



Building communities, empowering Alaskans.

October 27, 2014

Regulations Division
Office of General Counsel
Department of Housing and Urban Development
451 7th Street, SW., Room 10276
Washington, DC 20410-0500

**Reference: Native American Housing Assistance and Self-Determination Act of 1996:
Request for Information [Docket No. FR-5650-N-08]**

Dear Sir or Madam:

The Association of Alaska Housing Authorities (AAHA) appreciates this opportunity to submit comment on the above referenced notice issued by the Department of Housing and Urban Development (HUD). HUD is soliciting information regarding data sources that collect data relevant to Indian housing needs and could potentially be used to measure the needs variables in the Indian Housing Block Grant (IHBG) formula.

AAHA appreciates HUD's assistance to solicit feedback from tribes and Tribally-Designated Housing Entities (TDHEs) regarding possible data sources for the IHBG formula. Although AAHA does not offer any specific data source(s) for consideration, its members wish to highlight several critical issues that have the potential to impact tribes throughout Alaska. We urge the IHBG Formula Negotiated Rulemaking Committee and the members of its Data Source Study Group to take the following factors into consideration when evaluating potential data sources.

Formula Areas

The presently convened IHBG Formula Negotiated Rulemaking Committee recognized the need to avoid disturbing individualized adjustments to the Needs formula, such as formula area changes. Proposed regulation §1000.331(b), which was adopted by the full Committee on July 31, 2014, states in part:

"Nothing in this section shall impact other adjustments under this part, including ... formula area changes... ."

Proposed regulation §1000.331(b) reflects the unanimous concurrence of the members of the Negotiated Rulemaking Committee that efforts must be made to avoid unintended collateral damage to individual tribes' formula areas, which have in many instances been tailored to tribes' unique geographic circumstances.

The Committee's consensus on this matter is reflected in the above referenced Federal Register notice, which lists compatibility with existing formula areas as one of the core attributes potential data sources should have. If a tribe has spent considerable resources convincing HUD that a

differing formula area should be tailored to that tribe, putting that tribal investment at risk and forcing the tribe to reapply to HUD for a formula area change from scratch would seriously disrupt the tribe's housing program.

The full Negotiated Rulemaking Committee has formed a Data Source Study Group, comprised of six regional representatives and one HUD representative, to evaluate potential alternative data sources. The Committee identified several factors that Study Group must consider in the course of its work. One of those factors was "[m]inimizing disruption of tribal housing programs." Respecting existing formula areas furthers the Committee's goal in this regard, as each tribe's short and long term planning are largely built around the tribe's unique formula area. Further, adopting a data source that is not consistent with existing formula areas would require extensive revisions to the formula area provisions of the IHBG regulations, including additional substantive negotiations between the tribes and HUD.

There is no groundswell of sentiment for upending the current formula area system. AAHA urges the Negotiated Rulemaking Committee and its Data Source Study Group to reject data sources that are not capable of being applied to all existing formula areas.

Preventing the Unintentional Exclusion of Eligible Alaska Natives

Tribal housing providers in Alaska are deeply concerned that the transition to a new data source, if not done thoughtfully, has the potential to inadvertently cause a substantial undercount of Alaska Native persons.

The tribal status of Alaska Native peoples is unique. Historically, most Alaska Natives identified along ethnic lines as being, for example, Aleut, Tlingit, or Yupik. It was not until the 1970s that the land claims of Alaska's indigenous peoples were settled, resulting in the creation of regional and village corporations with Alaska Native shareholders. Federal recognition of Alaska tribes did not occur until the 1990s, a process that resulted, in many instances, in tribes being formally recognized on the basis of the proximity of a specific group of people to a particular village or geographic area. Sometimes, those people were not connected by shared ancestry, history, or culture; rather, the manner in which the federal government recognized Alaska's tribes was in some circumstances a relatively artificial construct.

Because of this unique and complex history, members of an Alaska tribe may, when asked to identify their tribe, "tribal affiliation," "principally enrolled tribe," etc., respond by identifying themselves in a variety of ways. Some may identify the tribe of which they are a member. Some may identify the regional or village corporation of which they are a shareholder. Others may identify in a traditional manner as being, for example, Aleut, Tlingit, or Yupik. This latter class of individuals is the primary cause of concern in Alaska, as these ethnic categories are not considered to be tribes under NAHASDA. Despite the fact that Alaska Natives who identify in this manner are usually tribal members or shareholders, there is a significant risk that they may not be counted by a particular data source as Alaska Native or American Indian, depending upon methodology used by each data source to inquire about tribal membership.

Any data source that does not properly count this population as Alaska Native or American Indian, resulting in an undercount of Alaska Natives, is inequitable and should not be used for IHBG formula purposes. Alaska Native elders, for example, sometimes identify ethnically when asked about their "tribe" – even when they are shareholders and/or tribal members. This phenomenon was apparent at a recent Alaska Native forum on tribal issues. An elder in the audience stood to speak, identifying himself as being seventy-one years old. "It makes no sense to me," he

explained, “the way that Native people [in Alaska] must identify these days. Is being a shareholder what makes us Native? Being a member of a village? The names of our tribes were just taken from many different places and used for all the people who lived nearby. What happened to being Tlingit? This is how I think of myself.”

Over many years, the United States Census Bureau has responded to the concerns of Alaska Native peoples regarding this issue. Thoughtfully, the Census Bureau recognizes Alaska Natives who primarily identify along ethnic lines (e.g. Haida, Inupiaq, Athabascan, etc.) when asked about their tribal affiliation, preventing a potentially significant undercount of Alaska Native persons.

Which Variables Must Be Measured?

AAHA understands that there has been discussion among the members of the Negotiated Rulemaking Committee’s Data Source Study Group about the variables that potential data sources should measure. It is AAHA’s position that any data source recommended by the Study Group must be capable of measuring the current IHBG formula variables.

Information about any additional housing-related needs that each potential data source can measure can and should be reported back to the full Negotiated Rulemaking Committee. However, the Study Group has not been authorized to recommend new variables or to prioritize one or more data sources because they measure needs that are not currently incorporated into the IHBG formula.

We recommend an overall data source assessment process that is consistent with the following three steps:

1. Determine whether the data source provides data that is appropriate to measure one or more of the current IHBG formula variables.
2. Describe any opportunities to improve the appropriateness of the data to measure one or more of the current IHBG formula variables. Describe the potential benefits of the changes and the resources that would be needed to design and implement them.
3. Identify any additional housing-related needs that are measured by the data source. This will enable the full Negotiated Rulemaking Committee to consider whether to modify the needs portion of the IHBG formula to include one or more new variables, based upon the needs measured by potential alternative data sources.

On behalf of the Association of Alaska Housing Authorities, thank you for the opportunity to submit comment to HUD on the above referenced notice.

Respectfully submitted,

Teri Nutter
President