d)(1) and (2) at the bottom. And those  
10 are the issues that we are adding, and this is a  
11 proposed solution to the issue of how long recipients  
12 have to redevelop or reconstruct demolished units.

13 So that's where we're at on that issue. We're  
14 pretty proud of ourselves, had a round of applause that  
15 we actually agreed, did some work, and have a product  
16 produced to actually negotiate on.

17 So next item we talked about was the Indian  
18 Housing Operating Cost Study. Again, on the Web site,  
19 there is the information on that study. We talked  
20 about it a little bit at the last report-out. That  
21 document is quite comprehensive. We spent a lot of  
22 time just kind of summarizing and getting different

1 opinions on what that operating cost study does.

2 We were cautioned that this cost study was  
3 produced in 2008, which is over 6 -- or almost 6 years  
4 ago now from the date of its publishing, and so maybe  
5 some of the information might be getting a little  
6 dated, a little old. But we are -- I think, again,  
7 it's still a good study.

8 We are looking at the recommendation from the  
9 study. The recommendation in that study is for a local  
10 operating cost adjustment factor to be added to what is  
11 currently in the FCAS formula. Right now, we have --  
12 the tribes have the greater of their AEL or their fair  
13 market rent, or FMR. And this study recommends that we  
14 add to that mix an additional factor of 515, the USDA  
15 515 program. So we talked about that.

16 We did talk about the option of having members in  
17 the workgroup come back to the next meeting, if they so  
18 choose, to pursue or do a study and try to figure out  
19 if there's another factor out there that's nationwide  
20 that could be included in this.

21 And we had a very lengthy discussion on the AEL  
22 factor as it currently exists and whether it should

1 continue to be a part of the formula. And so, that's  
2 another piece that we are still negotiating and talking  
3 about.

4 The TA request that will be coming from our  
5 workgroup, you'll see on the Web site coming from this  
6 discussion, is going to be three-pronged, and it's  
7 going to be the recommendation as it exists with adding  
8 the 515 to the other two adjustment factors. And then  
9 it's the other one is just 515 as an adjustment factor  
10 by itself, and 515 in concert with FMR, eliminating  
11 AEL.

12 And so, those TA requests will come, and you'll  
13 see that information hopefully before the next meeting.

14 We do understand and heard some issues from HUD and  
15 FirstPic that, you know, it's going to take some time  
16 to get this data, that it's not readily available, and  
17 so we understand that.

18 But again, the 515 program is out there and has  
19 been in place for many years, and it is across the  
20 country. So we understand there are some concerns in  
21 Alaska that maybe it doesn't apply across the State as  
22 uniform as it does the rest of the country.

1           The third issue we got into this afternoon was the  
2 mutual help unit conveyance discussion, and that is  
3 found in the regulatory -- or statutory language under  
4 302(b)(1)(D), I believe it is. And so, we're trying to  
5 just again start the discussion on helping HUD to come  
6 up with some parameters. You know, HUD wants to come  
7 to the workgroup, and ultimately the committee, to help  
8 them with guidance on this issue.

9           And in the President's budget request, as we  
10 mentioned last time, you know, HUD is prepared, if we  
11 can't come up with something, to go and ask for a  
12 legislative opportunity to give them some direction on  
13 how to handle these cases.

14           We did ask for and receive a TA request that shows  
15 all of the various examples of reasons in subject area  
16 as to why recipients of NAHASDA funds are having  
17 trouble conveying mutual help units. We agreed to have  
18 a sub-workgroup work on that issue, but we didn't get  
19 this information very soon, and so they are going to  
20 complete that task and try to understand exactly what  
21 are some of the issues out of this five-page list of  
22 examples.

1           We are -- there was a suggestion made that we  
2   delay the implementation of this because it does have  
3   some impacts, pretty significant impact on some of the  
4   NAHASDA recipients. And again, another part of the  
5   sub-workgroup issue is going to be the trying to put  
6   some sideboards on the issue and possibly suggest some  
7   language to the workgroup on how we can direct HUD with  
8   some regulatory language to help them in this area.

9           So, with that, I think anybody on the workgroup,  
10   did I miss anything? I think that's a pretty good  
11   synopsis of what we've done today.

12          So, Co-Chairs, thank you.

13          MS. BRYAN: Thank you, Jason.

14          Okay. Update from the needs workgroup.

15          MS. DIFUNTORUM: Hello. Sami Jo Difuntorum.

16          So, where do we start with this? Basically, we  
17   had a couple -- we had a pretty robust conversation,  
18   and it was centered around a couple of themes. Did we  
19   want to delay implementation of any changes in data and  
20   continue using 2000 census? Did we want to look at a  
21   hold harmless provision? And also a study group, what  
22   that might be, what it might not be.

1           And we didn't really get to the details on the  
2 study group. I'm guessing that we will pick that up  
3 first thing tomorrow.

4           What we did finally agree to was a delay in  
5 implementation of a data source for the '16 and '17 --  
6 correct me if I'm wrong - appropriation. Ah, the  
7 language is up on the board. '16 and '17 allocations  
8 until completion of the study of all relevant data  
9 sources. So the workgroup will not just look at ACS.  
10 They will look at all data sources.

11           There is quite a bit of interest in trying to  
12 figure out what we can do to make ACS work because that  
13 seems to be the standard Government data source, and so  
14 I think the workgroup, the study group will be looking  
15 at that. But we will go through the details on the  
16 study group tomorrow.

17           There are quite a few questions. Who would  
18 participate? Who would pay for it? Karin brought up  
19 the question of who would provide professional support?

20           Which is a valid question. And timeframes and  
21 parameters and structuring the work.

22           So we're going to tackle that first thing

1 tomorrow, and I think we're ready to start moving onto  
2 the variables after that. Or not the variables. I'm  
3 sorry. The geography and some of the definitions.

4 So it was a very lengthy discussion, but I feel we  
5 made progress. It was more than I thought we would  
6 make today. So I'm very proud of the workgroup, and  
7 thank all of you for participating today.

8 If anybody else has something to add, feel free.

9 MS. BRYAN: Thank you, Sami Jo.

10 And to both of the workgroup chairs. That's a lot  
11 of -- a lot of good conversations being had, and a lot  
12 of good work getting accomplished.

13 At this time in our agenda, if there is no  
14 comments or additions to the workgroup updates, we will  
15 go -- Jason is going to make an announcement, and then  
16 we'll open up our public comments portion of this  
17 session.

18 MR. DOLLARHIDE: Thank you.

19 I'd just like to -- I'm sure that folks had seen  
20 the little flyer that was placed on your seats or  
21 around the room. We are having a welcoming reception  
22 this evening for the committee and guests.

1           So, you know, everybody is invited. So we will  
2 start that at 5:30 p.m., and it will go from 5:30 p.m.  
3 to 7:30 p.m., and that will be in the Sonora B room,  
4 which, if I'm not mistaken, that's just around the  
5 corner. So I would hope that everybody would show up  
6 this evening. Not only the committee, but the folks in  
7 the audience, the HUD officials, the HUD folks.

8           I encourage everybody to show up. It'll be a good  
9 time. Have small hors d'oeuvres. I think even might  
10 be -- be able to get a few drinks or whatever for the  
11 folks. I was a little uncomfortable saying that, but  
12 I'd already started it.

13           (Laughter.)

14           MR. DOLLARHIDE: So, but thank you.

15           MS. BRYAN: Thank you, Jason.

16           All right. So, at this time -- yes, Sandra?

17           MS. HENRIQUEZ: I'm sorry. I just want to go back  
18 for a second.

19           So the needs committee made a proposal about what  
20 to pursue. Was that subject for a vote of the full  
21 committee? Is that -- is -- I just don't know is that  
22 what's going to happen, or is that a proposal, or it

1 gets fleshed out some more tomorrow before it's called  
2 to a vote?

3 Or how do we want to handle similarly with the  
4 report-out, I just was wondering what we're doing and  
5 what you want to do?

6 MS. BRYAN: I would like to defer to some of our  
7 more seasoned committee members. We do have a  
8 proposal. It was introduced, and I'm not sure if we're  
9 holding proposals for the end of the meeting or if we  
10 insert it now or add it to the agenda for the morning.

11 Sami Jo?

12 MS. DIFUNTORUM: That's really up to all of you.  
13 This left the committee. We didn't vote consensus, but  
14 nobody objected to this language leaving the committee.  
15 So I believe -- or sorry, workgroup.

16 So whenever the committee is ready to take it up,  
17 I think we're prepared to have that conversation.

18 MS. BRYAN: Carol?

19 MS. GORE: I think my only hesitation is this  
20 language is contingent upon some study, and that's not  
21 fleshed out. I would feel a lot more comfortable  
22 voting on this topic if I knew that we had a successful

1 discussion about study and what that's going to look  
2 like because I think they sort of -- they hang  
3 together.

4 So I think that's why we didn't bring it as  
5 something for the committee to act on. But that's just  
6 my view. We didn't talk about it in the workgroup. So  
7 I would feel more comfortable if we waited until we had  
8 that discussion tomorrow.

9 Thank you.

10 MS. BRYAN: Thank you for the clarification. So  
11 we will wait for more information on this proposal, but  
12 that's an update of what the group did accomplish  
13 today, which was a lot. And so, we'll add more to it  
14 tomorrow after our meetings.

15 So, at this time, I would like to open this  
16 meeting up for public comment. The microphones are  
17 back here. I think Linda has, and there's one on the  
18 other side.

19 You're all welcome to come up and speak.  
20 Introduce your name and who you represent before your  
21 comment or question. Thank you.

22 (Pause.)

1 MS. KILLS IN WATER: (Speaking Native language.)  
2 Hello. Good evening. I want to shake your hand with a  
3 kind heart.

4 My name is Pam Kills In Water. I'm a tribal  
5 council representative from the Rosebud Sioux Tribe. I  
6 am also the chairman of our housing board. I'm also  
7 chairman of our transportation committee. I'm also the  
8 treasurer of our land department. I'm also one of the  
9 members of our health board committee.

10 A lot of our representatives from our tribe went  
11 to go see Obama. He was going to be up north. So they  
12 went that way. I'm the only one that came from my  
13 tribe this way, but that's okay because I'm the  
14 chairman anyway of our housing board.

15 I want to thank you for allowing me to talk a  
16 little bit. One of my concerns, I guess I have like  
17 five of them that our tribe has.

18 One of them is the inaccuracy of the ACS data.  
19 The part of the ACS data that concerns me is the  
20 numbers that are used for Rosebud. For instance, I  
21 believe that the population that's being used currently  
22 sets us at 10,000, 11,000, something like that.

1 But we would really like to see our number go up.

2 We have a big need for housing on our reservation. A  
3 lot of our -- in the '60s, '70s, remember when the -- I  
4 don't know if any other tribes got them, but the  
5 transitionals and super-hundreds that came about, a lot  
6 of ours have either burnt or became demolished somehow  
7 or another.

8 Right now, we depend solely on the tribal housing  
9 authority to provide housing for our membership, and we  
10 don't currently have enough housing. But once again,  
11 according to these numbers, our grant is one of them  
12 that got cut. And I had it up on my computer, and I  
13 forgot all about it. But we're getting cut \$750,000  
14 some this year, and I was kind of getting confused with  
15 when you guys talk about fiscal year and you know how  
16 it comes about.

17 But, you know, those cuts are real for people that  
18 live in rural areas, and you know, we don't have -- we  
19 don't have like what there's a tribe that's over here  
20 that has the city right here that helps it. We're  
21 sitting in the area where it's hours before you hit the  
22 next Walmart. I like to use Walmart as an excuse.

1           But you know, our tribe is really struggling.  
2           We've got like three to four families living in a  
3           three-bedroom house. A lot of our five-bedrooms have  
4           maybe five families living in them. You know, I always  
5           tell my tribe to at least look 15, 20 years down the  
6           road. That population is going to grow. The need is  
7           going to get 10 times worse than where we're at.

8           I don't really think anybody's ever actually been  
9           on our reservation and done a door-to-door census. I  
10          think it's just kind of been cut and paste, cut and  
11          paste of what it's been in the past. But right now,  
12          our tribal enrollment sits at 45,573, I believe it is,  
13          enrolled members.

14          Now out of that, we might only have maybe a  
15          possibility of 5,000 that actually live off  
16          reservation, but that's, you know, we still have the  
17          devastation of 40,000 that still need housing  
18          assistance.

19          The other thing with using the ACS data is on  
20          lowering our housing grant, it affects our roads money.

21          We just recently got our Federal highways to actually  
22          be under us, rather than go through the BIA process

1 where they take most of our money. We actually got it  
2 to where we have it now.

3 But with this ACS data, we're going to lose \$2  
4 million in our Federal highways. Now we have over  
5 3,500 -- 3,500 miles of actual road inventory, and with  
6 that \$2 million cut, there is no way that we're going  
7 to be able to service all of them roads. As it is,  
8 we're having a hard time with a lot of our roads.

9 Because from here, I don't know if anybody of you  
10 have been to Rosebud Reservation, but we're kind of  
11 like where I live, which is Spring Creek, it's 20 miles  
12 to 22 miles to get to Rosebud, which is the agency  
13 area. From Rosebud to mission, going northeast, is  
14 like 18 miles.

15 I mean, we have those long variable miles that are  
16 in between. So the roads, they do take a beating. I  
17 mean, it's unreal.

18 The other thing is, you know, right now, we were -  
19 - our tribe is in support of this freeze with the ACS  
20 data. I would really like to see you guys start  
21 looking at some of us rural reservations where we don't  
22 have that much money. I don't even -- I can't believe

1 that we were even considered for a cut.

2 But being on the tribal council, you get busy with  
3 everything else that I had housing as number five for a  
4 priority for me until I got put as chairman. Then I  
5 got into it because health was my number-one thing. I  
6 ended up finding out that housing and the Federal  
7 highways is based off of a census that's old.

8 So I really encourage you guys to reconsider. And  
9 you know, if you don't want to freeze, you know, hold  
10 off on it. I really believe that this is something  
11 that's going to really hurt a lot of the rural  
12 reservations, and that's where I come from is a rural  
13 reservation. And it's really -- I mean, it's kind of  
14 scary for me.

15 I think I touched all the bases that I wanted to  
16 touch, but I would really -- I don't know how to do it,  
17 but I would really like to see Rosebud's numbers go to  
18 what our actual enrollment is. I don't know who to --  
19 how I do that or how I bring that to your guys'  
20 attention.

21 But our cut needs to be actually justified to our  
22 people, and I hope I can go home to my people and give

1     them an answer as to why you guys are going to give us  
2     that almost million dollar cut on our housing.

3             But thank you for your time. (Speaking Native  
4     language.)

5             MS. BRYAN: Thank you for your comments.

6             MR. KAZAMA: I'm Blake Kazama. Many of you know  
7     who I am.

8             I have two kind of questions, I guess. And the  
9     first one is -- I participated in the needs group. We  
10    spent a lot of time coming up with a proposal that was  
11    put on the board, but a lot of the future, beginning  
12    tomorrow morning, as we proceed to deliberate on the  
13    study group and the parameters of that, one of the  
14    concerns I'll have is how is that going to be funded?  
15    So that's one of the questions if we pursue that.

16            Secondly, the other question is, as part of that  
17    recommendation -- and this is principally for HUD --  
18    would HUD continue the concept of continuing the  
19    formula as is with adjustments until 2017, basically?  
20    So it's 2015, '16, and '17.

21            I know '15 is in the works. But by requesting  
22    that, is that going to become a problem in any sort of

1 regulatory manner, OMB, those kinds of things, or can  
2 we continue to proceed? Because it's delaying the  
3 decision of this body for a few years.

4 So I guess that's the question I have for HUD, or  
5 those two questions.

6 MS. HENRIQUEZ: So do you want us to try and  
7 address that now, or do you want to do it in the  
8 workgroup? Or how would you like to handle it?

9 Okay. Then I'm going to ask Jad Atallah.

10 MR. ATALLAH: Good afternoon. Just to touch on  
11 some points I made in the morning again.

12 If, Blake, your question is whether HUD can  
13 continue to implement the 2000 census dataset for 2  
14 years, legally we can do that because all it would  
15 require is no change to the current regulations as  
16 codified. So administratively and legally, we can do  
17 that. So strictly as a legal matter, yes, we can do  
18 it.

19 MR. KAZAMA: And the other question was funding a  
20 study group because that will exist for possibly 2 more  
21 years, 3 years, actually.

22 MR. ATALLAH: I think that we'd have to think

1 about and probably will require a lot more discussion.

2 One of the things that the committee will have to  
3 consider -- well, we can talk about it more tomorrow.  
4 Let's not get bogged down in that.

5 MS. BRYAN: Thank you. Other public comments?

6 MS. HENRIQUEZ: I just want to say Jad is being, I  
7 think, in some ways less direct. So, first of all,  
8 everything is subject to appropriations. So we don't  
9 know where we're going to be in '15, '16, and '17 is a  
10 new administration. And that could be good, maybe not,  
11 or the same. It's hard to know.

12 Number two, the issue about funding, while it is  
13 all subject to appropriations, unless there is specific  
14 appropriations language which has the force of law,  
15 there are no other pots of money from which to fund  
16 such a study. So it means we'd need a legislative fix  
17 in an appropriations bill tied to the funding for a  
18 given year, which would allow HUD to do what we would  
19 call a set-aside.

20 So there'd be some number for ONAP programs. And  
21 within that, there'd be a deduct or a set-aside which  
22 would then, we would have been told by the legislation,

1 would be used for this specific purpose. Without that,  
2 it is hard to know unless you go to philanthropy or  
3 some other sets of organizations that would fund this  
4 because it fits into their mission and they want to  
5 support an ongoing study such as the one that's being  
6 discussed.

7 MS. BRYAN: Thank you. Other public comments?

8 (No response.)

9 MS. BRYAN: All right. We will be taking public  
10 comments at the end of each workday session. If you  
11 think of comments or questions or concerns that you  
12 weren't able to bring today, please feel free to bring  
13 them to us tomorrow or Friday.

14 I'd like to also just thank the sponsor for  
15 tonight's welcoming reception, Dine Development  
16 Corporation. And later, you'll meet Vernon Clashin.  
17 He's the president of Dine Development Corporation. I  
18 wanted to just publicly thank him for sponsoring our  
19 event tonight.

20 And several individuals and tribes also sponsored,  
21 which you'll hear more about later this evening.

22 MR. DOLLARHIDE: Any more questions of this

1 committee before we recess until tomorrow?

2 I would ask Annette Bryan to give us a closing  
3 prayer.

4 (Closing prayer.)

5 MS. BRYAN: So, with that, we will recess, and we  
6 will meet back here in the morning at 8:30.

7 Can we leave stuff in the room, Sara? Would not  
8 leave anything valuable, but feel free to leave all  
9 your pages of research.

10 (Whereupon, at 5:14 p.m., the meeting was  
11 adjourned.)

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