

1 U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT  
2 INDIAN HOUSING BLOCK GRANT FORMULA  
3 NEGOTIATED RULEMAKING COMMITTEE  
4

5 Wednesday, September 21, 2016  
6 8:30 a.m.

7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18

19 Sheraton Midwest City Hotel  
20 Reed Conference Center

1                           5750 Will Rogers Road  
2                           Midwest City, Oklahoma 73110

3                           PARTICIPANTS

- 4 ANNETTE BRYAN, Co-Chair
- 5 JASON DOLLARHIDE, Co-Chair
- 6 JASON ADAMS
- 7 JAD ATALLAH
- 8 LOURDES CASTRO RAMÍREZ
- 9 GARY COOPER
- 10 PEGGY CUCITI
- 11 SAMI JO DIFUNTORUM
- 12 EARL EVANS
- 13 SARA FIALA
- 14 DEIRDRE FLOOD
- 15 HEIDI FRECHETTE
- 16 ED GOODMAN
- 17 CAROL GORE
- 18 DAVID GREENDEER
- 19 LAFE HAUGEN
- 20 LEON JACOBS

1 CRAIG KAUFMAN

2 GABE LAYMAN

3 LAUREN LIM

4 CRAIG MOORE

5 PARTICIPANTS (CONTINUED)

6 SAMUEL OKAKOK

7 DIANA PHAIR

8 TODD RICHARDSON

9 RAYMOND ROBLES

10 AARON SANTA ANNA

11 S. JACK SAWYERS

12 MARTY SHURAVLOFF

13 WAYNE SIMS

14 MICHAEL THOM

15 KATHERINE LYALL VASQUEZ

16 SHARON VOGEL

17 BOBBY YANDELL

18 ANEVA YAZZIE

19

20

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20

P R O C E E D I N G S

MS. BRYAN: All right. Good morning. Welcome to Day 2 of Session -- where are we? Session 9, Formula Negotiated Rulemaking.

At this time, I'm going to turn it over to Heidi Frechette at HUD to give us an overview of what we hope to do today.

MS. FRECHETTE: Good morning. What we would like to do today is we have one more public comment left regarding volatility. And we would like to be able to discuss that item, the public comment, but also discuss some of the other concerns we have with volatility that we shared with everyone on the calls last week.

So we had a committee call to talk about the

1 nonconsensus item and the fact that we're not pursuing  
2 it, but then also to raise our concerns with  
3 volatility, and then a technical call follow-up where  
4 we shared information and runs.

5       And so we are seeing volatility in the formula  
6 from year to year. We have some concerns, but we want  
7 to present some information for you today and be able  
8 to answer your questions and get a sense that this  
9 committee sees this volatility, if the committee is  
10 concerned with it, and there are any ideas on how to  
11 address it if you do have concerns.

12       So what we'd like to do is start out with a  
13 presentation on it, and hopefully, that will help folks  
14 see what we see, but also provide an opportunity to  
15 answer any questions that you may have on it.

16       So, Aaron, did you want to give an overview -- Is  
17 Aaron in here? -- of the public comment?

18       MR. SANTA ANNA: Good morning. I hope everyone  
19 had a wonderful evening last night and was able to  
20 enjoy some of the fine food that Oklahoma City has to

1 offer. I know that after last night, I'll probably  
2 have to hit the gym after -- after we're over here to  
3 take off what I've eaten.

4 As Heidi indicated, we do have a comment on  
5 volatility that we want to be able to address today.  
6 We also have a comment on the successful nature of the  
7 -- of the negotiated rulemaking that I think we should  
8 be able to get through very quickly at the very end.

9 But we're going to go ahead and put up the public  
10 comment -- comments, the summary. We received several  
11 comments on the volatility control provision. This is  
12 specifically Section 1000.331. Basically, some of the  
13 commenters suggested that if we had a strict  
14 construction of the provision, it would defeat the  
15 intent of the committee, that according to the  
16 commenters, the intent was to limit the impact of  
17 adopting a new data source, the American Community  
18 Survey, on tribes that would be significantly and  
19 adversely affected by the -- that conversion.

20 They indicated that if it was implemented as

1 written, the relief would only be available to -- if  
2 the tribe could show that greater than 10 percent of  
3 the grant occurred solely as a direct result of the  
4 introduction of the ACS. And the commenter felt that  
5 that was -- that was too harsh.

6       The additional comments in some ways echoed that.  
7 They suggested that they substitute "primarily as a  
8 result" for that language "solely as a direct result"  
9 that we currently have in the proposed rule. They also  
10 suggested that we have a definition that would -- that  
11 would say -- means the introduction of a new data  
12 source, in and of itself, that would result in greater  
13 than a 10 percent decline in the need -- tribes' need  
14 component allocation, irrespective of any declines  
15 attributable to causes other than the interjection of  
16 the data source.

17       So those -- that's the backdrop of what we're  
18 going to be talking about today, the public comments  
19 with regard to this section. And now I think we're  
20 going to move to the presentation.

1 (Pause.)

2 MR. RICHARDSON: So let's say, you know, as we  
3 decide how we coordinate these things, exactly how to  
4 present this because, as it turns out, volatility  
5 control is a little complicated, and I thought it would  
6 be helpful. First, it was quite a few months ago,  
7 maybe well over a year ago -- that maybe a year and a  
8 half, 2 years ago -- that the volatility control was  
9 agreed on.

10 Anyways, you might not remember the exact text of  
11 this, and I wasn't actually there when this happened.  
12 So we're going to put the volatility control language  
13 up, just as a reminder of what it says because that's  
14 kind of key to understanding what we're doing in the  
15 formula.

16 And by the way, I want to acknowledge Peggy and  
17 Jackie and Mindi for all of the great work they've done  
18 running this formula again and again and again with all  
19 the different versions of this. They've done a great  
20 job. It's not easy, and they do it, and they do it

1 correctly.

2           It's very easy to make errors in this, and so  
3 they've done a really great job. So I want to  
4 acknowledge them and their work on that.

5           (Appause.)

6           MR. RICHARDSON: Okay. So, 1000.331. All right.  
7 So there are several provisions to this. Each one is  
8 an important provision. And so what the concern was  
9 that when we -- it's been 13 years since we updated the  
10 data for this formula. A lot has happened in those 13  
11 years, and we expected that grants would go up and down  
12 as a result.

13           There's a concern about how far an individual  
14 grant would go down in a single year as a result of  
15 this introduction of data. So the committee agreed by  
16 consensus to this provision. And it basically says  
17 with the introduction of a new data source -- and in  
18 this case, we're interpreting "data source" as the  
19 American Community Survey -- "an Indian tribe's  
20 allocation under the need component of the formula is

1 less than 90 percent of the amount it received under  
2 the need component in the immediate previous fiscal  
3 year, the Indian tribe's need allocation shall be  
4 adjusted to up to an amount equal to 90 percent of the  
5 previous year's need allocation." And we'll go into  
6 how this works.

7 But conceptually, the idea is if your grant would  
8 go down by more than 10 percent because of the  
9 introduction in the new data, we would hold your grant  
10 at 90 percent. But, and this is really critical here,  
11 (b), "Nothing in this section shall impact other  
12 adjustments under this part, including minimum funding,  
13 census challenges, formula area changes, or any  
14 increase in the total amount of funds available under  
15 the need component."

16 So this is definitely isolating the effect of this  
17 just on the needs component. And then it goes on to  
18 "In the event of a decrease in the total amount of  
19 funds available under the need component, an Indian  
20 tribe's adjusted allocation under paragraph (a) of the

1 section shall be reduced by an amount proportionate to  
2 the reduced amount available for distribution under the  
3 need component formula."

4 Basically, the concept here is, is that you --  
5 your -- if funding has gone down and affects everybody,  
6 you're being adjusted accordingly to that as well.

7 "Adjustments under paragraph (b) or (c) of this section  
8 shall be made to a tribe's needs allocation after  
9 adjusting that allocation under paragraph (a) of this  
10 section."

11 So, anyways, so this is the language that's the  
12 volatility control. So now I'm going to give you a  
13 presentation about what it does and how we're  
14 implementing it. And that's on this screen here.

15 So we did a -- we did two simulations here, which  
16 we're going to talk about here. One is with and  
17 without volatility control. So you can see a general  
18 picture of what goes on here. So next slide.

19 So it's kind of hard -- oh, I didn't realize how  
20 the colors would play out here. All right. So the --

1 I'm color blind. Can other folks see that there's  
2 actually something here? Okay. Barely? Okay.

3 So the dark bars -- thank you. The dark bars here  
4 reflect what would have been with the introduction of  
5 ACS 2008 to '12 data to replace the current data used  
6 in the formula, how many tribes would gain or lose as a  
7 result of that introduction without the volatility  
8 control? That's what these dark bars represent.

9 And you can see the number of tribes, see the 50  
10 tribes that would have had a loss of at least 25  
11 percent and a similar number with a gain of greater  
12 than 25 percent. And you have about 260 tribes that  
13 are sort of in this middle area of loss and gain of  
14 less than 5 percent. But a fair bit of movement.

15 With the volatility control, there are no tribes  
16 that lose less than -- that lose more than 15 percent.  
17 In fact, no tribe loses more than 10 percent or 11  
18 percent as a result of when we implement the volatility  
19 control. So volatility control does what it's supposed  
20 to do in that first year.

1           In out-years, the way the -- so we'll go onto the  
2 next slide here. I'll get into the details of  
3 volatility control in a second. Oh, we're going to  
4 skip over this slide because we don't need to talk  
5 about that.

6           This next slide here shows Year 2. So when we do  
7 the ACS, right, if we introduce the ACS 2009 to '13,  
8 the second year of the ACS. So we go from Year 1 to  
9 Year 2 of the ACS, we introduce a new ACS dataset.

10           This new ACS dataset doesn't have -- the  
11 introduction of this new ACS dataset. It's not a new  
12 data source. It's a dataset, does not have the  
13 volatility control applied to it.

14           We're still applying volatility control over  
15 multiple years for tribes that had received a cut to  
16 their fund because of introduction of the ACS in the  
17 first year, but we're not adjusting for any other  
18 reductions that might occur or because of the new ACS  
19 data in Year 2. And you can a very -- and you can see  
20 for most tribes, this big number here, no changes,

1 right? Very few changes.

2       So the ACS is very stable for most tribes.  
3 Seventy-three percent of tribes have less -- a gain or  
4 less than 5 percent. So that's great. That means that  
5 there's not a lot of volatility.

6       But there are a handful of tribes now -- and I'll  
7 tell you this, and this is -- actually, there are two  
8 groups of tribes here that fall into this category.  
9 They are the largest tribes because the data is very  
10 stable for the largest tribes, and they are the  
11 smallest tribes because they get the minimum grant  
12 funding. That's where the stability exists here.

13       But for the other tribes, there is a little bit of  
14 volatility, and there is a very few tribes each year --  
15 and it's not really the specific tribe that matters for  
16 this conversation because it's going to change  
17 depending on the ACS year. You've got a very few  
18 tribes here that do this. They lose at least 25  
19 percent each year, and you have another very few  
20 tribes.

1           So there aren't very many of these tribes, but  
2 there's a few of them. And that's what the question is  
3 about. For these very few tribes, which tend to fall  
4 into the mid-sized tribes, which is a large group, over  
5 200 tribes, that potentially could have this happen to  
6 them any given year.

7           So that is the volatility issue that the current  
8 volatility control does not address. But it is this  
9 little sort of year-to-year volatility that occurs.

10          Now another item of some concern is that if this  
11 will probably be larger. We don't know, but we expect  
12 that this might be a little bit larger or a lot larger  
13 when the Census 2020 rolls through because the Census  
14 2020 will be bringing in some new data that we don't  
15 know how it affects the underlying weighting of the  
16 ACS.

17          So that's the volatility that we wanted you to  
18 focus on is this big picture, not a lot of volatility.  
19 That's good for most tribes. But for a handful of  
20 tribes, there is some volatility.

1           So next slide. All right. So who are the tribes  
2 that have this loss of greater than 15 percent? So  
3 this slide does that. Next slide.

4           Twenty are in the Alaska region. Alaska has a lot  
5 of these smaller tribes. Four in the Chicago region,  
6 two in the Phoenix, and one in the Oklahoma region.

7           Seattle and Denver don't have this as much of an  
8 issue because Denver has mostly large tribes, and  
9 Seattle has mostly overlapping tribes. And the nature  
10 of the overlap -- this is kind of interesting. The  
11 nature of the overlap is we allocate essentially into a  
12 whole bunch of tribes with one allocation. Well, that  
13 lowers the amount of volatility that occurs because  
14 that's the way we're doing it.

15           So Seattle region doesn't. But there is some --  
16 and in each of these regions, any given year, you're  
17 going to see some -- some volatility. Next slide.

18           So we have a -- we have, you know, taking --  
19 there's lots of other little kinds of anomalies that  
20 occur that we talk about here in terms of the -- how

1 the volatility control is playing through. So you have  
2 some interesting things where a tribe that had a big  
3 decrease with the introduction of ACS, with the second  
4 year of the ACS would get a big increase. But that's  
5 helped other tribes that would have had a big decrease  
6 get another big decrease. So a lot of other  
7 interesting things happening that the volatility  
8 control doesn't necessarily account for.

9 So next slide. So any questions on the big  
10 picture before I get into the details of volatility  
11 control?

12 (No response.)

13 MR. RICHARDSON: Is this helpful? Okay. Next  
14 slide. Next slide, guys.

15 All right. So, Heidi, what's that? Oh, so how  
16 the volatility control actually works from Year 1 -- so  
17 this gives you an example of how volatility control is  
18 currently working.

19 So in Year 1, 160 tribes would have had a  
20 reduction of greater than 10 percent. So those tribes

1 are going to be held at that 10 percent. So that's 27  
2 percent of tribes are going to get the volatility  
3 control adjustment, and that means that \$12.9 million  
4 that those tribes would have been reduced by because of  
5 the new data, they are not.

6 So their funding amounts are raised by \$12.9  
7 million, and the tribes that were at the higher and had  
8 increases, they get \$12.9 million less. So your  
9 minimum adjustment -- so the smallest amount a tribe  
10 will get is \$361. But one tribe gets up to \$3.5  
11 million.

12 And you can see in Year 2, so we play this  
13 volatility adjustment over multiple years to be able to  
14 play it out over multiple years, and you can see fewer  
15 and fewer tribes get the benefit as time goes by, and  
16 the size of the benefit gets reduced pretty  
17 significantly by Year 2 and Year 3.

18 And this goes on and on for multiple years. So  
19 this is the example of the first 3 years. But this  
20 goes on forever, actually, since you can't get less

1 than a 90 percent. But it gets smaller and smaller.

2 Next slide.

3 Yeah?

4 MS. FRECHETTE: Just to clarify, this is under the  
5 language that was agreed to by consensus. Correct?

6 MR. RICHARDSON: Yes.

7 MS. FRECHETTE: Okay.

8 MR. RICHARDSON: This is the existing language of  
9 how the volatility control works.

10 MS. FRECHETTE: Okay, thank you.

11 MR. RICHARDSON: So the tribes making  
12 contributions stays the same throughout this time  
13 period. So the 262 tribes, the amount that they're  
14 contributing to support the tribes with the volatility  
15 control, it goes down significantly over time. So from  
16 \$12.9 million to \$2.5 million in just 3 years. So  
17 that's the point we're trying to make here about how  
18 much tribes are contributing to the volatility control.

19 So that was what we wanted to present on how  
20 volatility control works. Now we'll go back to the

1 comment and perhaps open up for any questions or  
2 comments on this.

3 And Peggy, do you have any other points you'd like  
4 to make sure we make here?

5 (Pause.)

6 MR. RICHARDSON: No. Okay. Sami Jo?

7 MS. DIFUNTORUM: Good morning. So, to clarify, we  
8 are drafting a response to the regulation. Correct?

9 MR. RICHARDSON: We're -- no, I'm sorry. We'll  
10 take this down.

11 MS. DIFUNTORUM: Or to the --

12 MR. RICHARDSON: And we'll put up the comment  
13 again. I just wanted to put the regulation up here so  
14 folks knew what it was because then we're going to do  
15 the comment, and we have a couple of options for if  
16 folks wanted to know --

17 MS. DIFUNTORUM: But let me finish.

18 MR. RICHARDSON: Oh, yeah. Go ahead. Sorry.

19 MS. DIFUNTORUM: Let me finish. So we're drafting  
20 a response to the comment on the proposed regulation.

1 We're not renegotiating the proposed regulation.

2 Correct?

3 MR. RICHARDSON: So we're drafting a response, but  
4 we did want to talk about the possibility of does the  
5 group -- since volatility control was agreed to a long  
6 time ago, given that you didn't know what the runs  
7 looked like for Years 1 and Year 2, there's a -- so is  
8 the group, from my perspective, just Todd, is there is  
9 an option of possibly not doing it -- allowing the  
10 volatility control to be applied for tribes in latter  
11 years is a possibility as a change of -- it's a source.

12 So sitting here, it's source and set, dataset. So  
13 in future ACS years, for the very few tribes that  
14 actually get a big reduction in a given year, that they  
15 also get volatility control in out-years instead of  
16 just applying it for the tribes in that first year of  
17 the dataset.

18 MR. SANTA ANNA: Just to be able to provide a  
19 little bit of clarity, we are -- we do need to be able  
20 to respond to the public comment. I should say the

1 public comments that we've put up. As we've done in  
2 the past, if, in doing so, we decide that we need to be  
3 able to address regulatory changes, tweaks to the  
4 language or changes to the language, we certainly can  
5 do that.

6         Again, this is a situation where we want to be  
7 able to hear from the committee as to what it would  
8 like to be able to do and what direction we'd like to  
9 be able to move forward in.

10         MS. FRECHETTE: Thank you.

11         So what we wanted to do with the presentation was  
12 to present to you -- I think it's a little bit  
13 confusing because we do have the volatility control  
14 that everyone agreed to that would be introduced in the  
15 first year. What we've seen, as Todd said, looking at  
16 data runs from that point on is that we see volatility  
17 for a small number of tribes, but that could be pretty  
18 impactful on those tribes.

19         I don't think there's any tribes at the table that  
20 area impacted by that, but there are folks out there

1 that are. And when we see that and the amount of  
2 volatility, we're concerned about it, and we want to be  
3 able to show that to the committee so the committee can  
4 decide whether you are concerned and want to do  
5 something to address it.

6 MS. FIALA: Thank you. Aneva?

7 MS. YAZZIE: Thank you. And good morning,  
8 everyone.

9 We were one of the commenters, and so we wanted to  
10 clarify our comment. And so if I can defer to my legal  
11 counsel, Craig Kaufman, to give us some edification on  
12 the comment?

13 MR. KAUFMAN: Thank you. Craig Kaufman, on behalf  
14 of Navajo Housing Authority.

15 Our concern rests with the language "solely as a  
16 direct result of." Our concern is that if the 10  
17 percent reduction would be occasioned both standing  
18 alone by the adoption of the new census data and also a  
19 reduction could occur as a result of other factors,  
20 that the department could take the position that the

1 reduction is not "solely as a direct result of" the  
2 adoption of the new data source.

3       So our suggestion is that you replace "solely as a  
4 direct result of" with the word "primarily," and let me  
5 just offer some -- offer the language. And so it would  
6 read, you know, beginning with the introduction, then  
7 it would say, "If primarily as a result of the  
8 introduction of a new data source, an Indian tribe's  
9 allocation under the need component of the formula is  
10 less than 90 percent of the amount it received under  
11 the need component in the immediate previous fiscal  
12 year, the Indian tribe's need allocation shall be  
13 adjusted up to an amount equal to 90 percent of the  
14 previous year's need component."

15       And then we would propose defining "primarily as a  
16 result of" this way. As used in this subsection,  
17 "primarily as a result" means that the introduction of  
18 a new data source, in and of itself, would result in  
19 greater than a 10 percent decline in the tribe's need  
20 component allocation, irrespective of any declines

1 attributable to causes other than introduction of that  
2 data source.

3         And what we mean by that is, is remaining true to  
4 what the committee discussed and approved with respect  
5 to the data source itself causing greater than a 10  
6 percent reduction, but also accommodating the  
7 possibility that, irrespective or regardless of the  
8 introduction of the new data source, there would also  
9 have been a reduction.

10         And our concern is that even if the data source  
11 itself would cause the reduction, because another  
12 factor would also cause a reduction, the "solely as a  
13 result of" could exclude the application of that  
14 volatility control in that situation.

15         You know, taking the most draconian hypothetical,  
16 under I think it was TA-43, it showed 115 tribes would  
17 experience a reduction of greater than 10 percent as a  
18 result of the introduction of the new data source. And  
19 those 115 tribes' reductions I think ranged from 11 to  
20 65 percent.

1           Take the worst-case tribe, 65 percent reduction.  
2   If that tribe can only prove that 64 percent of the  
3   reduction was attributable to the introduction of the  
4   new data source, you could argue, well, that 65  
5   percent, but you can only attribute 64 percent to the  
6   introduction of the new data source. And thus, the 65  
7   percent reduction is not "solely as a result of" the  
8   introduction of the new data source, and that tribe  
9   arguably then would not get the protection of the 10  
10   percent volatility control.

11           And we believe the language that we propose, which  
12   effectively just replaces "solely as a result -- as a  
13   direct result of" with the word "primarily" and then to  
14   define "primarily" as a 10 percent reduction because of  
15   the introduction of the new data source, regardless of  
16   what impact, downward impact other factors might have,  
17   would solve the problem.

18           Thank you.

19           MR. RICHARDSON: So we had interpreted this as  
20   being the "primarily" you're describing, if a tribe had

1 had a 65 percent reduction and 64 percent was due to  
2 needs, they would have gotten the volatility control  
3 protection. That's how we interpreted it.

4 But I don't -- hold on for a second. Let me make  
5 sure it's okay with my attorneys.

6 MS. CUCITI: I just want to say that the  
7 methodology that is being used to calculate this  
8 doesn't really allow that issue to happen because we  
9 are using all of the same datasets to determine the  
10 gain or loss due to the introduction of the new data  
11 source. We run it -- we run it first with old files,  
12 and then we run it again with the introduction of the  
13 new census and ACS data to determine the gain or loss.

14 And so what the numbers you saw, say on TA-43 or  
15 on the new simulation, are the gain or loss solely due  
16 to the introduction of the new data source. There will  
17 be other changes that occur in the files due to things  
18 that the tribes then submit.

19 And changes due to those, changes in allocation  
20 due to those changes that the tribes later submit will

1 be absorbed by the tribes in terms of a change to their  
2 grant allocation. So we have fully isolated the  
3 effects of just the new data source for the purpose of  
4 this phase-down or volatility control.

5 (Pause.)

6 MR. SANTA ANNA: Just for clarification, the  
7 version of what is currently in the proposed rule --  
8 I'm sorry?

9 (Pause.)

10 MR. RICHARDSON: So one option is to take out the  
11 word "solely" entirely, not replace it with  
12 "primarily," just remove "solely." Does that work?

13 Just remove the word "solely." Don't replace it  
14 with anything. Just say "if as a direct result." Does  
15 that work?

16 And everybody understand Peggy's explanation that  
17 we're running it in that way? Okay.

18 I was -- I can give an example of a particular  
19 tribe, if you want, on the Year 2 introduction of ACS,  
20 if that's of interest to the committee? So there is

1 one tribe that interesting -- when we introduced the  
2 first year of the ACS data, they're a tribe that gets  
3 all of their funding from need. And they're a decent-  
4 sized tribe, about 1,200 folks.

5 And they get their first year, the introduction of  
6 the ACS in the first year has no effect on their grant.  
7 So 13 years of change in the data, and they have no  
8 effect on their grant, which is great. They're not --  
9 so they're not getting volatility control or anything.

10 And then Year 2, all of their needs data go down a  
11 lot. Every variable for the need, the without kitchen  
12 and plumbing, the severe cost burden, two of the three  
13 households less than the median income numbers. So  
14 everything goes down.

15 So their grant in Year 2 goes down 29 percent, or  
16 I think it's 35 percent. It's something like that.  
17 It's over -- it's a large amount, 29 to 35 percent,  
18 something like that. And that's the issue.

19 And then what will happen the next year for that  
20 tribe? I don't know. Maybe it stays at that lower

1 number. Maybe it goes up. But that seems to happen  
2 rarely, but it happens sometimes, and it happens for  
3 some tribes that are not just the tribes under 100. It  
4 happens to a few tribes in that populations of 200 to  
5 1,000.

6       So that's the issue with the Year 2 volatility  
7 that we did not expect with the ACS. We thought with  
8 the ACS because we're using 5-year average data, that  
9 when you drop 1 year of data and add 1 year of data,  
10 you wouldn't see any kind of big change like that. But  
11 it does seem to happen on occasion, and I can't tell  
12 you exactly why, but it does. And that's a volatility  
13 we did not expect when we did the volatility control 2  
14 years ago.

15       Because we didn't have the data to be able to see  
16 that, and now we do. And we see there is this problem  
17 for a few tribes each year, and that's the volatility  
18 control that we're concerned about with the use of word  
19 "source," "data source." If it was "data source" or  
20 "dataset," then we -- then that would solve that

1 problem, and we would apply that volatility control  
2 each year we introduce new ACS data.

3 MS. FIALA: So I think we have a few folks in the  
4 queue. Start with Gabe. I'm sorry. Jason?

5 MR. DOLLARHIDE: I have a clarification question.  
6 In our opinion, me and Annette's opinion and Sara's  
7 opinion, we're negotiating. We've got past this  
8 informational once we start changing the wording in the  
9 regulation right up here, when we struck "solely."

10 So we have started the clock for the 2-hour time  
11 period on this. We just want to make sure that this  
12 committee agrees with that and is aware of that. Right  
13 or wrong, that's our opinion. You know, we're open,  
14 but that's what it appears to us.

15 MS. FIALA: So I think the question would be if  
16 there is going to be additional presentation questions  
17 that you have, we will stop the clock. But if we're  
18 going to move on to negotiating language and crafting  
19 response, then the 2-hour time clock would start.

20 So my question would be are you ready to start

1 negotiating language and crafting language, or are  
2 there additional presentation questions that you have  
3 for Todd and Peggy? Because the 2-hour time clock will  
4 definitely -- has started, but we could stop that now.

5 MS. BRYAN: I think we can stop the clock, and if  
6 you have questions that are related to the  
7 presentation. And if HUD has further presentation  
8 information to present, we should do that, and then if  
9 you have negotiation questions, we'll be real clear.  
10 We'll start the clock at that time.

11 So if you have questions and your cards are up,  
12 we'll just continue with that off the clock.

13 MS. FIALA: And then if you have questions about  
14 the changes to the language, you could hold them, and  
15 then we'll revisit once the clock starts back up again.  
16 So I think we did in the queue have first Gabe.

17 MR. LAYMAN: Thank you. Gabe Layman, alternate  
18 for Teri Nutter, Copper River Basin Regional Housing  
19 Authority.

20 So, you know, it's pretty clear there are two

1 distinct, but related issues before the committee right  
2 now. One is in direct response to the comments that  
3 were submitted, and it's this issue of whether the  
4 reduction has to be solely attributable to the  
5 introduction of the new data source or whether it's,  
6 you know, primarily, right?

7       The second related issue is this issue of whether  
8 there is a need to control volatility on a year-to-year  
9 basis based upon what has come about in the runs that  
10 HUD has done. And it sounds like Navajo Housing  
11 Authority has offered some specific language that would  
12 address that first issue, the issue of whether the  
13 reduction has to be solely attributable or whether  
14 there is some clarification there.

15       Just as a point of clarification, I wonder whether  
16 it doesn't make sense for the committee to take up that  
17 more specific issue first and then move on and discuss  
18 whether there needs to be some additional work to deal  
19 with year-to-year volatility?

20       MS. FIALA: Thank you. David?

1           MR. GREENDEER: I was just curious. I'm just  
2 going back through the presentation, and then I'm just  
3 trying to look at and apply it to the language at the  
4 same time, thinking about the two things concurrently.  
5 And I was just -- in the presentation, I was curious if  
6 they didn't, I guess, explain the model assumptions  
7 completely that were made for the actual model.

8           And it sounds to me that I'm wondering if they're  
9 using a standard model or if they're using kind of like  
10 their own -- their own what was called a developed  
11 model, or if it's actually going off of a certain  
12 approach. I was just looking for clarification on  
13 that.

14           I was also wondering --

15           MALE SPEAKER: We can't hear you over here.

16           MR. GREENDEER: Oh, sorry. Good morning. I am  
17 just asking for clarification on the model type,  
18 wondering if they used like a Heston model or a  
19 standard model? And the only reason I'm wondering is  
20 in the model assumptions, what is being assumed are

1 changes over a period of time. And each one of the  
2 models will have kind of a different outcome. So I was  
3 just curious. I've never seen the model assumptions  
4 through any of our negotiated rulemaking like time  
5 periods.

6       And then when you look to apply it to the law  
7 then, what I'm actually wondering is how -- we're  
8 adopting a model with assumptions that aren't written  
9 into here. So we're making -- we're assuming that  
10 there's going to be a certain amount of funding over,  
11 let's say, Year 2 or Year 3. But if we don't know what  
12 those are and what they're telling us now is that there  
13 is just, you know, some of the tribes will be impacted  
14 in Year 2, Year 3, but yet we're approving a model, we  
15 will not be able to see how that is -- we're making a  
16 decision for the future without knowing what all the  
17 variables are, basically.

18       And a lot of times, when we're writing this stuff,  
19 it's real black and white. You're sitting there and  
20 you're saying, yes, this is what we're agreeing on in

1 this fiscal year or, yes, this is what this is. But  
2 now we're actually predicting this out for Year 2, 3,  
3 4, 5, with no mechanism to actually go back and have  
4 any type of control written anywhere in here on how the  
5 model was built or created.

6 And so I was just kind of curious because there  
7 could be a huge swing. Say, if you get a reduction of  
8 \$50 million or \$5 million, we'll say. It's going to  
9 actually impact this thing in a way that we don't know  
10 because we don't know what those model assumptions  
11 were.

12 So I was just kind of curious. I was looking for  
13 clarification.

14 MS. FIALA: I think that will go to Todd.

15 MR. RICHARDSON: So, yeah, so some clarity. So  
16 the -- the run that will be the allocation run in  
17 fiscal year 2018 and under the proposed rule would use  
18 data that we don't yet have, which is the ACS 2010 to  
19 '14 data. But because we wanted to see what is the  
20 effect of going from the current data to ACS and then

1 see what it would look like going from Year 1 of ACS to  
2 Year 2 of ACS, we used for these simulation runs the  
3 actual data from ACS 2008 to '12 for the Year 1 run.

4       So to see how does it go from Census 2000 --  
5 basically, the current data -- to ACS 2008 to '12 data.  
6 And then for Year 2, going from ACS 2008 to '12 to ACS  
7 2009 to '13, to show what it looks like from year to  
8 year. What you've seen in your runs, though, are, of  
9 course, not what the actual runs will be when we go to  
10 fiscal 2018 because we don't have yet the special  
11 tabulation of fiscal year 2010 to '14 data, which we're  
12 currently procuring. But we don't yet have those data  
13 to say what the actual run will look like in fiscal  
14 year 2018.

15       So, but we're showing -- but this kind of year-to-  
16 year volatility, it won't be the same year-to-year  
17 volatility as we're seeing here in terms of as in the  
18 specific tribes. But it will be a different set of  
19 tribes that have about the same number of tribes  
20 probably that will have this kind of volatility of plus

1 or minus 15 or 25 percent.

2 It's not a lot of tribes, but we expect a few  
3 tribes will have that volatility. Does that answer  
4 your question?

5 MR. GREENDEER: It answers it for -- I guess for  
6 clarity. So my concern then is because you're just  
7 using 1 year then of the ACS -- 2010 census, right, as  
8 your --

9 MR. RICHARDSON: We're using -- we're using 2  
10 different years of ACS to show, ACS 2008 to '12 for  
11 Year 1, and then ACS 2009 to '13 for Year 2. So we are  
12 using real data that for each of the tribes to show how  
13 these volatility occurs.

14 MR. GREENDEER: All right. Thank you.

15 MS. FIALA: Next we have Sam.

16 MR. OKAKOK: Good morning. Samuel Okakok, Native  
17 Village of Barrow.

18 I do have some comments. I would like to have Ed  
19 Goodman speak on our behalf.

20 MR. GOODMAN: Ed Goodman, on behalf of Native

1 Village of Barrow.

2       We're one of the commenters that submitted the  
3 volatility control comment, and I just want to address  
4 the proposed change by dropping "solely." And I think  
5 we're comfortable with that change to address the  
6 concern. But I think what we need to do in the  
7 response to the comment is have the somewhat of the  
8 explanation that Peggy and Todd have put out this  
9 morning to explain it.

10       And this is what I remember when we were  
11 discussing this particular modeling from the get-go,  
12 when we were in the subgroup looking at it, was that  
13 HUD could actually take out all the other potential  
14 statistical noise and then look at what was -- what the  
15 impact of the introduction of the new data source would  
16 be on the needs portion of the formula. And so if we  
17 can have a response to the comment that states that,  
18 that that's how HUD and its statistical folks can do  
19 it, I think we'd be comfortable with that change.

20       Thank you.

1 MS. FIALA: Aneva?

2 MS. YAZZIE: Thank you. Aneva Yazzie, Navajo  
3 Housing Authority.

4 I would agree with Mr. Goodman's comment. I would  
5 add, too, that NHA was participating on the response of  
6 the comment, and a recommendation was made by a HUD  
7 rep, and so we aren't wanting to go into that just yet.

8 And I, too, would like to see the proposed  
9 response so that we can address this. But I really  
10 appreciate Peggy providing that information on running  
11 simulation that it's insulated from any introduction of  
12 any new data source. And I would agree that if we can  
13 have some language to that effect in the response, that  
14 that would be great.

15 But I think -- I think we're understanding now  
16 because the word "solely" then becomes not applicable.  
17 Because it is, indeed, insulated from any type of data  
18 source, we won't need that word "solely." And so I'm  
19 interested in seeing the response.

20 Thank you.

1 MS. FIALA: Thank you. Jason Adams?

2 MR. ADAMS: Jason Adams, Salish Kootenai.

3 Good morning, everyone. I just wanted to -- a  
4 couple of points. First thing is in regards to  
5 discussing and making changes to the existing language,  
6 and I missed Ed's comment so I apologize if I repeat  
7 anything he had mentioned.

8 But in regards to reconsideration, in our  
9 protocols, we talk about how we reconsider an issue  
10 that's been passed. And I think we overlooked that  
11 yesterday. So I just wanted to remind us that there is  
12 a process to get an issue back on the table. It takes  
13 a consensus vote to reopen the item.

14 So this language was passed. So we would have a  
15 consensus vote to reopen this to make any changes to  
16 it.

17 The second point I want to talk about a little bit  
18 is the issue of kind of the heart of what we're talking  
19 about. I guess, you know, when we were initially  
20 talking about volatility, we were talking about a

1 change and that Todd keeps hammering on this point of  
2 data source. And so we were anticipating the issues of  
3 changing from the existing process under the old  
4 program to ACS today and the changes that would be made  
5 and the changes to individual block grants that would  
6 happen because of that.

7       That was my understanding of volatility control at  
8 that time was trying to limit the impacts of a new data  
9 source. Now we go on to talk about impacts of dataset  
10 within the new source and the changes that occur year  
11 to year in that -- in that new dataset.

12       And so I'm concerned about that because that's a  
13 whole different discussion that I don't believe this  
14 committee has talked about until today. And so to have  
15 that discussion and then to decide whether this is  
16 something, again, it seems to come back to the issue of  
17 the data source itself, and that being survey  
18 information, that there is inherent in this the  
19 volatility of that data, that it's going to fluctuate.

20       Todd has done a good job of pointing out to us who

1 is impacted the most, and it seems to be there is a  
2 population of tribes that get certain amount of block  
3 grant that get this fluctuations of, you know, up to 35  
4 percent or even more. And so I'm concerned that we're  
5 having a discussion now on the volatility of that.

6       It just seems like we're trying to lessen the  
7 effect of changes in a data -- in a data source that is  
8 going to have inherent in it these issues, and I don't  
9 think we can ever smooth this out completely for  
10 everybody so that if that was the case, then we all  
11 just agree to get X amount of money per year, and  
12 that's it. Nobody goes up, nobody goes down until we  
13 come back to this table.

14       Is that what we're willing to do? Because with  
15 data, it's going to change. And so I just wanted to  
16 express my opinion on this issue as far as, you know,  
17 that's really the discussion in my mind is, you know,  
18 now the volatility in the dataset. Is that something  
19 we want to open up?

20       Thank you.

1 MS. FIALA: Thank you, Jason.

2 And to your first comment about the protocol and  
3 the reconsideration, opening up an item, I'd ask for  
4 technical clarification on that, and I will defer to  
5 HUD to answer that because I believe this is not  
6 technically a reconsideration. But I'm not an  
7 attorney. So I'm going to hand that over.

8 MR. SANTA ANNA: Yes. We don't look at this as  
9 falling within the provision dealing with  
10 reconsideration. Rather, this is a situation where we  
11 are looking at public comments and determining whether  
12 or not, based on the public comment, we have a basis  
13 that there's value in revising the regulatory text to  
14 be able to address the comment.

15 This is, you know, an understanding and a read  
16 that we've been using in prior negotiated rulemakings  
17 going as far back, I've been -- I was also involved in  
18 the last one as well. So we don't see this as a  
19 reconsideration.

20 Additionally, you know, some of the public

1 comments that we received dealt with volatility, and  
2 because they touch on volatility, they open the issue  
3 of whether or not there is a need to be able to address  
4 volatility in the -- in the regulatory text.

5         So, you know, this is all based on public comment.  
6 This is not a reconsideration of anything that requires  
7 the vote of the committee. Rather, you know, of  
8 course, if the committee decides to make changes to the  
9 regulatory text, that would require a vote and would  
10 require consensus to be able to make that change.

11         So I hope that provides clarification for the  
12 committee.

13         MS. FIALA: I believe next we had Lourdes.

14         MS. CASTRO RAMÍREZ: So I think Aaron sort of  
15 walked us through why. And I think to Gabe's point, so  
16 we have two issues on the table. One is we want to be  
17 responsive to the public comment, and there have been  
18 some recommendations offered that necessitate that we  
19 go back to the regulatory language or the consensus  
20 item.

1           But we also have presented to you all the concerns  
2 that we have with year-to-year volatility, and we would  
3 like to have that conversation and discussion with the  
4 committee on how to handle that, right? Because we are  
5 concerned.

6           And so I would just maybe propose that if there  
7 are no more questions, then maybe we take these matters  
8 in two steps. One is to be responsive to the public  
9 comment, we continue that conversation. And then the  
10 second is the discussion about the year-to-year  
11 volatility and determine if it's something that the  
12 committee wants to address.

13           We do have some proposals and thoughts on how best  
14 to address that, but we'd like to do that in the  
15 context of having the committee participate in that  
16 discussion.

17           MS. FIALA: Thank you.

18           So the question is do you want to start discussing  
19 the response to the public comment, or did you have any  
20 further questions, technical questions in terms of an

1 intro to the data and what's being presented? If not,  
2 I think we can start working on the response to the  
3 comments.

4 (No response.)

5 MS. FIALA: In which case I will then start the  
6 clock and then turn things over to Aaron.

7 MR. SANTA ANNA: So, as I understand it, we're  
8 going to draft a response to the public comments first?

9 MS. FIALA: I guess that's a question for the  
10 committee what makes the most sense to do.

11 MR. SANTA ANNA: Okay.

12 MS. FIALA: Jason?

13 MR. ADAMS: Jason Adams, Salish Kootenai.

14 I guess, as I sit here and read this comment, and  
15 I keep reading it over and over again, trying to  
16 understand how we make the leap in these comments here  
17 that we received -- maybe I'm missing something -- to  
18 the issue of volatility on an ongoing basis.

19 It seems like the intent of this was the comments  
20 are on the volatility as it currently exists and how

1 that's going to affect them when it's implemented, not  
2 on an ongoing basis of volatility based on the changes  
3 in the data source. So I'm just trying to understand  
4 how we make that leap, given the comments that were  
5 received.

6 Thank you.

7 MR. SANTA ANNA: Well, I think I can answer that.  
8 As I indicated before, one of the things that we need  
9 to do is consider where we're working from. And where  
10 we're working from is the proposed rule, of course.  
11 And within the proposed rule, HUD had provided that --  
12 the rule had provided that there were going to be  
13 provisions that deal with the volatility that we were  
14 wanting to be able to control for.

15 Comments that we got in response to the proposed  
16 rule as a whole dealt with issues of volatility and  
17 made comments on whether or not that that provision  
18 that we had published was going to be effective or not.  
19 You know, that lays the basis and opens the door, as I  
20 said, for being able to talk about volatility.

1           You know, I think the suggestion, frankly, that  
2 Gabe provided that we try to address first the issue of  
3 the comment and then move into the discussion of the --  
4 any proposed revision to the regulatory text to control  
5 volatility is a good one because it would basically  
6 isolate the issues and keep them separate.

7           I think it is HUD's desire to see that the  
8 committee have a full discussion about volatility. We  
9 understand that we're pulling back from the ACS  
10 adjustment. We had initially proposed that in order to  
11 control volatility. But we still think that it's an  
12 issue that merits the time and consideration of the --  
13 of the committee.

14          So if it's the committee's desire, we could draft  
15 a response for the public comment, try to see if we can  
16 get any agreement on that, and then HUD will be able to  
17 provide a recommended change to the -- to this section  
18 for the consideration of the committee. And that way,  
19 we can keep the time separate and have enough time to  
20 work through it.

1           But again, that's at the desire of -- at the  
2 pleasure of the committee.

3           MS. FIALA: Thank you. Carol?

4           MS. GORE: Thank you. Good morning. Carol Gore  
5 from Cook Inlet Housing.

6           And my comments are offered in line with  
7 responding to public comment solely because I think  
8 that's the issue in front of this committee and where  
9 we started our day. And I've been listening very  
10 closely and trying to recall what happened 2 years ago,  
11 a year and a half ago, 3 years ago, whenever it  
12 happened. But as I recall, the volatility control was  
13 discussed before we even thought about ACS, and we  
14 were, as a committee, considering the impact to the  
15 tribes in all of our regions and the potential for  
16 impact above a 10 percent impact and what happens to  
17 those tribes.

18           The intent of the language was to soften the  
19 impact of the introduction of new data. I think that  
20 was a responsible reaction and action of this

1 committee. As I understand the public comments,  
2 they're intended to clarify, make more clear how HUD  
3 should implement the intent of this committee.

4 So I'm speaking in favor of that slight correction  
5 to the regulation that we drafted. I think that's why  
6 we're here is to listen to public comment and to ask  
7 the public to make sure that the work that's done here  
8 is correct, that it's accurate, that it has the right  
9 outcome. So I speak in favor of that and request that  
10 the committee really focus their comments on that.

11 I think our work was appropriate. We do not want  
12 to cause harm, and that's really the framework through  
13 which this committee took its action in the first  
14 place.

15 Thank you for allowing my comments.

16 MS. FIALA: Thank you, Carol. Annette?

17 MS. BRYAN: Annette Bryan, Puyallup Tribe of  
18 Indians.

19 I guess I have a question, being this is my first  
20 rulemaking. We talked about overcount and undercount

1 yesterday, and I thought I heard HUD mention that we  
2 couldn't get into a conversation that changes the  
3 decisions that this committee made by consensus through  
4 this process, through the rulemaking process.

5         And so we couldn't have a conversation because  
6 there are legal implications to opening up the --  
7 changing the decisions that were made at this stage  
8 after the rule has been published. So I guess I don't  
9 understand what's different between that conversation  
10 that we couldn't have that changes the decisions that  
11 we made versus -- and I'm not saying -- I'm not for or  
12 against this change. I'm just asking a question.

13         This question opens up a change to the decisions  
14 that were made at this table 2 years ago.

15         MR. SANTA ANNA: Let me try to clarify. The  
16 issue, when we were talking about the over and  
17 undercounts and the concern that was raised by myself  
18 dealt with the suggestion that we add to the rule a  
19 cutoff for what significance determination would be.

20         You know, I felt that that was beyond the scope of

1 the proposed rule, and I felt that way because we  
2 didn't really put it on the table for public comment a  
3 sense that the committee might want to address a cutoff  
4 for significance as to where it would be. We talked to  
5 the issue of it being a determination that -- that the  
6 -- that the Census Bureau would be providing.

7       So, you know, I questioned whether or not the  
8 proposed rule provided enough of a basis to cause  
9 people to think about whether or not the final rule  
10 would include a provision dealing with or what  
11 significance would be. We didn't lay any foundations  
12 about whether or not it would be at 60 percent or 80  
13 percent or 90 percent. We didn't have anything about  
14 dealing with where significance would be cut off at.

15       And so that's why I was concerned that if we did  
16 it at this final rule stage, it might be beyond the  
17 scope. On the other hand, when we start talking about  
18 volatility, there is -- the proposed rule is chock full  
19 of discussion with regard to volatility. It is a  
20 primary basis for several of the regulatory provisions

1 that we've provided.

2 We have that discussion in the preamble. We have  
3 that discussion in the -- in the regulatory text, and  
4 it provides enough of a basis and a notice to the  
5 public that the committee has leeway to be able to  
6 affect how volatility is going to work. So I think  
7 that's the significant difference between the two  
8 situations.

9 I, frankly, think after looking at the public  
10 comments, that they provided us a huge range of  
11 discretion with regard to how we could change the rule  
12 at this final rule stage based on the comments. But it  
13 doesn't give us an absolute range. There is a cutoff,  
14 and in my view, the issue about where significance  
15 would be cut off just went beyond the discretion that  
16 we have.

17 Volatility is an absolutely different situation  
18 because it is so much part of what we were saying in  
19 the proposed rule. I hope that helps clarify.

20 MS. FIALA: Thank you.

1           So are we ready to now start crafting a response  
2 to the comments? Sorry, Katherine?

3           MS. VASQUEZ: Katherine Lyall Vasquez, Cowlitz  
4 Indian Tribe.

5           So I just want to clarify a process,  
6 comment/question, I guess. So my experience with  
7 rulemaking is that the public comment period is an  
8 opportunity for anyone to make a comment, and as a  
9 result of those comments, the governing entity that's  
10 preparing those regulations or those rules can adjust  
11 based on the public comment that is received. And then  
12 you would respond to that in your response, saying I  
13 changed because of the comment, and this is how I  
14 changed it. Or I didn't, and this is why.

15           So in my 20-plus years of rule writing, that's how  
16 we operate.

17           MS. FIALA: Thank you. Sam?

18           MR. OKAKOK: Good morning. Sam Okakok, Native  
19 Village of Barrow.

20           I appreciate the comments this morning. In light

1 of Mr. Richardson's presentation, I remember over the  
2 past previous eight sessions that we've had, many of  
3 the discussions we've had over the years really  
4 resulted from the information that we gathered,  
5 especially ACS, some of the items that we went through,  
6 doing some data runs as a result of talking about ACS,  
7 and what would happen after that.

8 We are one of the few tribes that are getting hit  
9 with more than 25 percent, and so that -- that is going  
10 to hurt us pretty bad. So for the next several years,  
11 we are going to get that hit, and with the volatility  
12 control, that really does help us so that we can  
13 prepare for those hits.

14 And as Jason was saying, you know, some of that  
15 information, it's going to go up and down. So we know  
16 that these numbers are going to up and down, and -- but  
17 this volatility control does help us to prepare for  
18 that.

19 Especially us, when you see the presentation from  
20 this morning, where there's at least 20 tribes, that's

1 talking about us right now. And so we are getting hit  
2 pretty hard. And I got some friends that are going to  
3 get hit pretty hard.

4 And one of the things that is going to help us out  
5 is that volatility control so we can at least forecast,  
6 well, for the next several years now we're going to be  
7 getting hit, but you'll get at least 90 percent of your  
8 previous year's allocation, which helps. And that  
9 helps in planning.

10 We are going to get hit with not just cutting back  
11 on program activity, but also personnel, you know, as  
12 an end result, and that really does concern me. But  
13 now with this, we are able to at least see what we can  
14 do for the next couple years, as this volatility  
15 control goes forward.

16 And so from that perspective or that the ACS, from  
17 the previous sessions, we saw that it was HUD that was  
18 wanting to go forward with this, and so based on that,  
19 ACS was put in front of us. And so one of the things  
20 that I was thinking over the last several sessions was,

1 you know, maybe a light at the end of the tunnel?

2 Not quite. So it looks like a train to us, you  
3 know? So how do we -- how do we react to that? We're  
4 going to get hit, but we can also see what -- what we  
5 can do to minimize that impact. What can we do to  
6 really go forward after these things start happening to  
7 us?

8 So we are looking at -- we did look at our own  
9 population. 2000 census was all right. 2010 was not  
10 so good. We didn't get a full census count in my  
11 region. So that hit us. And with this, at this  
12 timing, really hurt us quite a bit because it showed a  
13 downward, even though our population, the bell curve  
14 was very healthy.

15 Our schools are growing. The children, the  
16 students, we're getting more and more. We're  
17 outgrowing our elementary school, our middle school,  
18 high school. So we know -- and with our tribal count,  
19 we are growing. We see that over the years, but yet  
20 we're still getting hit.

1           And so one of the things we really need to focus  
2 on is how we can react to this, and hopefully, we'll be  
3 able to minimize a lot of the effects that ACS will  
4 have on us. And hopefully, next several years, we'll  
5 be able to show a more accurate count.

6           One of the things I do think about is, you know, I  
7 see all the housing authorities, large ones especially,  
8 you know, we kind of want to grow up to that, you know,  
9 and make sure that we are being properly counted. And  
10 so that's our hope, and that's what we're looking  
11 forward to. But at the same time, the volatility  
12 control, right now it's helping us to look forward  
13 because we do know we are getting a hit, but it will  
14 allow us to plan forward.

15           So I just appreciate the comments, and hopefully,  
16 we'll be able to take this into consideration also.

17           Thank you.

18           MS. FIALA: Thank you, Sam. Sami Jo?

19           MS. DIFUNTORUM: Hi. So this is more of a  
20 question, and it isn't related to responding to the

1 comment. My question is, out of the tribes that are  
2 impacted, and I think, you know, the 20 in Alaska, not  
3 specifically, but particularly, I guess, how much of  
4 that is mitigated by the upward adjustment that we  
5 agreed to for undercounts?

6 So the tribes that are negatively impacted, are  
7 they -- I'm assuming some of this is going to be  
8 mitigated and so I guess the question is the order in  
9 which they're applied. Is the undercount applied  
10 before the volatility, or is the volatility applied and  
11 then the undercount upward adjustment?

12 MR. RICHARDSON: So the undercount adjustment  
13 applies to just one variable, which is the population  
14 variable, which is weighted at 11 percent on the needs.  
15 The undercount adjustment is not applied to any of the  
16 ACS needs variables. In fact, that's -- that was --  
17 HUD took that off the table with the -- that had been  
18 part of the adjustment. So that's not actually  
19 happening.

20 So at this point, the ACS variables would be

1 applied as is, without any adjustment for undercount.  
2 It would just be here is the 2010 to '14 ACS data, with  
3 no adjustment for undercount. And then the next year  
4 it would be another ACS year, '11 to '15, for example.  
5 So the undercount doesn't apply to the ACS data, only  
6 to the population variable.

7 MS. FIALA: Thank you.

8 With that being said, a question. Looks like we  
9 are due for a break in 15 minutes. I don't know if it  
10 would make sense to take our break a little bit early  
11 and then come back and then start crafting a response  
12 to the comment, if that is okay?

13 Okay. Great. Then let's take a 15-minute break,  
14 and then we'll come back and we'll start crafting the  
15 response to the comment.

16 Thank you.

17 (Recessed at 9:50 a.m.)

18 (Reconvened at 10:30 a.m.)

19 MS. BRYAN: All right. We'll go ahead and get  
20 started, and I will turn it back over to Sara to pick

1 up where we left off.

2 MS. FIALA: Thank you very much.

3 I believe where we are now is taking a look at the  
4 comments, which was on page 21 of your packets  
5 concerning, "Committee should clarify volatility  
6 control provision." We're going to take a look at the  
7 crafting a response, and so I'm going to turn things  
8 over to Aaron to run through.

9 MR. SANTA ANNA: Thank you.

10 I understand that some draft language has been  
11 prepared and is ready for presentation to the committee  
12 in order to -- in order to respond to this comment, and  
13 this is the language.

14 "Ensuring that grantees have stable allocations is  
15 a priority for the committee. The original intent of  
16 331 was to protect tribes against significant  
17 fluctuations with the introduction of the 2010  
18 decennial census and ACS data sources. HUD understands  
19 the concerns expressed in the comment. However, HUD is  
20 able to isolate the impact on the tribes' funding

1 allocations that is due to the introduction of the ACS  
2 as a new data source.

3 "This ability to isolate the impact and apply the  
4 control on the basis of that impact alone alleviates  
5 the concerns of the commenters. HUD will continue to  
6 apply the same methodology to calculate the impacts of  
7 the introduction of a new data source to avoid the  
8 concerns raised by the commenters with the agreed-upon  
9 language."

10 So that is the proposed response for the  
11 consideration of the committee.

12 MS. FIALA: Thank you, Aaron.

13 So we'll take a moment and just let everyone read  
14 through the response, and then we'll open up for  
15 questions or comments.

16 (Pause.)

17 MS. FIALA: Thanks. Jason Adams?

18 MR. ADAMS: Yeah, I guess a comment I have in  
19 reading this, this text is what -- clarify for me what  
20 the last sentence means in regards to agreed-upon

1 language. Is that the existing regulation that's  
2 already in effect?

3 MR. SANTA ANNA: That is correct. That would be  
4 the existing language. And we can certainly make that  
5 clearer if there is some confusion.

6 MR. ADAMS: Thank you.

7 MS. FIALA: Other questions or comments?

8 (No response.)

9 MS. FIALA: All right. Seeing none, I'm going to  
10 turn things back over to the co-chairs.

11 (Pause.)

12 MS. FIALA: Sorry. Heidi Frechette?

13 MS. FRECHETTE: Hi. We wanted to ask Jad to talk  
14 about the second sentence just to provide some  
15 clarification and highlight some issues that we see.

16 MR. ATALLAH: Jad Atallah with HUD.

17 I just want to raise an issue to the committee,  
18 just so everybody is aware. This language currently  
19 says that the original intent of 1000.331 was to  
20 protect tribes against significant fluctuations with

1 the introduction of the 2010 decennial census and ACS  
2 data sources. That's absolutely correct. Because when  
3 we change the data source here and move to the ACS  
4 starting in 2018 under the agreed-upon regulation, the  
5 volatility control is going to apply.

6 But something to think about is whether the 2020  
7 decennial census, whether this committee would consider  
8 that to be a new data source or not, and I think we  
9 need to at least clarify that issue because when the  
10 2020 decennial census comes out and we're ready to use  
11 it, we need to know whether it's the intent of this  
12 committee that we apply the volatility control at that  
13 time or not.

14 So really, the question is does this committee  
15 want to construe the term "data source" to include  
16 moving from the 2010 decennial census to the 2020  
17 decennial census, or is that a dataset? In which case,  
18 under the current language, we would not be applying  
19 volatility control.

20 And there are ways we can clarify that issue right

1 now with this language. We just need some clarity so  
2 that in the future HUD knows how to apply volatility  
3 control properly. Probably sometime around 2022, 2023,  
4 when we are ready to use the 2020 decennial census  
5 data.

6 MS. FIALA: So questions or comments in response  
7 to Jad's comments?

8 The question was looking for clarification on  
9 whether the 2020 census data would be included as a --  
10 considered a new data source. Because currently, Jad,  
11 this language reads that it is not. It would just be  
12 2010. Correct?

13 MR. ATALLAH: Well, it's not entirely clear, and I  
14 think we just -- we just need some direction from the  
15 committee as to whether your intent with this  
16 regulation was to apply volatility control when we move  
17 from the 2010 decennial census to the 2020 decennial  
18 census.

19 I think there is some ambiguity in the regulation  
20 right now that we would like just to at least clarify

1 here in the preamble of the final rule so we know how  
2 to do this. I think from a technical standpoint, HUD -  
3 - well, I can't really say what HUD's position is, but  
4 in terms of controlling for volatility, having the  
5 volatility control apply to the 2020 decennial census  
6 introduction is probably a good idea. But again, this  
7 is a decision for the committee.

8 MS. FIALA: So, Jad, are you looking to actually  
9 change this language or just to have a conversation so  
10 that HUD understands that it can be written.

11 MR. ATALLAH: I think a conversation on the record  
12 would help us at least remember in a few years when the  
13 2020 decennial census is ready, and we forget what we  
14 intended. It would be helpful just to get clarity from  
15 the committee as to whether we expect to apply the  
16 volatility control when 2020 comes out.

17 MS. FIALA: So we're not necessarily looking to  
18 revise this language. So I'll just open up for  
19 discussion.

20 Earl Evans?

1           MR. EVANS: Earl Evans, Haliwa-Saponi Indian  
2 Tribe.

3           If I'm not mistaken, I thought that the  
4 conversation we had previously indicated that this was  
5 going to start with fiscal year 2018. That was my  
6 understanding was that the volatility control would  
7 begin with fiscal year 2018, from prior discussions.

8           MR. ATALLAH: So volatility control will kick in  
9 in 2018 because in 2018, we are introducing the ACS,  
10 which is a new data source.

11           But the regulation does say "in each year  
12 thereafter," which means in the future, beyond 2018,  
13 when we introduce a new data source, volatility control  
14 kicks in. And the question that we're posing is when  
15 we get to 2023 and the 2020 decennial census data is  
16 out, is that a dataset, which I think under the  
17 language right now, we consider that to be a new  
18 dataset and not a data source, or is that a data  
19 source?

20           If that's considered a data source, we can clarify

1 that here and just so everybody is sort of on the same  
2 page as to whether HUD will be doing volatility control  
3 in 2023?

4 MS. FIALA: Annette?

5 MS. BRYAN: Annette Bryan, Puyallup Tribe of  
6 Indians.

7 My recollection, which it's been a long time, but  
8 when we discussed the introduction of ACS as a new data  
9 source -- and of course, there's going to be new  
10 datasets within that source. But because it's a new  
11 source and HUD switching from the decennial census to  
12 ACS, my understanding is this volatility control was  
13 put in place to mitigate that. So the adoption of this  
14 new source. That's my recollection.

15 MR. ATALLAH: So based on that position, is it  
16 reasonable to say that in 2023, when the new decennial  
17 census data comes out, we would treat that as a  
18 dataset, and volatility control will only apply in the  
19 future if, for whatever reason, we have a just very  
20 different source that's introduced into the formula?

1 MS. BRYAN: Yes, and I'm -- again, this is my  
2 first rulemaking. So I don't know what's done in the  
3 past with sets, when new sets are applied. But my  
4 understanding is this was from one source to another,  
5 and that's why we all agreed to soften any blow that  
6 might happen as a result of changing data sources.

7 MS. FIALA: Jason Adams?

8 MR. ADAMS: Jason Adams, Salish Kootenai.

9 I guess I'm sitting here trying to understand  
10 where we were going with this discussion because we  
11 have a comment. We have proposed response to the  
12 comment, and I'm onboard with the proposed response.  
13 And then we open up the discussion to a bigger issue  
14 that the committee hasn't discussed.

15 And so we're making a leap to that discussion  
16 about how to implement and in my mind, 2020 decennial  
17 census is a new data source, and so how do we adjust  
18 for that? I don't think we have a comment to bring the  
19 issue to the table.

20 I'm asking you as the co-chairs, how do we begin a

1 new discussion on an issue that hasn't been before this  
2 committee and do it in a right way that opens that door  
3 to have that discussion? I don't know if this is going  
4 to lead to a regulation change, if we need to change  
5 the regulation we already agreed to, to have a  
6 discussion about that issue, or if time will take care  
7 of that issue.

8 I believe that we're supposed to have review of  
9 the formula every 5 years? And I know it's probably --  
10 that's a regulatory thing. I don't think that's  
11 statutory, although the statute mentions every 7 years  
12 we're supposed to review the regulations.

13 And so I heard the implementation of 2020 census  
14 wouldn't probably take effect until -- or be available  
15 for implementation or use until 2023? And Jack will  
16 probably still be here by then, but --

17 (Laughter.)

18 MR. ADAMS: Right? But the implementation of  
19 that, I would hope by then we would have a new  
20 committee sitting that would address that issue because

1 then we're well into a new 5-year cycle.

2 That's my comment. Thank you.

3 MS. BRYAN: Thank you, Jason.

4 I think the question HUD is asking is fair. It  
5 might be, as you suggested, somewhat out of order,  
6 given that we're on the clock addressing this  
7 clarification of volatility control provision response.  
8 So thank you for that point of order.

9 MS. FIALA: Perhaps what we could do is we can go  
10 through the list of comments and address this language  
11 and then come back and revisit the clarification  
12 requested by HUD. We can do that separately. That way  
13 we're not eating up the clock to draft the proposed  
14 response. If that works for everybody, we can kind of  
15 keep things separate before they get too comingled?

16 Sharon Vogel?

17 MS. VOGEL: Well, I was trying to follow the  
18 proposed response, and I didn't see dataset in there.  
19 So I didn't know how the issue ties in with the  
20 response. You have talked about data sources, but you

1 don't talk about datasets in the response.

2 MS. FIALA: Thank you. Carol?

3 MS. GORE: I want to thank HUD for bringing the  
4 discussion to the committee. You know, often what  
5 happens when there is a lack of transparency, HUD then  
6 has to make internal decisions about things that really  
7 matter to us. So I think it's really important for us  
8 to give some direction to HUD about how they implement  
9 the language, and if the language is clear enough and  
10 represents the intent of the committee. So I want to  
11 thank you for bringing it to our attention.

12 I do think I was a bit surprised to see 2010  
13 decennial census in this language initially after  
14 hearing and watching the presentations before. So this  
15 may not be helpful, but I need to think out loud, if  
16 that's all right with the committee.

17 So 2000 and 2010, the data source was entirely  
18 decennial, and so we did not have any discussions about  
19 volatility control at previous formula committees  
20 because it was a single data source. We've come to

1 talk about volatility because there's an introduction  
2 of a new source for the needs variables, which was  
3 otherwise the long form of decennial.

4 I think the intent of the committee when we talked  
5 was to mitigate what we thought might be a significant  
6 change for some tribes in the introduction of those  
7 needs variables and not the decennial. At the same  
8 time, I think it's fair for the committee to talk  
9 about, clearly, do we intend for HUD to apply  
10 volatility when the 2020 census comes along?

11 I think that's an appropriate discussion for us.  
12 I don't have an opinion to offer. I don't know what  
13 that change might be. And my only other question is,  
14 typically, we see in the introduction of a new  
15 decennial tribes take up a challenge of their data if  
16 it's inaccurate. So at what point does the challenge  
17 process come into the discussion when we talk about the  
18 data?

19 We've talked about the challenge a bit, and I  
20 don't want to distract the committee, but that's an

1 expensive process for a tribe. So is it proper for  
2 this committee to try to mitigate that expensive  
3 process for a tribe by talking about that introduction?  
4 I don't know. I'm just offering up some discussion,  
5 and I do appreciate and like the idea that we're clear  
6 with HUD so we don't have questions about how this  
7 language is implemented.

8 Thank you.

9 MS. FIALA: Thank you, Carol.

10 So I think the first item at hand is to draft and  
11 have this language approved by the committee, and then  
12 we can go back and revisit the 2010/2020 conversation.  
13 Because I don't believe that that conversation would  
14 necessarily affect the response to the comments. Is  
15 that correct? Yes, okay.

16 So with the comment at hand -- or the response, is  
17 there any -- are there any comments, changes to this  
18 language? Earl?

19 MR. EVANS: Earl Evans, Haliwa-Saponi Indian  
20 Tribe.

1           You're asking about any changes to this language,  
2    which makes me wonder if we should go in the reverse  
3    order that you stated because if we're -- because  
4    essentially, we're making a decision with how we  
5    respond to this language because if I understand this  
6    correctly, then this is saying that volatility applies  
7    to both decennial census and ACS. Whereas, what you  
8    indicated we would discuss whether it does or doesn't  
9    after discussing this language.

10           So I think that with having either way, whichever  
11    one we do first, we're still having the discussion on  
12    decennial census and ACS or just ACS in terms of the  
13    volatility control factor. So I'm wondering should we  
14    simply go into the volatility control issues first,  
15    then that would control the outcome of the response?  
16    Does that make sense?

17           MS. FIALA: It's fine with me.

18           MR. EVANS: And -- and I'm personally inclined to  
19    err on the side of caution and say that it would be  
20    beneficial to most tribes, more likely than not, to

1 have the volatility control apply across the board. If  
2 I had to take a single position without -- and because  
3 of course, we can't do a data run without having the  
4 decennial census information. So I would rather err on  
5 the side of protection in that way than to not have it  
6 apply, and then it creates chaos.

7 MS. FIALA: And so if that's the will of the  
8 committee, if you'd like to flip flop, we can do that.  
9 We can stop the clock, have the discussion about the  
10 decennial census, and then come back to this.

11 I do just want to note, though, that we do have  
12 this and another comment that we have to get through  
13 today. So I think we should just be mindful of the  
14 time to make sure that we do allow enough time to come  
15 back and get through the work that we do -- that we are  
16 tasked with doing, which is approving the responses to  
17 the comments.

18 So looking around, is the will of the committee to  
19 table this for now and then go back to the 2010/2020  
20 volatility discussion?

1 (Response.)

2 MS. FIALA: I see a lot of yeses. Okay. Without  
3 anyone saying no, I'm going to take that as a yes. So  
4 if we could stop the clock?

5 Oh, I'm sorry. Jason Adams?

6 MR. ADAMS: Jason Adams, Salish Kootenai.

7 I guess I'm still kind of confused as to how that  
8 discussion relates to this because we are, again,  
9 forming a response to a comment that did not include  
10 that issue. I'm ready to vote on this and give it my  
11 thumbs up and move past the comments in response --  
12 this response to the comment. Get that behind us, and  
13 then introduce these new discussions.

14 I don't have any problem with this language. I  
15 don't see anybody really talking about this language  
16 and the issues with it. So maybe it's just a weather  
17 check to see if that's where we're at, but I would call  
18 for the question on this and say let's answer the  
19 comment first.

20 MS. BRYAN: So for protocol, the question has been

1 called. The comment on the screen, proposed response  
2 regarding the clarify the volatility control provision,  
3 do we have a consensus?

4 (Voting.)

5 MS. BRYAN: Thank you. Oh, we don't have a  
6 consensus from HUD. HUD, please state your opposition  
7 and propose alternative language.

8 MS. FRECHETTE: I'm going to ask Aaron to -- what?  
9 I'm going to ask Aaron to weigh in for us.

10 MR. SANTA ANNA: HUD's concern is that with the  
11 discussion about whether or not the volatility control  
12 applies to the 2020 decennial census, that depending on  
13 the discussion and desires of the committee, we could  
14 use, excuse me, this response to provide that  
15 clarification.

16 Without a vehicle to be able -- if we do have a  
17 discussion on that issue and if it is determined that a  
18 position that the committee wants to take on that issue  
19 comes clear, we will need to be able to find a way to  
20 insert that into the final rule to provide that

1 clarification.

2 HUD's position is that this is the vehicle. The  
3 response to this comment is where we need to be able to  
4 provide that clarification. And so we would be wanting  
5 to be able to have the discussion, see where the  
6 committee is, and then make a determination as to  
7 whether or not this language needs to be revised or  
8 tweaked or left the same.

9 MS. FIALA: Earl?

10 MR. EVANS: Earl Evans, Haliwa-Saponi Indian  
11 Tribe.

12 In regards to Jason and Mr. Santa Anna's comments,  
13 then I would like to respectfully propose an amendment  
14 to the language above by simply deleting 2010, the  
15 2010. And my reason for this is I believe it provides  
16 clarification that volatility controls would apply to  
17 any new decennial census and ACS data sources. And I  
18 think that solves the clarity problem.

19 Thank you.

20 MS. FIALA: And so that was a friendly amendment

1 to HUD's language.

2 MS. FRECHETTE: Yes, and we accept that amendment.

3 Thank you.

4 MS. FIALA: Sam?

5 MR. OKAKOK: Good morning. Sam Okakok, Native  
6 Village of Barrow.

7 Appreciate Earl's comments on there and also HUD's  
8 comments in regards to this. I believe it's a limited  
9 clarification just based on some of the studies we had  
10 done recently that showed four data sources that were  
11 listed, and the tribal surveys, whether or not they  
12 were going to be federally administered or tribally  
13 administered, I think can be added on there because  
14 those were potential data sources, even though we did  
15 not receive any or very much information in regards to  
16 that.

17 We had some excellent presentations on ACS and  
18 that data source, but we did not receive very much in  
19 regards to the tribal surveys. I'd like to see the  
20 tribal surveys included in this, in addition to the

1 decennial census and ACS data sources.

2 MS. FIALA: So did you have language, Sam?

3 MR. OKAKOK: Yeah, simply to add the tribal  
4 surveys, federally administered and tribally  
5 administered. We had two huge volumes that spoke of  
6 that and just excellent information. But those are  
7 left out on here, and I think we should be able to add  
8 them to this.

9 MS. FIALA: So I'll let HUD respond.

10 MS. FRECHETTE: HUD isn't supportive of that  
11 amendment because it confuses the issue and doesn't  
12 address the specific data sources that we'll be using.

13 MS. FIALA: Gabe?

14 MR. LAYMAN: Well, as usual, I'm two steps behind  
15 Earl. I simply want to speak to say that I think  
16 Earl's offer/revision deals with the two issues before  
17 the committee.

18 It seems like there was consensus on this issue  
19 of, you know, "solely as a result of," and this would  
20 also deal with the issue that HUD has raised with

1 respect to 2010 versus 2020 decennial census. Seems to  
2 hit on both of those issues, and I would be supportive  
3 of that.

4 MS. FIALA: Thank you. Heidi?

5 MS. FRECHETTE: I want to ask Jad to provide some  
6 insight on the language.

7 MR. ATALLAH: Just to clarify so everybody is  
8 clear, under this clarifying language, what we will be  
9 doing is every year, when the ACS data is updated,  
10 we're going to treat that as a new dataset, and we are  
11 not going to be applying volatility control because of  
12 the new dataset. When we move to the new decennial  
13 census in 2020, we are going to be applying volatility  
14 control because we will consider that to be a new data  
15 source.

16 Just want to be clear on the record so in a few  
17 years, when we've forgotten what we intended, that's  
18 what we intended, and we'll at least have that on the  
19 record to clarify what we intended.

20 MS. FIALA: Thank you. Earl?

1 MR. EVANS: Earl Evans, Haliwa-Saponi Indian  
2 Tribe.

3 So in reflecting upon the charter and protocols is  
4 usually the -- is usually incumbent upon the person  
5 withholding consensus to come up with alternative  
6 language. So HUD was the reason for not coming to  
7 consensus on this language. So in order to provide the  
8 specific clarifications that HUD will like to have if  
9 this does not fulfill that, based on what Jad just  
10 stated, I would like to request that HUD make some type  
11 of alternative proposal.

12 Thank you.

13 MR. ATALLAH: So -- Jad Atallah with HUD.

14 Maybe after the -- in the first paragraph after  
15 "data sources," a new sentence that says, "When a new  
16 dataset -- when HUD uses a new dataset, HUD will not  
17 apply volatility control."

18 "When HUD uses" -- I'm sorry. Maybe we should say  
19 "introduces" instead of "uses." "When HUD introduces a  
20 new data source, HUD will apply volatility control."

1           And then maybe we can just say, "For example, when  
2 a new ACS dataset is available from year to year --  
3 available from year to year, HUD will not apply  
4 volatility control. When a new decennial census --  
5 when new decennial census data is available, HUD will -  
6 - comma -- HUD will apply volatility control."

7           You can put in parentheses, (e.g., in 2020) or  
8 (e.g., 2020 decennial census).

9           Thank you.

10          MS. FIALA: Thank you. Earl?

11          MR. EVANS: Earl Evans, Haliwa-Saponi Indian  
12 Tribe.

13          Okay. Now in the event that we use then, I will  
14 recommend deleting the word "sources" from the second  
15 sentence, the last word in the second sentence because  
16 it's used -- it's referring to ACS as a source rather  
17 than a set, which Jad's language clarifies, and then I  
18 think we're there, hopefully.

19          Thank you.

20          MS. FIALA: Heidi?

1 MS. FRECHETTE: So I want to clarify for folks.  
2 If this language, if the committee accepts this  
3 language, this essentially addresses HUD's concern  
4 about volatility. It doesn't address, but it  
5 forecloses any further discussion on HUD's concern  
6 about volatility.

7 So as you know, we had the position that we see  
8 potential year-to-year volatility in the formula with  
9 the introduction of each new ACS dataset. And as Todd  
10 said, a majority of the tribes are not impacted by  
11 this. Their funding allocations are not significantly  
12 impacted.

13 But you know, our concern still remains that  
14 there's a potential for some tribes to see impacts and  
15 reductions as much as 35 percent of their needs  
16 allocation in these scenarios. So we understand if the  
17 committee accepts this language that despite the  
18 concerns we have raised here, that it will essentially  
19 say that the committee does not elect to discuss the  
20 other volatility issue that we've raised.

1 MS. FIALA: Thank you. Jason Adams?

2 MR. ADAMS: Earl, I apologize. This is Jason  
3 Adams. I was having a sidebar. I didn't catch why you  
4 -- why we struck "source" out of that sentence. I  
5 apologize.

6 MR. EVANS: Earl Evans, Haliwa-Saponi Indian  
7 Tribe.

8 Because in Jad's lawyer-speak, he's distinguishing  
9 that there is a difference in sources and sets, and  
10 he's referring to ACS as a set and decennial census as  
11 a source. And so a deletion of the word "sources," it  
12 doesn't appear as though ACS and decennial census are  
13 both data sources, which is what that sentence would  
14 imply if you leave the word "source" there, in my non-  
15 lawyer opinion, of course. But that's --

16 Thank you.

17 MS. FIALA: So I think --

18 MR. ATALLAH: Can I clarify then?

19 MS. FIALA: The attorney is going to -- Jason  
20 first.

1           MR. ADAMS: Well, I guess I just want to -- thank  
2 you for that, Earl.

3           I guess, going back to our long, lengthy  
4 discussion and work on the volatility control measure,  
5 it was specific to source, and so I think the word  
6 "source" needs to be there.

7           MS. FIALA: Jad?

8           MR. ATALLAH: And just to clarify, the ACS and the  
9 decennial census, the initial introduction of them,  
10 meaning when we first introduce the ACS in 2018, we are  
11 treating that as the introduction of a new source. But  
12 when we are moving to 2019, 2020, and updating the ACS  
13 data from year-to-year, that's a change of a dataset.  
14 So the volatility control will kick in when we  
15 introduce ACS in 2018, but in 2019 when we're updating  
16 that ACS from year to year, that's a set, and it does  
17 not kick in volatility control.

18          Again, once 2020 decennial census kicks in, we're  
19 going to treat that as a source, and volatility control  
20 will apply.

1 I'm sorry. I think Todd also had a technical fix.

2 MS. FIALA: So did you want the word "source" that  
3 was struck out added back in?

4 MR. ATALLAH: I don't think -- I think we're okay  
5 either way. The intent is clear. Whatever the  
6 committee decides so we can move this along is fine.

7 MS. FIALA: Thank you.

8 MR. ATALLAH: Sure, we accept it.

9 MS. FIALA: Other questions or comments about the  
10 revised language?

11 MS. BRYAN: I have a call for the question. For  
12 the proposed response in front of us to clarify the  
13 volatility control provision on the screen, do I have a  
14 consensus?

15 (Voting.)

16 MS. BRYAN: Seeing no dissension, we have a  
17 consensus. Good job.

18 MS. FIALA: Thank you. So I believe that  
19 addressed then HUD's concern, and we no longer need to  
20 have a discussion about the other volatility items.

1 Correct?

2           So I believe next on the list would be the  
3 response to the negotiated rulemaking comment was a  
4 success. Is that correct?

5           MR. SANTA ANNA: Correct. This is probably the  
6 most controversial issue that the committee is going to  
7 have to deal with. I thought, as I was looking through  
8 comments and preparing the summary, that the comment --  
9 and there were two comments along these lines -- were  
10 worthy of being able to be published within our final  
11 rule because it provided, I think, a very good  
12 description of the hard work of the committee.

13           And I think also it provided us the opportunity as  
14 a committee to be able to express its appreciation to  
15 each of the members that have been working so hard over  
16 the course of the last 3 years on this rule.

17           So the comment is one commenter thanked everyone  
18 who was involved in the negotiated rulemaking process  
19 and described the process as thoughtful and deliberate  
20 and the product the best that could be expected, given

1 the limitations on current funding for the program.

2 The commenter expressed support for all of the  
3 final proposed changes and described the rule as  
4 necessary, fair, and consistent with the mission of the  
5 committee and the Indian Housing Block Grant Program  
6 overall and developed in the spirit of compromise.

7 The commenter concluded that moving to an updated  
8 data source is a greatest -- data source is the single  
9 greatest achievement of the committee and urged HUD to  
10 adopt the final language and begin implementation as  
11 provided in the proposed rule.

12 Another commenter wrote to recognize the many  
13 significant positive outcomes of this negotiated  
14 rulemaking. And a second commenter said that despite  
15 the somewhat distributive nature of this process, HUD  
16 and the tribes were able to reach consensus on numerous  
17 important issues, including minimum allocation of  
18 carryover funds, the undisbursed fund factor, the  
19 volatility control, and establishing adjustments for  
20 undercounts.

1           Both commenters agreed that the negotiated  
2 rulemaking process was successful.

3           I took the liberty of being able to draft a  
4 proposed response for the committee's consideration,  
5 and it reads, "The committee appreciates this comment  
6 and agrees that this negotiated rulemaking was highly  
7 productive and successful. The committee also extends  
8 its appreciation to each tribal representation and to  
9 HUD leadership and staff for their hard work and  
10 dedication to the negotiated rulemaking process and  
11 believes that this final rule reflects the thoughtful  
12 and deliberate work of everyone involved in this  
13 rulemaking.

14           "The committee believes that the success of the  
15 negotiated rulemaking rests on the spirit of  
16 cooperation and hard work that tribal representatives  
17 and HUD leadership and staff brought to the  
18 negotiations."

19           MS. FIALA: So with the proposed response up, I  
20 wanted to open up for questions, comments, edits?

1 Sharon?

2 MS. VOGEL: I'm not quite sure how to frame this.  
3 I'm not taking away from the work, but I would say I  
4 would be more comfortable with the word, it was  
5 "educational" as opposed to "successful."

6 What we heard the last day and a half is that the  
7 ACS data is proving to be an ill fit for the formula,  
8 and we don't even know if it was a -- its impact on the  
9 variables because we just didn't address the variables  
10 in our negotiations. So with the loss of the  
11 adjustment factor and the loss of the volatility  
12 control, I am having to go back to the region and tell  
13 them that I have failed them because I was not able to  
14 bring their concerns to the table.

15 So would I say it was successful? Not highly  
16 successful. I think it was educational, disappointing,  
17 and we missed an opportunity to address the variables.  
18 That's from my perspective.

19 Thank you.

20 MS. FIALA: Thank you, Sharon. Did you have an

1 edit that you would like to make?

2 MS. VOGEL: I would take out the word "highly" and  
3 add "educational."

4 MS. FIALA: So take out "successful" and replace  
5 that with "educational"? I'm sorry.

6 MS. VOGEL: Take out the word "highly." That it  
7 was "educational, productive," and I don't agree with  
8 successful.

9 MS. FIALA: So educational and productive?

10 MS. VOGEL: Yes, and take -- and eliminate  
11 "successful."

12 MS. FIALA: I believe that would be a friendly  
13 amendment to the proposed language by HUD.

14 (Pause.)

15 MS. BRYAN: I have a call for the question. Do we  
16 have a consensus on the language in front of us,  
17 proposed response on the comment the negotiated  
18 rulemaking was successful? Do we have consensus?

19 (Voting.)

20 MS. BRYAN: We have dissension. Can we have some

1 discussion and propose alternative language, please?

2 MS. DIFUNTORUM: Hi. That would be me. Not to be  
3 argumentative at the end of our work here.

4 I do feel -- pardon me. I do feel that rulemaking  
5 has been successful. Maybe not highly successful, but  
6 I would say at least moderately, and the lengthy  
7 discussion about volatility is evidence of that.

8 I mean, the last formula rulemaking, I don't know  
9 that anybody would come to the table and say, "Well,  
10 you know, there is new data and you're going to lose  
11 money, and so we're going to agree to try and mitigate  
12 that impact." I think this is much more collaborative  
13 this time around. That's just my observation.

14 So I do like the word "successful" being included  
15 in that, and that would be my amendment would be strike  
16 "highly," make it "educational, productive, and  
17 successful." And you can write "moderately" if you  
18 would like, but I think "successful," to me, is a good  
19 fit.

20 Thank you.

1 MS. FIALA: So there's new proposed language.

2 MS. BRYAN: All right. This is new proposed  
3 language. Are there discussion on this or questions or  
4 comments?

5 I hear a call for the question. On the language  
6 in front of us on the proposed response, "The  
7 negotiated rulemaking was successful," on the screen in  
8 front of you, do we have a consensus?

9 (Voting.)

10 MS. BRYAN: Seeing no dissension, we have  
11 consensus.

12 Thank you.

13 All right. At this time, I would like to move to  
14 the public comment, unless there are any other remarks  
15 that we need to do.

16 I also need to make an announcement that we do  
17 have flags here, and I understand that folks might be  
18 leaving early. We do have the colorguard. They are  
19 able to come back at 3:00 p.m. I would ask that those  
20 of you who are here and can come back here for that,

1 for the colorguards to come and take the flags down,  
2 whatever time we end today, if you can, come back and  
3 whoever can be present for that, please try to make it.

4 So for now, I'm going to open up this session, the  
5 public comment.

6 Oh, thank you. Jason pointed out we are action  
7 item -- Aaron Santa Anna, next steps for the  
8 regulations.

9 MS. FIALA: We think we have one outstanding  
10 question, was whether or not the committee, just  
11 clarification whether or not they approved deletion of  
12 that word "solely"? That was a discussion that we had  
13 earlier. In the regulation, in the actual regulatory  
14 language.

15 MS. BRYAN: We didn't talk about this or approve  
16 it. We simply approved the response that was in front  
17 of us.

18 So this word "solely" is still in the regulation  
19 piece and hasn't -- we started to talk about it, but I  
20 think we didn't agree to open it up or --

1           And do I understand we need to have consensus to  
2 open up that discussion on that regulation?

3           MR. SANTA ANNA: I'm sorry. I thought, in my  
4 recollection, that in the discussion of the response to  
5 the comment, as we developed the response and approved  
6 it, we had also decided not to make any changes to the  
7 regulatory text, that it was not necessary because we  
8 were providing in our comment, in our response an  
9 explanation to why the commenter misunderstood what the  
10 volatility control was all about and how it would be  
11 applied.

12           So I don't see at this point any need to revisit  
13 this language.

14           MS. FIALA: So we can remove the strikeout, and  
15 the language will remain as it was originally in the  
16 proposed rule.

17           MS. BRYAN: Right. Thank you. Jack?

18           MR. SAWYERS: I'd like to make a brief 20-minute  
19 statement. I've been in on every negotiated rule at my  
20 tender age of 65. I probably won't be here again, but

1 I just want you all to know what a pleasure it has  
2 been. Well, not always, but most of the time.

3 (Laughter.)

4 MR. SAWYERS: But I appreciate you. I appreciate  
5 your friendship. Doesn't mean I'm retiring. Everybody  
6 would like that, but I'm not going to do that.

7 But I probably won't be in this situation again,  
8 and I did want you to know how much I appreciate you.  
9 I appreciate HUD and the interest. When we started the  
10 first one, let's say the second one, HUD was pretty  
11 sparse. But we appreciate very much the support we get  
12 from you folks, and I'll tell you I made friendships on  
13 this board that I'll never forget. Well, I forget most  
14 things. So I might not forget.

15 But I truly appreciate you, and I want you to know  
16 that it's been my pleasure to associate with you folks.

17 Thank you.

18 MS. BRYAN: Thank you, Jack. And thank you for  
19 all your hard work, and you're going to make me cry.

20 Appreciate all your many years of service to

1 Native Americans and Alaska Natives in Indian housing.

2 All right. Aaron? Leon?

3 MR. JACOBS: Thank you. Leon Jacobs, Lumbee  
4 Tribe.

5 I have a similar comment to Jack. I'd like to  
6 start out by saying that Jack and I have been around  
7 here for many, many years. This -- it's a pleasure to  
8 see the progress that has been made not only within  
9 HUD, but with the transparency and also the  
10 communications with the tribes.

11 Also it's an honor to be here in this land because  
12 if you go back in your history, you know that there was  
13 a lot of Indians that died en route to get to this  
14 land, and after they got here and so forth, and it's a  
15 pleasure to see the progress that is made throughout  
16 Indian Country within the State and as well as  
17 nationwide.

18 When I started with HUD in 1980, my office in  
19 Chicago was the last of the offices that was -- became  
20 operational. Here in Oklahoma, I had a peer. His name

1 was Hugh Johnson, and yesterday, I had the pleasure  
2 with the help of Mr. Sims, Wayne, he took me over to  
3 visit with Hugh Johnson, who started this office in  
4 1980. He's in an assisted living facility here and  
5 doing quite well, except some of his thoughts and  
6 memory is vanishing.

7 But I just thought it was appropriate to let you  
8 know that the people that helped bring things this far,  
9 not that we did a great job or a bang-up job, but we  
10 did a job. And as a part of HUD and later with the  
11 tribal as well, it was a pleasure that we will never  
12 forget. And secondly, we wish you the best as we move  
13 forward.

14 I'm happy to be a part of a process that where we  
15 can sit down and discuss our thoughts, even our  
16 differences, but at the same time lay aside our own  
17 personal situations and come up with a consensus that  
18 is going to benefit the majority. And it has been a  
19 pleasure doing this, and I thank you for the  
20 opportunity to work with you.

1           And I look forward to many, many more years.  
2   Seventy-seven years is not enough. The Great Spirit  
3   has given us an opportunity to do more, and as long as  
4   I am able to breathe and work, I will be doing  
5   everything I possibly can to help Indians nationwide.

6           And my daughter here, Deidre Flood -- not really,  
7   but I hired her right out of college back in '78, and  
8   she was only 16. God forgive me for one lie, right?

9           But to see this progress of the history and so  
10  forth is heartwarming, and I wish you well and Godspeed  
11  to all of you.

12          Thank you so much.

13          MS. BRYAN: Thank you, Leon, for that beautiful  
14  piece of history and for all your hard work and years  
15  and dedication of service.

16          What an honor for you to be able to go and see the  
17  man who started the ONAP office. That's a beautiful  
18  story. And so we all remember that there's people  
19  before us that have a lot of struggles to get us where  
20  we are today, and thank you for reminding us of that.

1           Aaron?

2           MR. SANTA ANNA: Thank you very much.

3           I did want to lay out the roadmap for the balance  
4 of this rulemaking and wanted to say -- take this  
5 opportunity to say that I have been very honored to  
6 work with each and every one of you. And I am truly  
7 humbled by the dedication that each of you show to your  
8 communities and to the program. And I very much  
9 appreciate that.

10          We are -- rulemaking is a long and difficult  
11 process, as you all know. I think that we have  
12 accomplished quite a bit today and yesterday. The next  
13 step would be for HUD to take all of the comments and  
14 the consensus that we've reached here over the course  
15 of the last couple days and put them into the final  
16 rule.

17          The final rule is going to be pretty  
18 straightforward. What I would anticipate is we will  
19 include a little bit of background information that is  
20 identical to what we use in the proposed rule. We will

1 have a section that lists out changes from the proposed  
2 rule and do that in a bullet format, and then we will  
3 have a section that lists the public comments and the  
4 responses that we've gone through here today and  
5 yesterday.

6 In the spirit of transparency, we will -- we will  
7 share that final draft with the committee once we have  
8 it done and once we launch it into departmental  
9 clearance. So we still have to be able to, once again,  
10 submit the rule through the HUD building to have the  
11 various offices review it and comment on it. We think  
12 that, you know, given what happened in the proposed  
13 rule, given the hard work that Jad and Alyce have been  
14 doing with OGC, that we should be able to sail through  
15 departmental clearance rather quickly.

16 My sense is that we will probably ask for an  
17 expedited clearance, and what I mean by that is,  
18 typically, we require -- we ask that comments be  
19 provided in 2 weeks. For this rule, we may want to  
20 limit that to 1 week.

1           At that point, assuming that we don't have any  
2 nonconcurring issues like we did last time, we will be  
3 sharing this rule with OMB. OMB has to review and  
4 approve the final rule just as they did in the proposed  
5 rule.

6           Once again, to the extent that we can, we want to  
7 be able to make sure that we can keep everybody  
8 informed about that process. As I mentioned in my  
9 opening remarks, OMB has been very cooperative and  
10 supportive of all of HUD's rules, including this rule,  
11 and has indicated a desire to try to get this reviewed  
12 and approved so that we can move to publication before  
13 the end of the calendar year.

14          Once OMB approves the rule, then it's simply a  
15 matter of getting the appropriate signature on the --  
16 on the rule and sending it to the Federal Register for  
17 publication. The final rule does not have to go up to  
18 the Hill for any sort of additional review. That only  
19 happens at a proposed rule state. So once we get it  
20 approved and signed, then we will put it -- publish it

1 in the Federal Register.

2 Like everything else that we do, we do have a  
3 statutory provision that requires that we delay the  
4 effective date of the rule for 30 days after  
5 publication. But I wanted to be able to make sure that  
6 everybody was aware of the additional steps that we  
7 need to take so that -- so that you can know what to  
8 expect.

9 One other thing that I wanted to remind everybody  
10 about is that when you see the final rule, you will see  
11 that we will also be revising the appendices that are  
12 currently codified. You know, we've always taken the  
13 position that the appendices are simply a reflection of  
14 what is in the final rule. It is a mathematical -- you  
15 know, the mathematics about how the formula operates,  
16 and it doesn't provide anything different than what  
17 should be in the final rule. So we'll be providing  
18 those as well as we send this out.

19 I am very optimistic, based on all the discussions  
20 I've had in terms of within HUD leadership and also

1 with OMB, that we will be able to make our mark. I  
2 certainly want to be able to make myself available if  
3 anyone should have any questions about what the next  
4 few steps are going to be or what the expectations  
5 might be.

6 MS. BRYAN: Thank you, Aaron.

7 Are there any questions on what was just presented  
8 about where we go from here, next steps?

9 (No response.)

10 MR. SANTA ANNA: Thank you.

11 MS. BRYAN: Thank you.

12 At this time, I would like to open it up now for  
13 public comments, and we'll get a microphone back here.  
14 Again, for the record, please state your name and who  
15 you're representing.

16 MR. MOORE: Is this on? Craig Moore, Tlingit-  
17 Haida Regional Housing Authority.

18 Congratulations. I am truly impressed and amazed  
19 at the quality of leadership and cooperation that I've  
20 seen from this committee in this NegReg process. I

1 echo some of the comments of the -- of the committee  
2 members that you have really come together as a family  
3 and as a team for the betterment of the tribal nations.

4 I only wish Congress could take note of this type  
5 of process and be as successful.

6 Thank you.

7 (Pause.)

8 MS. BRYAN: Last call for public comments. Leon?

9 MR. JACOBS: Madam Chair, I would like to hear  
10 from all of the Directors from the HUD offices.  
11 They've been here, and I think we would like to have  
12 some comments from them as well.

13 MS. BRYAN: For the public comment or the closing  
14 portion?

15 (Laughter.)

16 MS. BRYAN: We'll leave that up -- would any of  
17 the HUD Directors like to go on the record for public  
18 comment?

19 MR. SIMS: I think he put me on the record already  
20 is what I think he did. Put me on the spot.

1           Now I'm Wayne Sims. I'm the Administrator of the  
2 Southern Plains Office, Native American Programs here  
3 with HUD.

4           On behalf of Oklahoma, on behalf of Oklahoma City,  
5 on behalf of the Southern Plains, I want to thank you  
6 all for coming to Oklahoma. I thank you for being here  
7 and doing such important work.

8           I, too, have been impressed with your process.  
9 You've done a great job. You are a committee that's  
10 been working for 3 years to do some very important  
11 work, and from my standpoint in observing what's  
12 happened -- and I've been able to attend some of these  
13 sessions, not all of them -- I'm very appreciative of  
14 what you do and what you have done and what you've  
15 accomplished.

16           And I think you have been successful. So from our  
17 standpoint, we welcome you to Oklahoma. We're glad you  
18 came. We hope that you had a good time. It's not --  
19 you know, it's not New York, and it's not Las Vegas,  
20 but it's -- we got a little Las Vegas, honestly, if you

1 find the right casino around here, folks.

2 But anyway, we thank you for being here, and  
3 again, I commend you on the work you've done here, and  
4 thank you very much.

5 (Applause.)

6 (Pause.)

7 MS. BRYAN: Thank you.

8 So, with that, I am going to conclude the public  
9 comment portion of our Session 9, Formula Negotiated  
10 Rulemaking, and we'll head to closing remarks from the  
11 PDAS, Lourdes Castro Ramírez.

12 MS. CASTRO RAMÍREZ: Thank you very much,  
13 Chairwoman.

14 And thank you again, Wayne, for hosting this  
15 negotiated rulemaking session here in Oklahoma City.  
16 This was the perfect place, and we very much appreciate  
17 your hospitality and the hospitality of everyone that  
18 made this possible.

19 I do want to thank FirstPic for all of the  
20 logistical coordination. To Sara, our facilitator, who

1 was very amazing, keeping us on track. Of course, I  
2 also want to thank our co-chairs again for your service  
3 and dedication. I think it's pretty amazing that we  
4 are concluding at noon.

5 And Jad said yesterday that he thought that we  
6 would be done by noon, and he was correct. Jad the  
7 Dad.

8 (Applause.)

9 MS. CASTRO RAMÍREZ: And just a couple more  
10 remarks. On behalf of Secretary Castro, I want to  
11 again thank each of you, as committee members, for your  
12 service, for your dedication, for really engaging in  
13 these issues not just from your perspective as leaders  
14 in your communities, but thinking more globally about  
15 what is in the best interest of Native communities.

16 Secretary Castro and this administration, our  
17 President, they, as you all know, have been very  
18 focused on strengthening our commitment, our  
19 investments, our level of coordination in Indian  
20 Country and the Alaska Native communities. And you

1 know, it is with that sense of purpose and commitment  
2 that we as HUD have come to this negotiations table.

3 Just on a personal note, as you all know, as the  
4 Principal Deputy Assistant Secretary and as an  
5 appointee of this administration, my term ends on  
6 January 20, 2017, which happens to be my birthday. And  
7 you know, I just want to say that it has been really an  
8 incredible honor to serve in this capacity, to lead the  
9 Office of Public and Indian Housing, to really embed  
10 myself in understanding the challenges and  
11 opportunities in Indian Country, to serve on this  
12 committee, to learn from each of you.

13 And you know, I will continue to build on this  
14 work and this knowledge in what I decide to do next.  
15 But I do want to ensure that you all know that you all  
16 have had a very personal impact on me as an individual,  
17 as a professional, and I am, you know, deeply honored  
18 to have met each of you and to have been part of this  
19 process.

20 So just on behalf of myself and my family, who has

1 made tremendous sacrifices for me to be here, I just  
2 want to have you each know that it has been a deep  
3 honor and privilege to meet each of you and to be in  
4 your presence.

5       And so, with that, I'm really pleased that ONAP,  
6 the Office of Native American Programs, will continue  
7 to be in good hands with the leadership of Heidi  
8 Frechette, with the also very dedicated staff in the  
9 Office of Native American Programs, many of who are  
10 here, but many more that are out in the field doing the  
11 good work that needs to be done.

12       And of course, the staff throughout HUD, from the  
13 Office of General Counsel to our Office of Public and  
14 Indian Housing. And really throughout HUD, you know,  
15 there is a commitment to continue to do what we can to  
16 strengthen the work that is happening in Indian  
17 Country.

18       But I'm very pleased that ONAP will continue in  
19 good hands, and so at this time, I'd like to give Heidi  
20 Frechette the opportunity to share a few remarks as we

1 end the session.

2 Thank you.

3 (Applause.)

4 MS. FRECHETTE: (Speaking Native language.) Thank  
5 you.

6 Thanks for your participation over the last  
7 several days and your attention and engagement. And as  
8 PDAS Castro Ramírez says in her opening remarks and  
9 closing remarks, it's really been an honor to serve  
10 with you.

11 I want to offer my sincere thanks to the co-  
12 chairs, Annette Bryan and Jason Dollarhide. And to the  
13 HUD staff who supported us, who are back here.  
14 Especially Aaron Santa Anna and Jad Atallah, Alyce, and  
15 also Todd Richardson from PD&R. And Sara, Mindi, and  
16 the FirstPic crew, especially with all the formula runs  
17 and things that we've asked for and things they've  
18 turned around quickly, we're really thankful for them,  
19 too.

20 And I want to say a special thank you to the PDAS

1 Castro Ramírez. As she indicated, her heart has always  
2 been in it. She's taken such a leadership role, has  
3 engaged on the substantive issues, and really, her  
4 heart was in it to make sure that the decisions that we  
5 make at HUD, but then also as part of the committee  
6 translate into good changes on the ground to the people  
7 in our communities.

8 Thank you.

9 I also want to thank Jack and Leon for reminding  
10 us of the -- how it all started and the progress that  
11 we've made. I've worked -- believe it not, I've worked  
12 in several different areas in Indian Country, in Indian  
13 health and education, transportation. And really, I  
14 can say sincerely that the self-governance, the setup  
15 of the Indian Housing Block Grant, of NAHASDA, is such  
16 an amazing model for doing good work in Indian Country.

17 And it's just really inspiring to sit with both of  
18 you and other folks who were instrumental in creating  
19 that structure. So it's exciting and also an honor.

20 And also thank you to Wayne and the Oklahoma

1 tribes for hosting us. It's been a pleasure to be in  
2 your neck of the woods and really to be more connected  
3 to your people and your culture. I think that's  
4 important as we are doing the good work that we do that  
5 we stay rooted in Indian Country and do it in areas  
6 where we can connect with the people.

7       So just in closing, I want to let you know that I  
8 look forward to working together. One of my favorite  
9 terms, it seems, since I started is I'm happy to roll  
10 up my sleeves. Let's get good work done, which we did.  
11 And I really look forward to getting out into your  
12 communities and visiting you, seeing the good work that  
13 you're doing on the ground.

14       So (speaking Native language). Thank you.

15       MS. BRYAN: Thank you to HUD, and on behalf of  
16 Jason and myself, I want to echo the sentiments of  
17 thanking each and every person that you have thanked.  
18 I won't repeat the list, but we're really appreciative  
19 and honored to have been asked to head this committee  
20 as co-chairs.

1           And you know, we have been through so much  
2 together over the past few years and really gotten to  
3 know each other, and a lot of people have had their  
4 feet dug in and had them uncovered and actually moved.  
5 You know, I picture our feet in the sand and the water  
6 sort of washing it away and us being able to move  
7 together through this process.

8           I've learned a lot, and I think that we have been  
9 a committee that's been able to negotiate and come to  
10 agreements. We represent those voices that can't speak  
11 for themselves. So we're at this table as  
12 representatives of those people on the ground who have  
13 the greatest needs in Indian Country. And providing  
14 housing for people and providing a stable foundation  
15 for them is critical to their life's success and  
16 whatever they're going through in their struggles.

17           So the work that we do here is so important. So I  
18 wanted to just acknowledge each and every committee  
19 member that has sat at this table through all the  
20 meetings and sacrificed your work at home, your

1 families at home, to come here and do this work on  
2 behalf of the Indian people.

3 I also did want to mention today, too, for us to  
4 keep in our hearts and our thoughts and our prayers the  
5 Standing Rock Sioux Tribe in North Dakota and the  
6 Dakota Access Pipeline and to remember to be supportive  
7 of them, if it's in prayer or in whatever way that you  
8 can, for the struggles that they go through. You know,  
9 we come together and support each other in these times.

10 So, with that, I just want to thank you, again, on  
11 behalf of Jason and myself. We've been through a lot  
12 together, and I think we've made lifelong friends.

13 Thank you.

14 (Applause.)

15 MS. BRYAN: Lafe?

16 MR. HAUGEN: I just wanted to say I wanted to  
17 thank everyone for being here on this committee and  
18 myself for learning so much. When we started this  
19 session a couple of years ago, I noted that I wanted to  
20 get along with everybody, and it was about funding.

1 And the good news today is we get to leave, and we're  
2 still friends.

3 But in visiting with Todd there before the -- or  
4 during the break, I think a lot of this would be  
5 resolved if Indian housing just got more funding, and  
6 that's the bottom line. In June, I had an opportunity  
7 to testify before the Senate Committee on Indian  
8 Affairs, and at that time, I did give a lot of kudos to  
9 HUD because they do work with us, and I put a lot of  
10 pressure on USDA because they have some funding, too,  
11 that Native Americans access, and we should be able to.

12 So I just wanted to give a shout-out to everyone  
13 who's here and to a guy who's not here, and over the  
14 years, I've become good friends with him and still  
15 consider him a friend today, and that's Rodger Boyd.

16 And I do appreciate Rodger and the fact that he  
17 had belief in me to be on this committee. And then I  
18 appreciate Heidi for stepping in and taking on that  
19 role. So on behalf of the Northern Plains, I was very  
20 happy to be here today and wrap this up.

1 Thank you.

2 MR. EVANS: Earl Evans, Haliwa-Saponi Indian  
3 Tribe.

4 Again, thank you to everyone as well. I've been  
5 with the process, participating in the process. I  
6 wasn't at the first NegReg with Jack, but I've been at  
7 all the NegRegs since the first ones.

8 But first time here at the table. So thank you  
9 for the opportunity. I enjoyed working with each of  
10 you. Thank you for the wonderful job that you do here,  
11 the jobs you do at home, and -- and as you always have,  
12 I'm sure you'll commit to trying to figure out the  
13 issues we didn't get to figure out here because we know  
14 that there are a lot of important things that are still  
15 left to be done. We still leave the table with work.

16 And you know, again, congratulations, Heidi. Or  
17 condolences, whichever is applicable.

18 (Laughter.)

19 MR. EVANS: And we'll look forward to working with  
20 you as well, and I will again renew the same request

1 that I had with Rodger. We need NegReg meetings in  
2 Hawaii and Alaska. And I will readily take on that  
3 burden to assist in helping the housing program in  
4 Hawaii get set up, should you need someone to make that  
5 sacrifice.

6 So thank you all again. It's been a pleasure and,  
7 indeed, an honor to work with all of you. Thank you so  
8 much.

9 (Applause.)

10 MS. GORE: I can't resist. So I think most of you  
11 know for me this is always about family. And I think  
12 that's why we're all here, and I just wanted to say if  
13 my mom were here, she'd be very proud.

14 I want to thank everyone from the HUD team to  
15 FirstPic to all the committee members for bringing  
16 their passion, for being respectful, for being good  
17 listeners. Because I think, as a result, we can do the  
18 right thing if we have all those things at the table.

19 I think there is strong evidence that we've done  
20 some good hard work, and we have a lot to take care of

1 at home at the same time that we're conducting business  
2 here. But I'm immensely proud to be part of this  
3 group. It's a privilege to be here.

4 Thanks to everyone for their hard work.

5 MR. OKAKOK: Sam Okakok, Native Village of Barrow.

6 I just wanted to say thank you to HUD, FirstPic,  
7 and all my fellow committee members here. It's been an  
8 honor to -- what's with this fly? It's been on me.

9 (Laughter.)

10 MR. OKAKOK: This negotiated rulemaking has been  
11 very good. I've been really honored to work with all  
12 you. One of my first sessions, it was kind of  
13 difficult when I saw I was one of the smaller tribes,  
14 smaller to medium ones. But I was able to learn a lot  
15 throughout the entire process, and it had been a really  
16 good learning process for us. And being from the very  
17 northern-most city, village in America, you know, it's  
18 just been wonderful meeting with tribes from all over  
19 the U.S.

20 My elders used to always say that, you know, when

1 you meet others within other tribes that you're meeting  
2 nation to nation, and you know, he always treated it  
3 that way, that we treat each other with respect, and I  
4 feel a great honor to be with you guys and to work with  
5 you guys, and it's been wonderful.

6 And I really believe that when we get together,  
7 you know, we learn from each other, and we learn each  
8 other's cultures and the way we do things. And we all  
9 have common housing problems and issues, but we work  
10 together in solving those.

11 And just the other day also, culturally, my nephew  
12 got a whale. First of the season. And so, when we get  
13 back, we're going to have a feast. And so, you know,  
14 it's just one of those things. We get together and  
15 very proud of my nephew. He's going to be able to feed  
16 the entire community.

17 And so, you know, these are the kind of things  
18 that we enjoy, and we always try and make sure everyone  
19 is well taken care of, you know? And being in housing  
20 has been wonderful that we're able to make a difference

1 for our communities in this, and I wish that part of  
2 the pie would get larger, but at the same time, I just  
3 want to thank you all, and I appreciate you and honor  
4 you all.

5 Thank you.

6 (Applause.)

7 MS. BRYAN: And thank you all for your heartfelt  
8 comments, and we hopefully shall meet again.

9 And I just do want to remind you, if you're here  
10 and you can, the flags will be retired at 3:00 p.m.  
11 That's the earliest we could get some folks, the  
12 veterans here who were able to bring the flags in are  
13 at work. So they'll be here at 3:00 p.m. If you can,  
14 please come for that. So we can respect and honor them  
15 as they take their flags down.

16 And at this time, I've asked Jason Adams to -- we  
17 have asked Jason Adams to give us our closing prayer.

18 (Closing prayer.)

19 (Whereupon, at 12:15 p.m., the meeting was  
20 adjourned.)

1

2

3

4

5

6