

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

5 Thursday, July 31, 2014

6 8:36 a.m.

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19 Sheraton Downtown Denver

20 Majestic Ballroom

21 1550 Court Place

22 Denver, Colorado 80202

- 1 PARTICIPANTS
- 2 ANNETTE BRYAN, Co-Chair
- 3 JASON DOLLARHIDE, Co-Chair
- 4 JASON ADAMS
- 5 JAD ATALLAH
- 6 ELENA BASSETT
- 7 RODGER BOYD
- 8 JEMINE BRYON
- 9 JENNIFER BULLOUGH
- 10 HEATHER CLOUD
- 11 GARY COOPER
- 12 SYLVIA CURLY
- 13 PETE DELGADO
- 14 SAMI JO DIFUNTORUM
- 15 LINDSAY EARLS
- 16 EARL EVANS
- 17 SARA FIALA
- 18 DEIRDRE FLOOD
- 19 SCOTT GEORGE
- 20 ED GOODMAN
- 21 CAROL GORE
- 22 LAFE HAUGEN

- 1 PARTICIPANTS (CONTINUED)
- 2 DAVE HEISTERKAMP
- 3 ROBBIE HOBGOOD
- 4 PAUL IRON CLOUD
- 5 LEON JACOBS
- 6 KATHLEEN LONE TREE-WHITERABBIT
- 7 TERI NUTTER
- 8 SAMUEL OKAKOK
- 9 DIANA PHAIR
- 10 SUSAN PODZIBA
- 11 MICHAEL REED
- 12 SUSAN RUSSELL
- 13 AARON SANTA ANNA
- 14 S. JACK SAWYERS
- 15 MARTY SHURAVLOFF
- 16 RUSSELL SOSSAMON
- 17 MICHAEL THOM
- 18 JIM TREAT
- 19 BEN WINTER
- 20 SHARON VOGEL
- 21 ANEVA YAZZIE
- 22

1 P R O C E E D I N G S

2 MS. BRYAN: Good morning, everyone. Go ahead and
3 get seated.

4 Welcome to day three of Session 5, formula
5 negotiated rulemaking.

6 This morning, we would like to open up with a
7 prayer, and we've asked Sam Okakok to give that for us.

8 MR. OKAKOK: Let us pray. Heavenly Father, we
9 come before you in the name of Jesus.

10 Father, we thank you for this day. We thank you
11 for this gathering and, Father, that as we come
12 together, we ask you for wisdom, understanding, and
13 knowledge. And Father, as we go forth and proceed on
14 this final day of this session, Father, that you would
15 go forth before us.

16 Father, we plead the blood of Jesus over this
17 meeting and this gathering. And Father, as we prepare
18 for this day that you would just go before us.

19 And as we prepare the documents, the studies,
20 Father, your word says to call those things that being
21 as though they are, that we call these things done in
22 the name of Jesus, that we will go forth and do a

1 complete work, and we thank you for it. We praise you
2 for it.

3 We thank you for your mercy and grace. And
4 Father, as we prepare to leave tonight and tomorrow
5 that, Father, that you would just protect us on our
6 travels. Grant us traveling mercies, traveling favors,
7 Father.

8 And Father, we thank you and we praise you. In
9 Jesus' mighty name we pray, amen.

10 MR. DOLLARHIDE: Once again, thank you, everybody
11 for attending this morning.

12 We just -- as we know, last night we did approve
13 the agenda today to go into workgroups. We do have a
14 couple of things, couple of housekeeping items that we
15 need to address before we do that.

16 First thing is there was some -- some confusion
17 for myself and maybe for others, but on the remaining
18 meetings that we have. From my understanding, we have
19 two meetings left after this one, the one in August and
20 then the one after --

21 Okay. We've got three total. We've got three
22 total meetings left. I'm still confused.

1 So we've got this one. We've got one after the
2 12-month period on the study group. And then we have
3 one more after public comments.

4 So just to kind of expand and let the co-chairs
5 know that, hopefully, next -- the next meeting in
6 Scottsdale that we can have everything prepared and
7 ready to negotiate at that next meeting.

8 If I understand correctly, Jason, right now you
9 have nine items potentially that you could bring to the
10 table at the next meeting?

11 MR. ADAMS: No, that's incorrect. We've looked
12 at, well, somewhere in the neighborhood of 9 issues,
13 probably more like 11 we've been working on. But as of
14 today, we've got really three items we could bring to
15 the table. And hopefully, by today, or even this
16 morning, a fourth. That's being very optimistic.

17 MR. DOLLARHIDE: Okay. Again, we just -- like I
18 said, you know, we want to try to bring everything we
19 can to the table and finish, negotiate. And then that
20 also will give us kind of an idea on how much time in
21 Scottsdale that we need to attend for the agenda for
22 negotiation reasons.

1 So, hopefully, we'll have a little better idea
2 after today. I believe, if I'm not mistaken, we'll be
3 ready today to bring something out of the needs group
4 for negotiation and a vote. If I'm not mistaken on
5 that, Gary?

6 MR. COOPER: No, that is correct. I anticipate
7 that we will have at least one item to bring back to
8 the committee today. And then maybe we might have a
9 plan on what we might anticipate for Scottsdale. At
10 least that's kind of my hope for this morning.

11 But I do expect that we will have one item that we
12 can bring back to the committee today, and it is my
13 intent that if we can work that out, to make a copy
14 available. We'll ask FirstPic to help us and make a
15 copy available, for those who maybe participated in
16 another group, outside at the table before lunch.

17 So anyone who needs a copy or wants to see a copy
18 before we come back to the table at whatever time we
19 come back will have one to look at. So we will try.
20 That is my hope to try and have something, if we can
21 work something out, to get that prepared and get the
22 draft, the proposed language available for everyone

1 before.

2 MR. DOLLARHIDE: Okay. Thank you, Gary.

3 Rodger, do you have something, too?

4 MR. BOYD: Thank you, Mr. Chairman. And good
5 morning.

6 Yesterday, we were talking about a timeline, and I
7 guess we were really looking at -- we were looking at
8 the implementation of the study group. And we also
9 talked about the number of meetings that would be
10 coming up in addition to the meeting in Phoenix in
11 August, and which then would be a total, if you add the
12 other two meetings at some time in the distant future,
13 that's eight meetings. And I think that's the max
14 number of meetings that we were going to do.

15 So it seems to me that the only time we're really
16 going to have to do some negotiations is going to be in
17 August. And there's -- and if you look at the number
18 of issues that we are potentially going to be
19 discussing or negotiating on, I think that there's a
20 timeline that each issue has a 2-hour time limit. So
21 if you multiply that times the number of issues that
22 are going to be placed on the table, I think that

1 should give us a sense of how much time we have in
2 August to complete the committee's work.

3 And the next two meetings, though, into the future
4 are predicated -- one is predicated on -- the first
5 meeting would be predicated on the -- the outcome of
6 the study group's effort, and there is supposed to be,
7 as I understand, a full report completed by August of
8 next year. And then, immediately after that, a report
9 is provided to the committee and the committee has had
10 time to discuss the contents of this report, then there
11 would be a meeting following that, which then will --
12 as I understand from the needs working group, then the
13 committee will vote on the outcome of that study.

14 Then the second meeting really is one of having
15 everything, it would be timed so that everything that
16 the committee has done -- all the drafting that has
17 been done and the sharing of by the drafting committee
18 to the rest of the committee -- that final meeting,
19 which obviously will be happening over a year from now,
20 then as we did in the last NegReg, that's reviewing and
21 having public comments reviewed on the outcome of the
22 committee.

1 So the point I'm trying to make is that we're
2 really -- we're really limited on time here and what we
3 are actually going to be negotiating on. And it's not
4 a matter -- it's not a question of what we're going to
5 be negotiating on, but it's of getting it done and
6 completed, we believe, by the -- by the meeting -- by
7 the end of the meeting in Phoenix next month.

8 Thank you.

9 MS. BRYAN: Thank you, Rodger.

10 So with those comments, could I challenge the
11 workgroup chairs to come up with what you think you
12 might need in terms of time so we can work backwards.
13 So as the co-chairs, we create the agendas and do all
14 these things behind the scenes for these meetings in
15 preparation for. And we have one more meeting at the
16 end of this fiscal year. We have 3 days, and we'd like
17 to plan those days to make the best use of everyone's
18 time.

19 So if we could ask you to think about that,
20 knowing the work that you're doing. Maybe by the end
21 of the day, get back to us so we can plan the next
22 meeting to accomplish negotiating all of the good work

1 that you've been doing over these last five sessions.

2 And also just holding committee members
3 accountable, too, to look at the Web site -- I'm so
4 guilty as I sit here and say these things, but they
5 need to be said. To look at the Web site, to be
6 prepared for the next meeting. All of the documents
7 that are being talked about that come to the table are
8 up there for our review and, you know, be ready. Take
9 them to your legal counsel. Take them to your regions.
10 Make the phone calls you need to make and come to the
11 table and be ready to negotiate.

12 So those things said, appreciate everyone's hard
13 work again.

14 MR. DOLLARHIDE: Just to kind of expand from our
15 previous conversation, I would like to see if the
16 committee would like to -- hopefully, like Gary said,
17 he will have that, the paperwork on that. I believe
18 that's on that volatility or hold harmless regulatory
19 change that -- that we need to address.

20 So I was curious if folks would like to maybe go
21 into caucus directly after lunch. I think that's what
22 we're going to do at 1:45 p.m., I think? And then meet

1 back here in the full committee at 3:00 this afternoon.

2 That way, that will give us a couple of hours, if we
3 need it, to discuss that language and be able to bring
4 that to a vote.

5 If we do get that, if we do come in at 3:00 p.m.,
6 and we get that done at 3:30 p.m., then, you know, if
7 we want to go back into the workgroups for the
8 remainder of the day, then that's fine. It's really
9 kind of however the folks here at the table would like
10 to handle that.

11 Carol?

12 MS. GORE: Yes. Alaska would like a 30-minute
13 caucus immediately following lunch to review the
14 resolution that's going to come out of the needs
15 workgroup.

16 Thank you.

17 MR. DOLLARHIDE: Jason?

18 MR. ADAMS: In response to Rodger's comments in
19 regards to time, I guess I'm just wondering if that's
20 going to be the hard and the fast rule. Because we do
21 have one issue that -- well, potentially, two issues
22 that we're getting information from other agencies on.

1 And we've been told that that information, especially
2 from USDA, is not going to be to our workgroup by the
3 Scottsdale meeting.

4 And so, I was just wondering if we want to go back
5 to the workgroup if there be a -- if we choose to
6 negotiate that issue at the workgroup level, if there's
7 an opportunity at that meeting following the study next
8 year sometime? Or if we're just going to say, no, all
9 negotiations are going to happen at that August
10 meeting.

11 Because, again, I don't know if we need too much
12 time, but we do need this data that's going to take HUD
13 and USDA some time to get for us, and it will be
14 sometime this fall before we get that information is
15 what I've been told. So that's just a concern.

16 And the other issue is that same situation, but
17 getting data from BIA and IHS.

18 MR. DOLLARHIDE: Rodger?

19 MR. BOYD: Is there any way -- I mean, if the data
20 is partially coming from HUD, maybe there's a way that
21 we can expedite that and work in conjunction with IHS
22 or Agriculture to help move that maybe on a quicker

1 pace? I mean, we'd be glad to do that if that would be
2 of help.

3 MR. ADAMS: Well, the problem, as I understand the
4 situation, is that we made a request, TA request. HUD
5 has to then communicate with USDA and get that
6 information. Once that information is obtained -- it's
7 on the 515 program. Once that information is obtained,
8 then they have to do some work on taking that data and
9 running it through the formula. And so, there's a lot
10 of work involved is what I've been told.

11 What we were told in the workgroup session I
12 believe yesterday morning or the day before is even if
13 HUD had that information today, all of the compilation
14 work that would happen would still probably not be done
15 by August because it's -- we're relying on the cost
16 study. And in 2008, when they compiled that cost
17 study, that work was done at that time, and that cost
18 study was done over a year to 2-year timeframe. So
19 there was a lot of communication with HUD.

20 But all that data is outdated. So trying to get
21 the new information and redo it because that contractor
22 isn't available or we don't have it in contract any

1 longer is the issue.

2 And one last thing, just that that data run, you
3 know, based on the history of negotiated rulemaking on
4 the formula, a lot of folks are hesitant to make any
5 decisions until they see the data run. And so, that's
6 really what we're going to wait for is the data run to
7 see how that additional local area cost factor changes
8 your formula run.

9 MS. BRYON: So I would say -- oh, sorry.

10 MS. BRYAN: Go ahead, Jemine.

11 MS. BRYON: Thank you. I would say two things.
12 One, to repeat what Rodger said, we'll do whatever we
13 can to see about expediting the receipt of that
14 information in time for the next session. I think
15 that's going to be something we're going to try to do.

16 What I would ask, though, is we need the
17 workgroups to proceed as though the next session is it.

18 That's all that we will have. So if the data is not
19 available and that is a challenge for you, I would ask
20 that everything around it, you know, bring that thing
21 as close to final to just now plug in the data, all the
22 results of the data that you do receive when you do

1 receive it.

2 We would ask to just check in to make sure that it
3 is brought as close to completion as possible, and then
4 we'll see, you know, what effect it has on the next --
5 so that's all sitting here today we can -- we can say.

6 MR. ADAMS: Well, thank you for that. I would
7 anticipate that we could by August meeting, and again,
8 this is my optimism for our workgroup, have language
9 ready, agreed upon from the workgroup. But the thumbs
10 up, thumbs down vote on that would be based on that
11 data, I would assume. Again, knowing common practice
12 of the committee from the past.

13 MS. BRYAN: And I would think, this is my first
14 time at this table, but these are our meetings. And if
15 we do plan our time efficiently and get enough -- as
16 much done as possible that we have ready at the next
17 meeting, that would allow us that time when we go
18 through those needs study group discussions at the
19 seventh meeting, that we could have some time put aside
20 to finish all of the work that you guys have done based
21 on the data run that you receive.

22 So I'm also optimistic. Carol?

1 MS. GORE: Thank you. In a spirit of getting our
2 work done, as I recall, the protocols anticipated that
3 the drafting committee would be developing the preamble
4 at the same time that we're drafting language. So as I
5 try to think backwards, if all of our negotiation
6 happens in Scottsdale, the preamble is subject to the
7 approval of this committee.

8 So what that anticipates in my head is then a
9 preamble would be developed sometime between that
10 seventh meeting and eighth meeting. And that -- I'm
11 sorry, sixth meeting and seventh meeting. So the
12 seventh meeting, in addition to discussing the study
13 group outcomes, we would also be looking at the
14 preamble.

15 So I want to say that for the record because
16 that's a lot of work for the drafting committee. The
17 preamble is usually a pretty significant document.
18 It's intended to capture the spirit of the negotiation,
19 in addition to the actual action. So it provides the
20 background to people who are not here so that they
21 understand what the committee actually discussed as
22 part of their work.

1 So I wanted to go on record today so that we made
2 sure that we're empowering the drafting committee to
3 respond to the preamble that that work is actually
4 happening now as we're negotiating and that we're
5 prepared to tackle that in Scottsdale, and that means a
6 lot of work between Scottsdale and that next meeting
7 for that drafting committee.

8 Thank you.

9 MR. DOLLARHIDE: So I guess from listening to the
10 comments, I would have to ask HUD if that seventh
11 meeting, you know, we will be coming back for the study
12 group, if that's going -- if the plans was to have a
13 weeklong meeting for that seventh so that we can -- if
14 we've got a lot of these issues that's just kind of
15 hanging out there, if we'll be able to address those
16 issues at that seventh meeting perhaps?

17 Perhaps even, you know, it kind of sounds like
18 that seventh meeting, if that happens, that there are
19 going to be some very late evenings for this committee
20 around this table to make sure that we get those issues
21 taken care of. So just the question for HUD.

22 MS. BRYAN: Jemine?

1 MS. BRYON: Thank you. I want to -- I'm trying to
2 think if I should start with the term "subject to
3 appropriations" or end with the term "subject to
4 appropriations."

5 (Laughter.)

6 MS. BRYON: But -- or put it in the middle, too.
7 So Aaron was just, you know, saying to me that, Carol,
8 to address the issues that they're going to be doing a
9 lot of preamble drafting like between now and the next
10 session as much as possible.

11 If the FCAS issue that Jason was raising, if the
12 rule can be brought as close to ready, they could start
13 working on that preamble as well, subject to the
14 consideration of the data. So we're going to be doing
15 a lot of that work now between five and six and, of
16 course, between six and seven.

17 And right now, it's scheduled for the 3 days. I
18 don't know if we can afford to do it any more than
19 that, but we will let you know as much as can now. But
20 in the end, it's all going to be based on the FY '15
21 budget.

22 MR. DOLLARHIDE: Thank you. I'll make the -- I

1 was saying that you'll come through for us. I mean,
2 she's still in that honeymoon position. So they're
3 going to have to give you what you want.

4 (Laughter.)

5 MS. BRYON: I have to say I'm quite naive, but I
6 don't think I'm that naive.

7 (Laughter.)

8 MR. DOLLARHIDE: So if there's not any more
9 discussion on that, I just kind of wanted for myself
10 and for everybody to kind of get a timeframe of what
11 we're looking for and what we're needing. But in
12 saying all that, I would like, since we did on
13 consensus change the agenda to be in workgroups all day
14 today, I would ask that we change that agenda again
15 this morning to be able to come back into full
16 committee at 3:00 p.m.

17 MS. BRYAN: Caucus after lunch.

18 MR. DOLLARHIDE: Caucus after lunch, and then come
19 back into the committee at 3:00 p.m. to see if we're
20 ready to negotiate and come to a completion on
21 regulatory change.

22 MS. BRYAN: Any objections to Jason's

1 recommendation on the agenda? Mr. Boyd?

2 MR. BOYD: Thank you. I do have a question for
3 Jason. I know you have three items ready to go. Is
4 there any possibility of getting some of that on the
5 agenda for this afternoon perhaps and start, at least
6 start the process?

7 MR. ADAMS: Again, Jason Adams, Salish Kootenai.
8 There is no reason -- I guess I left that up to
9 the committee yesterday in my report. I mean, I said
10 that we're willing to do whatever the committee wants
11 to do.

12 Again, operating off the assumption from the get-
13 go in this committee that our workgroups would bring a
14 package to the table, thereby divvying up the remaining
15 time, but if we want to knock those out now and get
16 them out of the way. I mean, I think I used the term
17 "low-hanging fruit" yesterday, and I guess in my
18 opinion, those three items are considered that.

19 MS. BRYAN: This is Annette Bryan, Puyallup Nation
20 Housing Authority.

21 I believe that if we have some what we call low-
22 hanging fruit, that we should take advantage of this

1 time that we have here in negotiation and work this
2 afternoon on some of those things, my opinion.

3 Back to co-chair. Who's next? Jason, did you
4 want to respond?

5 MR. ADAMS: Well, I guess -- I guess what I
6 initially heard was that this afternoon, the 3:00 p.m.
7 to 5:00 p.m. time was going to be that 2-hour time
8 limit for the issue coming out of the needs group. But
9 I guess if that's done within a half hour, then we can
10 reserve the rest of that time to negotiate these other
11 three items or whatever else we want to negotiate.

12 If that's the plan? But what I originally heard
13 was that 2 hours was kind of aiming at this issue this
14 afternoon.

15 MR. DOLLARHIDE: And you know, I did make that 2-
16 hour statement, but I assumed that that was the only
17 item that was going to be brought before this
18 committee. So I wanted to give it the allotted amount
19 of time. That's the only reason why I threw out the
20 3:00 p.m. No other reason than that, Jason.

21 MS. BRYAN: Gary Cooper?

22 MR. COOPER: Two items. And Jason, I don't

1 perceive that it would take 2 hours, but I think that
2 our charter requires 2 hours.

3 I hope that the workgroup can navigate through and
4 work out most of any problems or issues that there
5 might be before it comes forward to the committee. Of
6 course, that is my hope. Not necessarily that would
7 happen.

8 Related to the agenda, I don't know that it
9 actually needs to be on here. I would simply ask if at
10 all possible for those folks who are the regional
11 representatives or the representatives of the
12 workgroup, if maybe we could have about 5 or 10 minutes
13 either prior to lunch break or following lunch break to
14 maybe get together to at least set up the committee and
15 at least elect a chair, do -- select a chair.

16 Do whatever so HUD has that contact person, and
17 the study group members have a contact person, and they
18 can go ahead and start facilitating that requirement
19 for the first telephonic meeting happening within 2
20 weeks.

21 That would be -- and I don't know, just for a
22 matter of record, I don't know that it needs to be on

1 here. I just wanted to make sure that everyone was
2 aware of that, if those members of the study group
3 would be willing to do that. I don't presume it should
4 take any longer than 5 or 10 minutes, but I think it
5 would be important for us -- for the study group to be
6 able to have a jumping off point.

7 MS. BRYAN: Thank you. Elena?

8 MS. BASSETT: Thank you. Just for the record,
9 you're probably wondering what I'm doing sitting up
10 here. Karin had an emergency at home. So she had to
11 leave this morning. There was a note that she gave to
12 Jason. So I'll be in this position just for today.

13 So thank you.

14 MS. BRYAN: Thank you. Rodger?

15 MR. BOYD: Thank you. I would propose for this
16 afternoon's agenda is that we come back at 2:00 p.m.
17 and work until 6:00 p.m. Will give us some very good,
18 extra valuable time, I think. And I think that could
19 be very helpful.

20 MS. BRYAN: Thank you. Yeah, I was going to make
21 the proposal, if it's okay with the group, that we go
22 to lunch. Gary had asked for 15 minutes before lunch

1 for the study group to get together somewhere, and we
2 can figure out logistics for that, or you guys can meet
3 in the hallway and figure out however you want to do
4 that. I'm not sure what space is available for that.

5 But lunch, and then 1:30 p.m. caucus, 2:00 p.m. at
6 the negotiating table. How does that feel for folks?

7 Aneva?

8 MS. YAZZIE: Good morning, everyone. And
9 following Elena's -- her announcement, I just wanted
10 for the record to say that I'm joining the committee
11 the third day. I appreciate Patterson Joe sitting in
12 as alternate.

13 And so, just for the record to say that I'm here
14 today, and I appreciate the work that has gone on the
15 past 2 days, and I know that I will catch up quickly,
16 although I've been briefed as well.

17 So thank you.

18 MS. BRYAN: Thank you. Welcome.

19 So I think, just for to see how everybody's
20 feeling, make sure everybody's awake, can I get a
21 thumbs up on the agenda proposal that I just made?

22 (Voting.)

1 MS. BRYAN: Great. Thumbs up, Evan. Evans --
2 Earl Evans.

3 So we'll break for workgroups this morning. 11:45
4 a.m. for the study group. You guys are going to check
5 in and touch base with each other. We'll have lunch,
6 caucus at 1:30 p.m., get to the negotiating table at
7 2:00 p.m.

8 Thank you all for your time this morning, and
9 we'll see you back here at 2:00 p.m.

10 (Recessed at 9:05 a.m.)

11 (Reconvened at 2:09 p.m.)

12 MS. BRYAN: If we could get up on the screen the -
13 - Gary Cooper, do you want to help them get your
14 document up on the screen? We'll call back to order.
15 It's 2:10 p.m. and -- 2:09 p.m.

16 The needs workgroup co-chair has asked that we
17 start with that portion first, as Gary will have to
18 leave early this afternoon.

19 MR. COOPER: Okay. Actually, the needs workgroup
20 made some good progress today. It was a good start.
21 We first went back and we are prepared to present this
22 language to the committee for consideration. What this

1 does is it incorporates the concept that was passed
2 last month into some language.

3 And also what it does is originally it was in one
4 large section. It was all labeled and titled as
5 Section 1000.330. After a lot of discussion and then,
6 thankfully, our drafting committee took a stab at
7 separating it out into two separate parts, I think at
8 Sharon's request. And when everybody got it back this
9 time again, it looked a lot better than what -- I think
10 everyone was happy with it.

11 And so, this language right here passed out of the
12 workgroup with no concerns or anything. There was no -
13 - no dissension with it. So I don't know exactly what
14 the protocol is on how we present it forward to the
15 committee for any type of action or anything that might
16 need to be taking place, but we do have that ready to
17 go.

18 The last -- the next thing that we did is we
19 identified three main areas of importance, three
20 issues. We took the list that was started I think
21 probably our third session, that was amended a little
22 bit maybe two sessions ago, and broke that down into

1 like some top priorities. And we identified three
2 items that we thought was of importance that folks
3 could look at and that a sub-workgroup, three separate
4 sub-workgroups could be formed to look at those three
5 issues.

6 It looks like those sub-workgroups have made some
7 progress. I think that I know at least a couple of
8 them is probably going to have some proposed language
9 ready to come back to the workgroup at our next
10 session. So we are making -- we are making a little
11 bit of progress, and it seemed to flow really well,
12 even with we were down to about an hour and a half on
13 our schedule for these workgroups to meet. But they
14 were smaller, smaller subgroups, and it worked really,
15 really, really good.

16 And I know that several of them have gotten quite
17 a ways. I think that even a couple of them have
18 committed themselves to do some conference calls, work
19 with one another on some drafting language. I had kind
20 of asked, challenged maybe to some extent, if you will,
21 that they try to make as much progress as they could
22 before we come back to our next session next month.

1 So that is where we're at on that. I think that
2 there might be a couple of -- a couple of things at
3 least we can if not knock something out or at least
4 bring something forward, that we'll at least be able to
5 have a couple of areas identified in there that we can
6 address.

7 The last item for our -- for the workgroup, per
8 se, had to do with the study group. The study group
9 met very briefly to schedule the first meeting of the
10 group. It will be done over teleconference. I'm
11 pretty sure that as soon as we get that information,
12 that will be distributed out to everyone -- call-in
13 numbers, things of that nature -- as well as posted on
14 the Web site.

15 And right now, it looks like that that group will
16 be meeting on August the 11th at 11:00 a.m. Eastern
17 Time. So the 11th at 11:00 a.m. to hold the first
18 committee conference call, if you will, try to
19 formulate an agenda, try to set -- maybe try to make
20 some determination on when the next meeting can take
21 place, and see if we can't get moving along on that.

22 Other than that, I think that that is all that I

1 have, unless anyone has any questions that I can help
2 try to answer.

3 MS. BRYAN: Thank you, Gary. Any questions on the
4 progress of the needs workgroup or -- yes, Gary?

5 MR. COOPER: And just as a point of clarification
6 because I wasn't here at the last NegReg meeting times
7 before this. This is my first -- first one. I'm not
8 exactly sure what we need to do as far as bringing
9 language forward for consideration. So I just -- if
10 someone can maybe give me a little bit of guidance on
11 that, I'd be happy to -- to do whatever we need to do.

12 MS. BRYAN: Thank you. We'll go ahead and hand
13 that part over to Susan. You all had an opportunity to
14 look at the proposals that are -- or the language
15 that's up on the screen.

16 I do want to give the FCAS, since we're going into
17 the negotiations, FCAS, if you want to just give an
18 update, if anything's changed since this morning. Any
19 progress update, I'll allow you an opportunity to do
20 that at this time.

21 (Pause.)

22 MR. ADAMS: Good afternoon, everyone. Jason

1 Adams, Salish Kootenai Housing Authority.

2 I was just trying to catch up with what was
3 actually happening because I wasn't sure. But as a way
4 of update as far as the FCAS workgroup, we did begin
5 this morning going back over our list of issues. And
6 we had the issues that are contained as Item Number 6
7 on our list, which was the unexpended funds issue.

8 And we had a good discussion. There was some
9 meetings last night that took place between HUD and
10 some of the housing programs that were mostly impacted
11 by any schedule language. And some of the issues we
12 had raised yesterday were hammered out.

13 That information was passed out in its current
14 draft form to the -- in the caucuses. So you see that,
15 but the information that we finalized, this item is not
16 ready for negotiation yet. We still have one other
17 issue we have to work on between now and Scottsdale.
18 So I will leave it at that.

19 We do have four -- five items, actually, left on
20 our list that we are in some phase of working on and
21 being close to being finished with. And so, those are
22 the items we'll have to pick back up in Scottsdale. A

1 lot of those are waiting on TA requests, as I reported
2 this morning.

3 With that, I just had one process question. I did
4 notice that everything that we put together and
5 presented today, as a matter of process, has stamped on
6 it "draft," and this one issue that didn't come from
7 our group is not stamped "draft." So as just kind of
8 as far as a process question, is everything going to be
9 draft when it hits the committee floor?

10 My assumption it will be because we're going to
11 have a chance to make changes and mark this up. I
12 just, as a matter of practice, I hope in the future
13 everything would be marked draft.

14 MS. BRYAN: That's a very good observation, Jason.
15 Thank you.

16 I do notice at the top it does say "proposal for
17 negotiation." If the group is okay with it, I would
18 suggest that we do follow Jason's request that we just
19 use the draft symbol on anything that comes forward to
20 the committee just so it's clear. Is that okay with
21 folks who are writing our -- okay. Good suggestion.

22 Any questions on the updates for the FCAS?

1 (No response.)

2 MS. BRYAN: So, with that, we do have our
3 protocols for introducing language to negotiate. So,
4 at this time, we'll introduce and let Susan guide our
5 discussion on the negotiations for Section 1000.330,
6 what are the data sources for need variables?

7 On this group, out of the needs workgroup, the
8 purpose for this language and the reason it's in front
9 of you is that this workgroup agreed by consensus to
10 delay the implementation for the study group to have
11 time to look at what is ACS? How is it impacting? Are
12 there other data sources that we need to be
13 considering?

14 And so, this language codifies and the needs
15 workgroup did their best effort to codify that for the
16 committee as we were charged. So that's what's in
17 front of you right now, and we'll go ahead and start.

18 I believe in the past, just from what I've seen
19 from the protocol and the charter, we're going to go
20 through this word for word. So we'll just start at the
21 beginning. Jason?

22 MR. ADAMS: I want to ask a process question

1 again, just again from experience, so I don't ask this
2 question when we're halfway through this issue.

3 Before -- now the current protocols say that we
4 have a 2-hour time limit or unless the committee
5 decides otherwise. So are we going to discuss that
6 issue today and say are we giving this issue 2 hours,
7 or are we going to give this issue 2 hours today and
8 then 2 hours next meeting and 2 hours until we finalize
9 this? Or I just want to know that before we turn the
10 clock on.

11 MS. BRYAN: I would defer to the proposer. Does
12 the proposer make the time limit? Does the group -- is
13 it 2 hours every single proposal. Don't know if we
14 need to beat this one for 2 hours. Jack?

15 MR. SAWYERS: I think that's the process we've
16 used in the past. And it seems to be a pretty good
17 process. It does 2 hours. Well, another way to say it
18 is no more than 2 hours. So I think if we're going to
19 bring this, this issue or other issues, then we've got
20 to realize that we start the clock on those issues we
21 bring forth today.

22 So if we bring our issue now, we have 2 hours to

1 talk about it. Then we will ask for consensus or
2 nonconsensus. Is that right? That's the way -- that's
3 the way I understand it.

4 MS. BRYAN: Thank you. Carol?

5 MS. GORE: Maybe just a little clarification. I
6 think it's 2 hours per issue. That is a maximum. It
7 can be extended if the committee agrees by unanimous
8 consent to extend the time period for negotiation. And
9 I believe the time clock starts when it's introduced.

10 So it's introduced. It's discussed, and
11 strategically, there is no call for consensus usually
12 until the committee feels like they're going to get
13 consensus or they want to test consensus. Though you
14 can test consensus if you think you just want to get a
15 feeling for whether there is a need for more
16 conversation. That's how it's worked in the past. I
17 don't mean to speak against anything that's in the
18 current protocol.

19 Thank you.

20 MS. BRYAN: Thank you. That does sound consistent
21 with the current protocols and gives us some guidelines
22 to operate from. So we can start the clock. We'll

1 introduce our issue, and if we feel like we're ready
2 for a vote, we can call for a vote. It may or may not
3 take the 2 hours. So let's go ahead and introduce the
4 issue and start our time clock.

5 MR. SAWYERS: He has to turn that over to you. Is
6 that right? And I accept that --

7 MS. BRYAN: And we'll turn the facilitation for
8 the negotiation to the facilitator.

9 MR. SAWYERS: So would you go ahead, and do we
10 need to read the --

11 Okay. Do we need to read the issues, and then
12 we'll just leave it up to you to recognize folks and so
13 on. I guess somebody else keeps -- writes?

14 MS. PODZIBA: Keeps the notes, yes. So would you
15 like me to read out the text?

16 MR. SAWYERS: Yes. I think -- I think we should
17 do that with all of the process.

18 MS. PODZIBA: Okay. Carol, did you have a
19 comment?

20 MS. GORE: I was just going to say I think I'm
21 capable of reading. But you know, I don't mind if we
22 go through that process. But what I've experienced in

1 the past is somebody gives just a general overview of
2 what they're looking at so they can have some context,
3 they have a chance to read it, and then the committee
4 members can engage on a sentence by sentence or word by
5 word basis, if they so choose.

6 But if Jack wants to start with the reading of it,
7 I don't object. I'm just saying that we're on the
8 clock. So I'm concerned about using up that time with
9 someone reading.

10 Thank you.

11 MR. SAWYERS: I defer to Carol. That's fine. In
12 that case then, I would like to have one of the
13 drafting committee gives us the highlights of this.

14 MR. GOODMAN: Thank you. Ed Goodman.

15 There is actually two sections to this proposal,
16 and what it does is implement the consensus agreement
17 of the -- of this committee on three items related to
18 the data source. The first is there is an agreement to
19 hold off changing from the current data source, which
20 is the decennial census updated with the IHS data, and
21 that will be kept in place for fiscal years, the
22 upcoming one, obviously, fiscal '15, as well as fiscal

1 '16 and '17.

2 The second item that the group agreed to by
3 consensus was that there would be the establishment of
4 a study group that would have 12 months to analyze the
5 data source issue and see if they can reach a -- reach
6 consensus on a new data source. You can see that item
7 is dealt with in 330(b)(1).

8 And then 330(b)(2) addresses the issue of what
9 happens if that group cannot reach consensus on a new
10 data source, and what's included there is simply the
11 language that is currently in the regulation about what
12 happens, which essentially says that there is a data
13 source that's selected has certain uniform criteria and
14 says initially that data will be the most recent
15 available from the U.S. Census Bureau.

16 So that doesn't change from the existing
17 regulation. So essentially go back to where we are,
18 which is HUD gets to select a data source based on that
19 criteria.

20 If you could scroll, scroll up then to 331, the
21 third piece of consensus that the group reached was a
22 volatility control or hold harmless provision. And

1 this essentially was an agreement to ensure that when a
2 new data source is selected, and it doesn't matter what
3 that data source is, whether it's the American
4 Community Survey or a new data source that's selected
5 by the -- by consensus, by this committee from the
6 recommendation of the study group, that that new data
7 source will likely result in changes in allocation of
8 funds under the formula.

9 So there is a provision to ensure that those
10 changes are essentially phased in over time so that for
11 each year, the impact on the tribes that lose money
12 under that new data source, reduced in that new data
13 source, will only experience a 90 percent -- a
14 reduction of a maximum of 10 percent.

15 Now the language tracks the committee consensus,
16 which is that the impact that's going to be corrected
17 for is solely and exclusively the impact that's a
18 result of the new data source. And so, if you go down
19 through the rule there, (b) and (c) basically say if
20 there is changes from other -- changes to your block
21 grant from other sources -- data challenges, changes in
22 appropriations -- those will be then adjusted after

1 this volatility control is assessed against the sort of
2 the raw data for this.

3 And then, finally, in order to implement this as
4 well, there had to be a change to the Appendix A to
5 Part 1000, which is the -- essentially the mechanics,
6 the guts of the formula itself. One of the issues that
7 you have to deal with because the block grant deals
8 with a fixed appropriation, if you are going to hold
9 harmless or move certain tribes up who have experienced
10 a reduction of their grant of more than 10 percent, if
11 you move them back up to that level, that funding has
12 to come from somewhere else, some other recipients in
13 the formula.

14 And the agreement again from this committee was
15 that that will come from the change in the formula for
16 those who gained money from the use of the new data
17 source, and it will be taken proportionally from those
18 tribes that gained, based on the proportion of their
19 gain based on the use of that new data source.

20 So that's -- Madam Chair, that's the summary.

21 MS. BRYAN: Thank you, Ed Goodman.

22 So we'll open it up and go through the proposed

1 sentence by sentence, if that works as a starting
2 point?

3 MS. PODZIBA: Okay. So let's open up discussion
4 then on paragraph (a) that starts with the sources of
5 data. Are there any questions or comments on that very
6 first paragraph (a)?

7 (No response.)

8 MS. PODZIBA: All right. If everyone is set with
9 paragraph (a), let's move to paragraph (b), which has
10 the introductory language and number (1). Each of
11 these are really different concepts. So I think it's
12 worth going through each numbered section separately.

13 So are there any questions or comments on (b) (1)?

14 (No response.)

15 MS. PODZIBA: (b) (1), so it's a new data source
16 adopted by consensus, that paragraph. Any questions on
17 that?

18 (No response.)

19 MS. PODZIBA: Okay. How about that paragraph (2),
20 the one that begins, "If no consensus is reached"?

21 (No response.)

22 MS. PODZIBA: Anything on Section (c)?

1 (No response.)

2 MS. PODZIBA: All right. How about (d)?

3 (No response.)

4 MS. PODZIBA: Okay. Then I guess we'll move to
5 what is actually a new section, Section 331. How will
6 the impacts from adoption of a new data source be
7 minimized as the new data source is implemented? Any
8 questions or comments on paragraph (a) under Section
9 331? Yes?

10 MR. SOSSAMON: I did have a question on beginning
11 with the paragraph (a). I know (b) basically states
12 nothing in this section shall impact, but (a) says what
13 we've done, period. Okay?

14 And my question is would it be -- would it help to
15 add the word "and" after (a), (b), and (c)?

16 MS. PODZIBA: Perhaps we could get someone from
17 the drafting team to explain what that would do or
18 wouldn't do. Aaron?

19 MR. SANTA ANNA: If I understand -- if I
20 understand your question, you're asking whether or not
21 we need to add the word "and" after paragraphs (a),
22 (b), and (c)? And I think the answer is I don't think

1 so. Because each one stands on its own and makes a
2 statement as to what is going to be happening.

3 The first, as Ed had indicated, was that
4 volatility goal. And that tells you what essentially
5 how the adjustment -- how the grant would be adjusted
6 based on the change in the data source. That's an
7 item, an idea that's all there.

8 (b) and (c) just then talk about what then happens
9 -- how that's going to be implemented with regards to
10 these other changes. And so, the whole section kind of
11 has to be looked at together, and the word "and" I
12 don't think would really add anything to how that would
13 operate.

14 MS. PODZIBA: All right. Any other questions on
15 Section (a) of -- sorry, paragraph (a) of Section 331?
16 Yes?

17 MR. ADAMS: I guess -- Jason Adams, Salish
18 Kootenai -- not being part of the needs workgroup and
19 the discussions that happened, I guess for my own
20 information, I would just like to know how the 90
21 percent figure was arrived at. I'm imagining there was
22 a lot of discussion on that issue. If somebody could

1 help me understand how we arrived at 90, not 80, not
2 95?

3 MS. BRYAN: Oh, yes. I was just going to say
4 because I had this question. We had this long
5 discussion in our caucus, and I was reminded that this
6 group by consensus talked about 90 percent. That the
7 whole committee, the discussion was brought up at the
8 committee level that 90 percent was the number.

9 MS. PODZIBA: Rusty?

10 MR. SOSSAMON: I agree with Annette's statement.
11 It was discussed about here. But beyond that, in the
12 workgroup, the proposed hold harmless potential
13 solutions had different percentages that would limit
14 how much of a decrease you would experience in this
15 event, and the 90 percent came from one of those
16 examples.

17 MS. PODZIBA: All right. Are there any other
18 questions on paragraph (a)?

19 (No response.)

20 MS. PODZIBA: Okay. If we turn over our sheet,
21 paragraph (b). Anyone have any questions or comments
22 about paragraph (b)?

1 (No response.)

2 MS. PODZIBA: Okay. Let's move then to paragraph
3 (c). Did you have something on (b)?

4 MR. ADAMS: Possibly. Hold on.

5 (Pause.)

6 MR. ADAMS: That's okay. Thank you.

7 MS. PODZIBA: You're okay. All right. So
8 paragraph (c), are there any questions or comments
9 about paragraph (c)?

10 (No response.)

11 MS. PODZIBA: Paragraph (d), final paragraph of
12 Section -- of the new Section 331. Are there any
13 questions or comments?

14 (No response.)

15 MS. PODZIBA: Okay. Then we've got the complete
16 Section 331. The next section is Appendix A to Part
17 1000. If you would please look at that, are there any
18 questions or comments about the addition to Appendix A,
19 which will be paragraph (8)? New paragraph (8).

20 (Pause.)

21 MS. PODZIBA: Is there any further discussion of
22 the proposal before you? Any comments on any part of

1 the proposed language before you?

2 (No response.)

3 MS. PODZIBA: Okay. If there isn't, then -- yes?

4 Okay.

5 MR. SOSSAMON: Just make sure I'm clear on this.

6 I want to go back up to (d). Adjustments under
7 paragraph (b) and (c) of this section shall be made to
8 the tribes' needs allocation after adjusting the
9 application under (a). So --

10 (Pause.)

11 MR. SOSSAMON: I'm kind of concerned with that.

12 It says first -- instead of the -- in (b) the minimum
13 funding and Census challenges, I think that is
14 something every tribe would experience proportionally,
15 and if you give them a minimum amount under the 90
16 percent figure in (a), how would that -- how would you
17 spread the proportionality of the allocations that
18 would be created after that?

19 Because it would reduce the amount of the overall
20 need available to be distributed to those that don't
21 meet the category of a minimum funding or a Census
22 challenge.

1 MS. PODZIBA: Carol?

2 MS. GORE: Rusty, let me give this a whirl since I
3 sat in that workgroup. The intent of this paragraph is
4 really to speak to a process that HUD would follow that
5 they would in the case there is a change in data
6 source. So that's the catalyst around (a). That
7 catalyst says that HUD will do a run first to adjust
8 for those tribes that are below 90 percent, and those
9 that are above give to that.

10 So there is that adjustment is first, and we
11 wanted to make sure that that was addressed exclusively
12 before the other things like minimum funding, Census
13 challenges, those sorts of things that really
14 individual tribes would be entitled to. So (a) is a
15 new element to how the data is run by the -- by HUD.
16 And so, we wanted to isolate that so that we could test
17 that, and then the other things follow after.

18 So that's the intent of (d) is to really validate
19 the process that HUD told us they were going to follow
20 when they run the formula. That's the intent of that
21 section. Hope that's helpful.

22 MR. SOSSAMON: That procedure may be necessary in

1 refining to determine the amount of reduction in the
2 event of a new data source. However, if you look in
3 (c), in the event of a decrease in the total amount of
4 funds available under the need amount, if someone has a
5 successful data challenge and receives additional
6 funding because of that, it means there's going to be
7 less available funding for the needs component.

8 So if you don't apply that challenge until after
9 you apply the 90 percent, then the 90 percent trumps
10 the rest of this. And it --

11 MS. PODZIBA: Ben, can you help us on that?

12 MR. WINTER: Sure. In the event of a successful
13 formula challenge, it should not affect the total
14 amount that is available for the need portion because,
15 remember, you run the FCAS first, and that's really
16 what determines it. So I think we're okay with that.

17 MR. SOSSAMON: I can live with it. I just think
18 it's going to create a conflict.

19 MS. PODZIBA: Sami Jo?

20 MS. DIFUNTORUM: Thank you. So if I'm
21 understanding this correctly, and please correct me if
22 I'm wrong, the adjustment would take place before the

1 data challenges if somebody did some type of a
2 challenge. So it seems to me that that's backwards.
3 Otherwise, your challenge is also reduced.

4 Now just like, for instance, if you gained as a
5 result of the introduction of new data, you're already
6 going to experience a reduction to try and compensate
7 the tribes that were losing money. But you also don't
8 gain the amount that you should have if you challenge.

9 So correct me if I'm wrong. So it seems like the
10 challenge should be accounted for first, and then the
11 application of the 10 percent or 90 percent hold
12 harmless.

13 MS. GORE: Because we want the tribe to get the
14 full credit for that.

15 MS. PODZIBA: Carol?

16 MS. DIFUNTORUM: You want the full credit for the
17 challenge. The way it's written, I think it has the
18 opposite effect, doesn't it? Am I not understanding
19 this correctly?

20 MS. GORE: May I respond? I think what we hope is
21 a data challenge could actually put a tribe in a place
22 where they're actually having to pay into the -- into

1 the 90 percent, where in the absence of that data
2 challenge, they may not.

3 You know, so I think the concept proposal really
4 is to deal with a change in the data source and to
5 isolate that, at least that's what the workgroup
6 interpreted, and then we followed some of the
7 statisticians about how do we best protect tribes from
8 those things that they benefit from? So when does the
9 math occur?

10 And I don't mean to try to speak for you, but I
11 think the first step is that data, the new data source
12 introduction. And that was isolated so that tribes
13 could truly benefit from those other things that they
14 would otherwise get whether the allocation process up
15 or down or they have a challenge. That's the intent of
16 this language.

17 MR. WINTER: Yes. Yes. The point -- sorry if I'm
18 speaking out of line. But, yes, the intent is to
19 really just isolate the impact of introducing the new
20 data source. And then all this other language is just
21 basically saying that other factors that are going on
22 in the formula has been changed, that volatility

1 control does not apply to that.

2 So other things, such as formula area changes,
3 Census challenges, TDC changes, population cap tweaks,
4 all these things are unique other factors that do
5 introduce volatility into the formula. However, this
6 volatility control does not address that.

7 We've only addresses the volatility caused by the
8 new data source. So that last section I think that
9 you're -- (d) is really just trying to reiterate,
10 basically, that we're isolating the impact of just that
11 first shock.

12 So people that lose more than 10 percent, that
13 they experience that loss on an incremental basis. And
14 people that gain, they experience their gain in a more
15 incremental basis rather than independent of everything
16 else that's happening.

17 MS. PODZIBA: Thank you, Ben. Other there -- so
18 is that clarified? Are there any other questions or
19 comments or further discussion to be had on the
20 proposed text before you? Jason?

21 MR. ADAMS: I don't have anything in regards to
22 the regulatory language. My question again comes back

1 to process in regards to I don't recall in the past,
2 and correct me if I'm wrong -- at least we didn't do
3 this with our proposals that you're going to see next -
4 - is how this then affects the appendix and the
5 language here.

6 Are we just acting on the regulatory language, and
7 the appendix language is here for information purposes?

8 Or are we actually going to consider the appendix
9 language as part of our negotiated process?

10 MS. PODZIBA: Aaron?

11 MR. SANTA ANNA: Yes. The appendix has been
12 codified and is in the Code of Federal Regulations. So
13 any of the changes to the -- to the numbered sections
14 through part 1000 also have to filter down to changes
15 in the appendix. So that's why we added this provision
16 to be able to reflect what was happening in new 331.

17 So if you look at the CFR, you'll see that all of
18 Appendix A is codified. And consequently, we've got to
19 be able to make sure it's consistent with the numbered
20 sections in part 1000.

21 MS. PODZIBA: Carol, did you have a comment?

22 MS. GORE: Oh, sorry.

1 MS. PODZIBA: Are there any other questions or
2 thoughts? Jack?

3 MR. SAWYERS: If there is none, I'd like to vote
4 on this.

5 MS. PODZIBA: Okay. So I'll turn it back to the
6 chair to call the question.

7 MS. BRYAN: We have a request to call the question
8 on the proposal, Code of Federal Regulations 1000.330
9 and 331. Can we have a vote?

10 All in favor for the proposal in front of you?

11 (Voting.)

12 MS. BRYAN: Okay. I see all thumbs up. So that
13 vote proceeds -- this codification passes. Thank you
14 all.

15 I'd just like to celebrate for the record. Yes,
16 Jack?

17 (Applause.)

18 MR. SAWYERS: I think that's all that we have from
19 the needs committee. Unless there's something that one
20 of our members wants to bring up, I think we will turn
21 it over back to you.

22 Thank you very much for your vote.

1 MS. BRYAN: Thank you, Jack. Very good work out
2 of the needs workgroup.

3 So next we have the -- some proposals in front of
4 us. We'll let Jason Adams introduce, if you're ready,
5 anything for negotiation this afternoon. And we'll
6 call it up to the screen and start the time after it's
7 introduced.

8 MR. ADAMS: Thank you, Madam Co-Chair. Jason
9 Adams, Salish Kootenai Housing Authority.

10 Again, just coming back, I guess the order of
11 items that we would propose here this afternoon would
12 be we had a small discussion about this in our
13 workgroup, and I guess the way that I am going to
14 present these today is the way that the workgroup
15 addressed these, in that order.

16 And so, what we have before you first is the item
17 that is numbered 1000.318 on the top of the page.

18 (Pause.)

19 MR. ADAMS: Do we have -- have it on the screen?

20 MS. PODZIBA: Is this one it, Jason?

21 MR. ADAMS: No.

22 MS. BRYAN: Section 1000.318.

1 MR. ADAMS: Yes.

2 MS. BRYAN: When do units under formula current
3 assisted stock cease to be counted or expire from the
4 inventory used for the formula? That's what we're
5 looking for.

6 MR. ADAMS: Correct.

7 MS. PODZIBA: I think we're having a little hard
8 time up here finding it.

9 MR. ADAMS: Demolition units. Should be right
10 there, the item --

11 FEMALE SPEAKER: It's on the NegReg site.

12 MS. BRYAN: We'll look on the NegReg site.

13 (Pause.)

14 MR. ADAMS: There was a tab on that page that was
15 there that said demolition of units, or something to
16 that effect.

17 MS. BULLOUGH: It's dated 4/25/2014.
18 Unfortunately, the version I have is a PDF.

19 MR. ADAMS: So that means that you can't make any
20 changes, committee.

21 (Laughter.)

22 MR. ADAMS: There we go. That's it. So what we

1 have for you is under 318 the existing language that is
2 existing regulations (a) (1), (2), (b), and (c). And
3 so, I won't talk to those issues because that's
4 existing regulatory language, excuse me.

5 What we are entering into today is (d) (1) or (d),
6 the (1) and (2). So that this is the new section that
7 we are proposing today. With that, I -- do you want me
8 to read it, or do you want to read it, or I don't know
9 how we're going to -- procedurally going to do this.

10 Well, I guess the best way to describe it is just
11 read it. What we are going after here is that there
12 was steps toward language that needed some regulatory
13 background, if you read the statute at 1000.302, and
14 there's, you know, some provision for rebuilding
15 demolished units.

16 And so, we've taken some liberties with that
17 statutory language and expanded that a little bit under
18 the regulation, and mainly what we're doing is within
19 that 1 year we are saying if the recipient certifies in
20 writing to HUD within 1 year from the date the
21 demolition is complete that it has taken action
22 commencing the rebuilding of the unit, then the next

1 bullet says the construction of the unit is completed
2 within 4 years of the date of demolition is completed.

3 So we have given you -- we're giving you more time to
4 actually get the rebuilding of the unit done.

5 So that's really what (1) is getting at. And
6 number (2) says at the end of the 4-year period, the
7 unit shall not be considered formula current assisted
8 stock unless and until the recipient notifies HUD that
9 the unit has been completed as provided in paragraph
10 (d)(1)(ii), the recipient fails to complete
11 construction of the unit within 4 years of the date the
12 demolition is complete, HUD shall not require the
13 recipient to repay amounts allocated to recipient for
14 such unit during that period.

15 So there you go. Any questions? Yes, Jason? I'm
16 assuming you are questioning for me.

17 MR. DOLLARHIDE: Jason Dollarhide, Peoria Tribe.

18 Where -- where did the 4 years come from, Jason?
19 What made you -- the FCAS group decide on that 4-year
20 timeframe?

21 MR. ADAMS: Well, we had -- we'll, you're pulling
22 on some dusty area of the closet here. You're going

1 back a few meetings. But what we had some long
2 discussions on is that very issue of how long we should
3 give folks, and we heard from various parts of the
4 country as to, you know, once a unit is deemed to be
5 demolished and rebuilt, how long and how much effort
6 has to go into doing that.

7 And we're also considering in this language the
8 idea of if you have a site that's not buildable, and
9 you have a unit that has to come down because the site
10 is no longer usable for whatever reason -- you know, if
11 there's geothermal activity or something like that
12 happens -- then you have to find a new site. You know,
13 you get rid of the existing structure right away. Then
14 you start working on a new site.

15 So the effort was really looking at that type of
16 timeframe, acquiring a site, acquiring infrastructure
17 for the site, and rebuilding, physically rebuilding
18 that unit. Taking in those consideration issues such
19 as was addressed by Alaska that, you know, it can be a
20 lot of time.

21 I mean, the building season is very short, if
22 you're barging something up to Alaska, and all of those

1 kind of things were considered. And so, we've kind of
2 landed on the 4-year timeframe.

3 MR. DOLLARHIDE: Thank you. Carol?

4 MS. GORE: Thanks, Jason. I just have one maybe
5 clarifying question. This section focuses on
6 demolition of a unit. Did the workgroup talk at all
7 about units that are just vacant, unoccupied,
8 "blighted," unlivable. So, in essence, the 4-year
9 clock doesn't start until the demolition.

10 And I just wondered if there was any conversation
11 about that? I'm not suggesting a change to your
12 language, but I just wanted to make sure that we have
13 the discussion about it. Have you already talked about
14 it?

15 Thank you.

16 MR. ADAMS: Yeah, we did have a good discussion on
17 those type of issues. And again, I guess what I look
18 at is we were really playing off of the statutory
19 language, and that's where it talks about this at
20 302(b)(1)(C). The unit is demolished, and the
21 recipient rebuilds the unit.

22 So it's really up to the recipient to determine

1 when they have to demolish a unit, whether it's by
2 blight or whatever the consideration is that you
3 determine, hopefully, to demolish a unit is what we
4 ended up with.

5 If some of the other workgroup members have more
6 to add to this and want to help me, I'd be glad to
7 accept that. But this is what I recall. And we did
8 have a discussion on that very issue.

9 MS. GORE: Thank you.

10 MS. BRYAN: Sami Jo?

11 MS. DIFUNTORUM: So my question is paragraph (2),
12 end of the 4-year period, it talks about, so, for
13 instance, a recipient received subsidy for 4 years on a
14 unit they haven't rebuilt. But the unit doesn't exist,
15 they aren't going to be required to repay that money.
16 I'm just curious what the reason was for that?

17 MR. ADAMS: Well, again, the idea was that once
18 that 4-year clock starts, HUD is not going to track the
19 progress that you're making. They're just going to
20 keep funding you for it.

21 At the end of that 4-year period, it is assumed
22 that within that timeframe you will notify HUD that the

1 unit is complete and rebuilt, and then it will continue
2 on your stock. If you don't notify them that it's done
3 and rebuilt, then it will come off. So it's really
4 doesn't put a tracking requirement on HUD. It's really
5 up to the local entity to make sure that they complete
6 what they say they were going to do.

7 As a tradeoff to that issue, then we said that if
8 somebody does that and after that 4 years, they don't
9 rebuild and it comes off their stock, they don't have
10 to repay that 4 years of receiving money for that one
11 unit.

12 MS. BRYAN: Elena?

13 MS. BASSETT: In regards to that same paragraph as
14 was mentioning the date, this last one, (d)(1)(ii)
15 seems to be a very important part of the -- that new
16 language. I just wondered why that was not set aside
17 under a section particular to that like 318 or to
18 continue on with 319 regarding "HUD shall not require
19 recipients to repay amounts."

20 MR. ADAMS: I guess I'm not understanding the
21 question.

22 MS. BASSETT: Well, it's just -- it's just very

1 important as far as if the recipient fails to complete
2 construction and the date the demolition is complete,
3 HUD shall not require recipient. It just seems to be
4 very important language, and why does it stand off by
5 itself or --

6 MR. ADAMS: Oh, I see.

7 MS. BASSETT: -- a separate section? Yeah.

8 MR. ADAMS: Yeah, the last section could be --

9 MS. BASSETT: Yes.

10 MR. ADAMS: -- (2)(i) or something is what you're
11 saying?

12 MS. BASSETT: Yes.

13 MR. ADAMS: So it stands on its own. I'm not
14 opposed to that at all. I don't think it changes the
15 content of the language at all.

16 MS. PODZIBA: Do you have a drafting question?

17 MS. BRYAN: Yeah, lawyer. Lawyer.

18 MR. ADAMS: Who was our drafters on this? I don't
19 recall. Again, this was a few meetings ago.

20 MS. BRYAN: Was Karin Foster on your drafting
21 committee for this language?

22 MR. ADAMS: She might have been with us at that

1 time. I know she's been back and forth.

2 MS. BRYAN: I think she might have been. Anyone
3 else?

4 MR. ADAMS: I guess I'm wondering as a matter of
5 practice here, are you asking for an amendment for that
6 to happen, or you're just making a statement?

7 MS. BASSETT: More of a statement for
8 clarification.

9 MR. ADAMS: Okay.

10 MS. PODZIBA: So is there other open discussion,
11 and then before we get to each paragraph by paragraph
12 or line by line, are there any other questions for
13 Jason just to clarify what is actually intended by the
14 proposal? Rodger?

15 MR. BOYD: I may have missed the explanation
16 earlier, but the justification from going from 1 year
17 to 4 years, and I know there was a lot of discussion.
18 Of course, we weren't in your section. But could you
19 walk us through that again, please?

20 MR. ADAMS: Maybe Jennifer can, huh?

21 (Laughter.)

22 MR. ADAMS: I'll do my best. I'm assuming you're

1 in reference to the statutory language?

2 MR. BOYD: Yes.

3 MR. ADAMS: And because the statute does say that
4 the unit is demolished and the recipient rebuilds the
5 unit within 1 year of demolition of the unit, and so
6 what we did is, again, we've taken some liberties with
7 the definition of "demolish." And so, what we're
8 saying here is that the statutory language says rebuild
9 within 1 year of demolition.

10 So what we're saying is that once that demolition
11 happens, we're giving time for the rebuild period, that
12 the demolition does happen within 1 year, but the
13 rebuild is what we're taking some liberties with. And
14 giving folks up to 4 years to do that, based on, again,
15 the discussion from the committee on how much time it
16 takes for building -- building seasons, all of those
17 factors.

18 Maybe Jennifer can add to this? She was part of
19 our discussion on this issue also.

20 MS. BULLOUGH: To my recollection, there was --
21 there were proponents of or people who indicated that
22 they could rebuild a unit very quickly, no problems.

1 There were other people that said that may be true if
2 you're rebuilding on the same site. But sometimes we
3 have to move the unit, and we're going to -- we need
4 more time because we have to find the land, do all our
5 due diligence before we can even start, as in
6 environmental review procedures, procurement
7 procedures, et cetera, et cetera. And that's why they
8 felt that 4 years was appropriate.

9 There was -- Jason, I believe there was a number
10 of people who said that as housing managers, we have a
11 lot of incentive to rebuild that unit and get it back
12 into inventory, and so they weren't necessarily trying
13 to get more time just to buy time and that those units
14 that could be rebuilt quickly would be. But there were
15 certain occasions when they needed the additional time.

16 So that's my recollection of the discussion at
17 that time.

18 MS. PODZIBA: Rusty?

19 MR. SOSSAMON: Is this any time during that 4-year
20 period, does that reduce the time balance remaining
21 toward the 25-year end date of conveyance?

22 MR. ADAMS: That's a good question. I would

1 assume that within that time period if that 25 years
2 issue comes up, then the unit would -- the contract
3 would end on home ownership units. I don't think that
4 extends it necessarily. I don't know. I don't recall
5 us having a discussion on that specific issue, did we?

6 MS. BULLOUGH: So if a person, if a home owner
7 unit is involved in some type of catastrophe and the
8 unit is destroyed, they're going to be relocated while
9 the unit is being rebuilt, but that doesn't necessarily
10 stop their requirement to continue to pay on a mortgage
11 or on a -- on the loan for -- on a home owner loan.

12 And so, they would continue to pay even if they're
13 not in that house. Once they get back in the house,
14 they're just -- so it's thinking like if you were in a
15 regular home situation, you still have a mortgage you
16 have to pay. So you would continue to pay it. So it
17 really wouldn't affect the period of the loan term.

18 MS. PODZIBA: Are there any other clarifying
19 questions? Any other -- Jemine?

20 MS. BRYON: A couple of things I'm just not clear
21 about. So I'm not clear what "demolished" means. I'm
22 not clear in (d)(1)(i) what has "taken action

1 commencing the rebuilding of the unit" mean. One stick
2 in the ground? I mean, what does that mean? Plans?
3 I'm not sure what that means.

4 And this construction of the unit is completed
5 within 4 years, does that mean completed and occupied?

6 And again from the demolition? I'm just unclear what
7 all these -- what triggers all these milestones? How
8 do we define that?

9 MR. ADAMS: I'll take a shot here. Again, we
10 talked about this definition issue of demolished ad
11 nauseam. We talked this thing around and around for
12 that very reason, trying to figure out exactly what --
13 what would be the triggers.

14 And so, we did come to the issue and come to the
15 consensus that under (i), we specifically said that
16 actions taken commencing the rebuilding of the unit,
17 not defining that, but again leaving that up to local
18 control. Whether the demolition has happened and they
19 start the work to plan for the rebuilding of locating
20 the site and show some progress in that regard, that
21 you know, again, HUD isn't going to, from the
22 discussions, isn't going to be checking on this.

1 They're just going to allow this time period to play
2 out.

3 MS. PODZIBA: Do you have a follow-up question?
4 Is that clarified for you?

5 MR. ADAMS: I feel like I'm not doing a good
6 enough job of explaining, but we had a lot of
7 discussion on the demolition issue.

8 MS. BRYON: I appreciate, yeah, definitely the
9 discussion. But it didn't result in a definition, and
10 I guess that's what I'm still trying to understand the
11 definition. I mean, if funding is going to be
12 triggered against this or some action on HUD's part is
13 going to be triggered by something in this rule, we
14 need to know, you know, what triggers our ability to
15 start looking at the issue.

16 And without a definition, it's left to a lot of
17 interpretations, a lot of debate at the time that it
18 happens. And I think we should always try to avoid a
19 situation of lack of clarity when funding is involved.

20 MS. PODZIBA: Let's get Earl in on the
21 conversation. Earl?

22 MR. EVANS: Earl Evans, Haliwa-Saponi.

1 Surrounding the question that was just brought up,
2 I wanted to ask if HUD has a proposal for what that
3 should mean. And if not, I wanted to suggest something
4 in addition to what Jason already mentioned about
5 that's under local control for the tribe or the entity
6 to say when it's demolished.

7 But kind of the way that I see this working out,
8 and correct me if I'm wrong. But regardless, if you
9 don't have it standing ready for somebody to go into it
10 in 4 years, your money stops. Is that correct?

11 MR. ADAMS: Again, by what (d)(2) says is that --
12 well, what the process that will happen in this is at
13 the end of that 4-year term, once you've notified HUD
14 that you have a demolition situation and you're
15 rebuilding, at the end of 4 years if they haven't heard
16 from you that the work is done, then they will just
17 take it off your count. That's what's going to happen.

18 If within that 4-year period, then you reply and
19 let HUD know the unit is done, it's rebuilt, and then
20 it just lives on as part of your count. So it's really
21 the local control is what triggers. You know, you're
22 letting HUD know I have a demolition situation. I'm

1 going to demolish this unit, and then 4-year time clock
2 is going to start by your own acknowledgment of that
3 issue to HUD.

4 MS. PODZIBA: Aneva?

5 MS. YAZZIE: Thank you. Aneva Yazzie, Navajo
6 Housing Authority.

7 We -- just to illustrate what the Assistant
8 Secretary, we had demolition -- units planned for
9 demolition, and how HUD monitors that is we include it
10 in the Indian Housing Plan to identify it for just the
11 demolition. What we've always understood and what we -
12 - the guidance that we received is that it needed to be
13 rebuilt in 1 year.

14 So the language, I'm pleased with it, did give an
15 additional 3 years, 4 years total for it to be ready
16 for occupancy. That was the denotation in terms of it
17 being completed for its reconstruction, I guess.

18 So those are the parameters in which we would also
19 report that in our housing plan, either through the APR
20 or a letter in advance with respect to committing to
21 getting it sooner. So I support those 4 years, but
22 we've always been advised that it needed to be rebuilt

1 in 1 year's time. So the statute doesn't say that
2 then, I guess the clarity here is important in terms of
3 it being given 4 years' time for reconstruction.

4 MS. PODZIBA: Jemine?

5 MS. BRYON: So does demolition mean the building
6 is no longer standing or it's inhabitable? What does
7 "demolition" mean?

8 MS. YAZZIE: Just to respond quickly?

9 MR. ADAMS: Go ahead.

10 MS. YAZZIE: It's when you have a building that's
11 no longer safe, habitable, whatever, structural
12 problems, you raze it, r-a-z-e. You just demolish it.
13 So there's nothing --

14 MS. BRYON: So it's gone?

15 MS. YAZZIE: Right. Down to the foundation for a
16 lot of our units. So that would be considered
17 demolition when that land is now cleared and ready for
18 reconstruction.

19 MS. BRYON: So a few minutes ago, I heard that
20 there was a proposal that it be defined at the local
21 level. Would the local level be that same -- does
22 everybody have that same definition that was just --

1 I'm really just sort of asking.

2 MR. ADAMS: Well, some cases, and I know this was
3 part of the discussion in the workgroup was in some
4 cases it might not have to go all the way to the
5 ground. It might be around the studs or whatever the
6 local -- local determination is. So that's why we were
7 very hesitant to say demolition means it's -- frame
8 foundation is gone because in some cases that isn't the
9 case.

10 And in some cases, you might demolish a unit,
11 completely raze the unit from that site and start
12 looking for another site. That's -- that was really
13 the issues that have triggered coming back to another
14 site and, as Jennifer stated, procurement and all of
15 those issues, environmental issues of trying to build
16 on another site.

17 MS. PODZIBA: Any other questions or clarifying
18 concerns before we go through the language section by
19 section? Everybody has a good understanding of what's
20 intended? Sam?

21 MR. OKAKOK: I think I just wanted a little bit of
22 clarification on demolition also, whether that could

1 mean substantial reconstruction going all the way down
2 to the studs, for instance? If that is close enough
3 for demolition or not?

4 And on another part would be whether or not this
5 is either covered under AMERIND Risk pool or another
6 insurance. What happens at that time?

7 MS. PODZIBA: I'm not sure that Jason heard your
8 question.

9 MR. ADAMS: I didn't hear.

10 MS. PODZIBA: I'm sorry. Could you please repeat
11 it or unless somebody else has the answer to that?

12 MR. OKAKOK: Number one would be the similarities
13 between demolition and substantial reconstruction, and
14 the other part would be whether or not or where does
15 AMERIND come in or another insurance come in once the
16 demolition is determined that, yes, it is a unit that
17 needs to be demolished. When or if does the insurance
18 kick in?

19 MR. ADAMS: Well, there is language, and maybe
20 this will help, there is language at 1000.134 that
21 states that an entity -- or a recipient or an entity
22 funded by a recipient may undertake a planned

1 demolition or disposal of current assisted stock owned
2 by the recipient or entity funded by the recipient when
3 a financial analysis demonstrates that it is more cost
4 effective or housing program effective for the
5 recipient to demolish or dispose of the unit than
6 continue to operate it.

7 (2) The housing unit has been condemned by the
8 government which has authority over the unit. The
9 housing unit is an imminent threat to the health and
10 safety.

11 And (4) continued habitation is inadvisable due to
12 cultural or historic considerations.

13 So there's already some primers in the regulations
14 as to what -- some local guidance there as to what
15 happens. So instead of reinventing that, we just from
16 that moved our issue forward.

17 And I guess the gist of what we were looking at,
18 you know, comes out of 302, statute 302(c) after
19 demolition is what we were looking to really focus in
20 on, is the unit may continue to be considered low rent
21 housing dwelling unit for the purpose of this program,
22 for the purposes of the paragraph. That's why we were

1 looking at those additional years needed to keep that
2 in the program because we acknowledge that everybody
3 acknowledged in the room that it's important to keep
4 those units in the stock.

5 And a 1-year time period was just too restrictive
6 in some cases to get that unit back online. So we
7 don't want to lose that unit.

8 MS. PODZIBA: Right. I think perhaps we can take
9 this paragraph by paragraph now. So, again, we're just
10 looking at paragraph (d) because (a) through (c) is
11 existing regulatory language. So could I ask if there
12 are any questions or comments or suggested revisions on
13 (d) (1), which includes both Romanette (i) and Romanette
14 (ii)?

15 Any questions or comments or suggestions on
16 (d) (1)? Sam?

17 MR. OKAKOK: Thank you. I did have a question on
18 the -- I can understand some of the increase in the
19 time period for this, but I did have a question whether
20 or not there was data available on how many units
21 actually needed more than 1 year to rebuild? If there
22 was any discussion on that?

1 MR. ADAMS: Again, I don't think we had any data
2 other than folks in the workgroup explaining the
3 processes to us as to how much time it takes. And
4 again, especially in the situations where you're having
5 to find a new site. That seemed to be a very
6 prevailing argument as to how much needing more time
7 because if you have a situation where that site is
8 condemned or whatever happens and you have to find a
9 new site to rebuild that unit on, then those are where
10 the timeframes really get long.

11 But as far as data from a TA request or something
12 that says how many units are out there that need to be
13 demolished and rebuilt, we didn't gather that data.

14 MS. PODZIBA: Sam?

15 MR. OKAKOK: So I imagine that the site control
16 and the environmental reviews would be the bulk of the
17 time then that --

18 MR. ADAMS: As we heard from some folks, yes.
19 That is a huge issue.

20 MR. OKAKOK: Thank you.

21 MS. PODZIBA: Any other thoughts or questions
22 about paragraph (d) (1)?

1 (Pause.)

2 MS. PODZIBA: Yes?

3 MS. BASSETT: At this point, do we call for the
4 question, call for a vote or --

5 MS. PODZIBA: We're going to do (d)(2) next, and
6 then we'll call the question on both --

7 MS. BASSETT: Oh, I thought it included both of
8 them.

9 MS. PODZIBA: On both sections, I think. So thank
10 you for moving us along. Let's move to paragraph (2).

11 Are there any questions or comments or suggestions
12 regarding paragraph (2)? Rodger?

13 MR. BOYD: With regard to that section, we'd like
14 just a little bit more time because we are discussing
15 that within HUD to perhaps propose some language.

16 MS. PODZIBA: So would you like us to take a break
17 so that you could do that, or is that for a later time?

18 MS. BRYAN: We can take a break.

19 MR. BOYD: Probably a break would help.

20 MS. PODZIBA: All right.

21 MS. BRYAN: Is 15 minutes enough for you guys to
22 caucus with the folks that were in that workgroup?

1 FEMALE SPEAKER: Oh, for sure.

2 MS. BRYAN: Okay. Let's take a 15-minute break.

3 Thank you. And be back here, what time is 15 minutes?

4 3:45 p.m., please. That's 17 minutes.

5 (Recessed at 3:28 p.m.)

6 (Reconvened at 3:46 p.m.)

7 MS. BRYAN: Okay. Our break clock is over, and we

8 are on the clock for an issue that is in discussion.

9 For the record, I would like to read alternates into
10 the record just very quickly so we have that.

11 Welcome Lindsay Earls for the Cherokee Nation,
12 Elena Bassett for Yakama Nation, Susan Russell from
13 Kodiak Island, and Kathleen Lone Tree-Whiterabbit from
14 Ho-Chunk.

15 We wanted to -- we wanted to -- we had a call for
16 the question. We wanted to follow our protocols, after
17 the fact ask the committee what we want to do, to go
18 back to Elena Bassett's call for the question. When we
19 have a call for the question, a call for consensus, we
20 are to ask the committee are we ready for the call for
21 consensus, and we did not do that.

22 So we wanted to just go back and check, make sure

1 we're following our protocols and ask Elena Bassett if
2 your call for the vote was still on the table, or if
3 you would like to withdraw that?

4 MS. BASSETT: When I called for the question, I
5 thought that the discussion was under (d)(1), which
6 included both paragraphs there, (i) and (ii). That
7 looks crazy.

8 MR. ADAMS: Yeah, yeah, yeah.

9 MS. BASSETT: (1)(i) and (1)(ii)? Anyway, I
10 thought the discussion was under both paragraphs there,
11 but I was corrected that it was we discussed
12 separately. So, protocol, do I withdraw my question?
13 Okay.

14 MS. BRYAN: Thank you, Elena.

15 Now we go back to I believe HUD had asked for a
16 break and turn it back over to the facilitator.

17 MS. PODZIBA: Okay. So we were at a point where
18 we were seeing if there were any additional questions
19 or comments, and that was when you asked for the break.

20 So I'm going to turn it to HUD and see if you've got a
21 comment or question that you want to share with the
22 group.

1 MS. BRYON: Well, while 15 minutes sounded like
2 enough time 15 minutes ago. It turns out it wasn't
3 enough time, and we are still working on drafting some
4 language to propose to be added to this. And it also
5 rounds the uncertainty of understanding what triggers
6 some of these timeframes regarding demolition.

7 MS. PODZIBA: Jason?

8 MR. ADAMS: I guess I'd just like to maybe clarify
9 for the record that HUD was actively involved in the
10 workgroup discussions on this issue and was actually
11 asking for guidance from our workgroup in this specific
12 area because they had come across this issue in the
13 past. And as we heard in our workgroup, there was some
14 folks that have not met this timeline without any
15 additional regulatory guidance and, therefore, lost
16 units for their count.

17 And so, what I heard in the workgroup was some
18 folks did get a waiver for times past a year. Some
19 folks -- based on the circumstances, some folks didn't.

20 And so, in light of that, HUD was asking for us to be
21 as lenient as we could.

22 And so, I just wanted to clarify that for the

1 record that, you know, this is not anything that is
2 being driven by just one entity. It's in concert with
3 everybody that was at the table in the workgroup,
4 including HUD asking for some regulatory guidance to
5 govern this issue for future issues when they arise. I
6 wanted to just make that clear. Thank you.

7 And one last thing. I apologize. I -- the
8 formatting for this, Elena, is very poor, and it should
9 have the (d) and a (1) and then indented for (i) and
10 (ii), and then the (2) should be brought back out so
11 that it's clearer in formatting how it should be
12 presented. And I apologize for that.

13 MS. PODZIBA: So, procedurally, do we break until
14 HUD has language, or do we table this and look at
15 another issue?

16 MR. SAWYERS: I say we table it and go on.

17 MS. BRYAN: Jack?

18 MR. SAWYERS: I say we table it until we get it
19 and go on to the next issue.

20 MS. BRYAN: Thank you. Let's do that.

21 MS. PODZIBA: Okay. So we hold the clock and
22 remember that we've got an hour and 8 minutes and 55

1 seconds left on this issue when we come back to it.

2 Okay?

3 MS. BRYAN: So we'll proceed with the next item.

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

6 On behalf of the FCAS workgroup, we have this next
7 issue to present is a regulatory change at Section
8 1000.306, and so that is the next item -- yes, there it
9 is.

10 And again, I heard some advice from the workgroup
11 that we should have started with this as the easy
12 issue. I apologize for not listening to you.

13 (Laughter.)

14 MR. ADAMS: And again, being said that this is the
15 easy issue, I'm not sure that such a thing exists.
16 What I've been reporting to the committee every time
17 that we have had our report back to the full committee
18 is that this issue comes about as a technical
19 correction is what we have termed this.

20 Because what happens or what has happened is that
21 there is a -- there was an amendment to the statute,
22 and so what -- maybe I'll just tell you at 1000.306, it

1 says how can the IHBG formula be modified? And so, it
2 goes into the existing language at (a) and (b) and
3 existing currently is (c). (c) in particular is what
4 we are talking about.

5 It talks about Section 8 units being reduced by
6 the same percentage as the rest of the current assisted
7 stock. And so, what the technical correction comes
8 about is that I believe that's at -- there is a
9 statutory change that happened -- oh, here it is. It's
10 just a very slight different color. You can hardly see
11 it.

12 But it's at Section 502 of the statute, and it was
13 a statutory amendment that happened, I believe, in
14 2000, the year 2000. And so, that language -- in
15 looking at this statutory language versus the
16 regulatory language, the statutory language has the
17 authority and the statutory amendment that was made
18 says any housing unit in the subject of a contract for
19 tenant-based assistance between the Secretary and the
20 Indian Housing Authority that is terminated under this
21 section shall for the following fiscal year and each
22 fiscal year thereafter be considered to be a dwelling

1 unit under Section 302(b)(1).

2 And so, basically, what that says is the Section 8
3 units continue to live on forever, essentially. And
4 so, that is in conflict with (c), and so our proposal
5 as a technical is that (c) is, therefore, eliminated.
6 Making a short issue very long.

7 Thank you.

8 MS. PODZIBA: Thank you, Jason. Are there any
9 questions or comments about this proposal to remove
10 Section (c) as a technical correction?

11 Do you have a question, Jack?

12 MR. SAWYERS: No, I want to vote.

13 MS. PODZIBA: Okay. All right. Let's turn it
14 back to the chairs for call the question for consensus.

15 MS. BRYAN: Is everybody ready for the call for
16 consensus? Okay. I would like to call for consensus
17 on the amendment to Section 1000.306, eliminating
18 letter (c).

19 (Voting.)

20 MS. BRYAN: We have consensus. Thank you. Good
21 job. Woo-hoo.

22 (Applause.)

1 MR. ADAMS: I guess I should have started with it.

2 MS. BRYAN: You may bring your next item forward,
3 please.

4 MR. ADAMS: The third item that we have ready for
5 you is the document that's on the top. It's Section
6 1000.316, and the section of the regulation talks about
7 how is a formula current assisted stock component
8 developed? The formula current assisted stock
9 component consists of two elements, and they are (a)
10 operating subsidy, (b) modernization allocation, and so
11 we are adding a new section, subsection (c), and this
12 is in regards to the conversion issue.

13 As we were studying another issue, we came across
14 this conversion issue that is currently governed by a
15 HUD guidance 1998-19, and so we wanted to put some
16 regulatory language in place to back up this practice.

17 So what you see there is that when an FCAS unit is
18 converted, there are some date specifics as to what
19 happens. And I think what's important to -- to clarify
20 to the committee is that under (c)(1) and (2) that
21 there is a distinction in (2) as to the funding type
22 and the continued eligibility. That's really the

1 distinction there is that the funding type won't always
2 go back to the ACC. The continued eligibility depends
3 on what it's converted to.

4 So that, in a nutshell, is the -- is the change.
5 I think I've covered it well enough, hopefully. Any
6 questions?

7 MR. DOLLARHIDE: So -- I'm sorry.

8 MS. PODZIBA: Jason?

9 MR. DOLLARHIDE: Jason Dollarhide, Peoria Tribe.

10 The question I have, Jason, I brought it up in our
11 caucus also. I just wanted to -- I guess one question
12 I have is, you know, when this gets converted from a MH
13 to a low rent, how does -- what does the tenant, how do
14 they come into play with this potential -- with this
15 potential new rule?

16 As the leasee of that unit, are they going to have
17 a say in that conversion from a Mutual Help to a low
18 rent unit? Because if they do decide to purchase that
19 unit at the end of their lease agreement, that really -
20 - that option is really taken out of those individuals'
21 hands.

22 MR. ADAMS: Well, I guess my answer would be that

1 the issue of conversion is a local control issue, that
2 the local housing authority determines when it's going
3 to do this based on converting a Mutual Help to a low
4 rent or vice versa, from a low rent to a Mutual Help.

5 And in regards to Mutual Help, I would assume that
6 there would be -- have to be on the local level some
7 consideration of the MHOA, the agreement in place. But
8 again, it's a local -- local decision.

9 MS. PODZIBA: Annette?

10 MS. BRYAN: If the unit is conveyed to a low rent,
11 what is the conveyance date? Does this address that,
12 or will it convert or would stay on the FCAS in
13 perpetuity as long as it's low rent for purpose of
14 formula?

15 MR. ADAMS: For FCAS eligibility, count wise, yes,
16 but it will be funded as this states. If it was a
17 Mutual Help and it was converted to low rent, it will
18 live on in FCAS eligibility as a low rent, but it will
19 be funded as a Mutual Help if that happened after '97.

20 MS. PODZIBA: Other questions? Rusty?

21 MR. SOSSAMON: How does this language then
22 reconcile with 318(2) and (2)(b)? Because if you

1 convert it from a Mutual Help unit to a rental unit,
2 then you're no longer enforcing strict compliance with
3 the MHOA, and (2) (b) says rental units shall continue
4 to be included for formula purposes as long as they
5 continue to be operated as low-income rental units.

6 MR. ADAMS: Right.

7 MR. SOSSAMON: So if you convert it, this is
8 saying one thing under this section and another thing
9 under this section.

10 MR. ADAMS: I don't believe there's a conflict,
11 though, because the home ownership terms of conditions
12 of the new MHOA, if you convert a low rent to it,
13 apply. So when that new converted unit from a low
14 rent, when the new MHOA or whatever agreement you have
15 in place expires, then that would come off of your
16 count in that scenario under (2).

17 A (2) (b) rental unit must be operated as a rental
18 unit is what this says. And as long as it is, then it
19 will be continued to be eligible for your FCAS
20 eligibility, but your money received for it is as a
21 Mutual Help unit.

22 There is no conflict between the two. It's just

1 this further clarifies how you get funding for those
2 units in the future.

3 MS. PODZIBA: Is that clear, Rusty? Do you have a
4 follow-up question? Carol?

5 MS. GORE: Thank you. This is not substance
6 question. But I found the first sentence under (b) to
7 be a little clumsy, and I had to read it three times.
8 So maybe it's just a Carol issue and not an everybody
9 issue.

10 But I have a suggestion, if you would entertain
11 it, and that is just to change the order of the
12 sentence to start with "Whether or not it is the first
13 conversion," and continue with the rest of the
14 sentence. Changes no words, no verbiage, but I think
15 it makes the intent of that sentence more clear.

16 If that's not acceptable to you, Jason or whoever
17 is on the committee, and I'm happy to withdraw that
18 suggestion just for clarity.

19 Thank you.

20 MS. PODZIBA: Jason, is it okay?

21 MR. ADAMS: I don't -- yeah, it doesn't change the
22 intent. It's just further clarifying for you. That's

1 fine.

2 MS. PODZIBA: Okay. Earl?

3 MR. EVANS: Earl Evans, Haliwa-Saponi.

4 Number 3 seems like an incomplete. Could you
5 explain what you were trying to get at? Did you mean
6 to stop with a period at ACC, or what's missing at the
7 end of it?

8 MR. ADAMS: We are missing some language there. I
9 apologize. I would have to go back to my notes and
10 figure out exactly what that language says. Do we have
11 our drafters in the room as to when this was drafted?
12 Yes, Jad?

13 I didn't even catch that. Thank you, Earl.

14 MR. ATALLAH: Jad Atallah with HUD.

15 I think that's probably just a redline mistake. I
16 think -- I need to confirm this. But that last line
17 may just have to be struck. Yeah. The very last line.

18 MS. PODZIBA: So it ends after "for your response
19 form."

20 MR. ATALLAH: I believe so.

21 MS. PODZIBA: That's the end? Thanks, sir.

22 Annette?

1 MS. BRYAN: I have another sort of technical
2 little question, and I might not be reading this right,
3 but I've got my up here. The formula current assisted
4 stock consists of two elements. They are (a) and (b).
5 We've added three -- we've added (c). So do we need
6 to change the word "two" to the word "three" in the
7 first sentence?

8 MR. ADAMS: I don't believe so. We didn't talk
9 specifically about this issue, but the statement says
10 the formula for assisted stock components consists of
11 two elements. They are (a) and (b). That's correct.

12 But (c) goes back to the first question of how is
13 the term from the 16 components developed? And it's
14 dealing under that question how you deal with a
15 conversion.

16 So my initial take on this is that the formula,
17 the statement is the formula current assisted stock
18 component consists of two elements. They are (a) and
19 (b), and that's what they are. Conversion isn't a part
20 of those.

21 Yes, Jad?

22 MR. ATALLAH: Thank you. So, so that line that we

1 just struck I think got actually moved from the top to
2 the bottom somehow. So it should say --

3 MS. CURLY: It should say in (1) "if," and then
4 you go down to the very last line, "units were
5 converted before October 1, 1997, as evidenced by an
6 amended ACC, then those," and you go back to the rest
7 of what's in (1), "units will be counted for formula
8 funding and eligibility purposes as a type of unit to
9 which they were converted."

10 So we just have some problem in the formatting.

11 MR. ADAMS: Are you going to address the two
12 elements question, Jad?

13 MR. ATALLAH: Sure. Just to clarify, is the
14 question whether how the two elements kind of work?

15 MR. ADAMS: Well --

16 MS. BRYAN: No, no, no. It said there are two
17 elements (a) and (b). You've added a new --

18 MR. ADAMS: Then we add (c).

19 MS. BRYAN: You've added (c), and to me, it looks
20 like there are three elements, (a), (b), and (c), just
21 the way that it's lettered. So I was just wondering if
22 you add a new subsection (c), but it says up here

1 there's two elements. They are (a) and (b), and then
2 you add a new subsection (c), it just does it -- does
3 it matter is my question.

4 MR. ATALLAH: So it doesn't as what we're doing
5 here is not adding a new -- you're absolutely right.
6 We're not adding a new element to the formula. I don't
7 remember why we put it in here, other than the fact
8 that it's addressing conversion of FCAS units.

9 It kind of stands on its own. We're not adding an
10 element. That's not the intent here. But it just
11 seemed to be a good place to put it, but it should
12 stand on its own, independent of the other two
13 elements.

14 MS. BRYAN: Thank you.

15 MS. PODZIBA: Okay. Sami Jo?

16 MS. DIFUNTORUM: Hello. So I guess what I need to
17 ask is why the units wouldn't just follow the ACC? I
18 mean, the obvious answer would be to keep it in the
19 funding formula, which I thought was the point to
20 Mutual Help conveying besides transferring ownership.
21 But they were not in the funding formula, and this
22 seems to just kind of prolong that by turning them to

1 rentals and the funding being available basically in
2 perpetuity.

3 I mean, was there another reason that they
4 wouldn't follow the ACC?

5 MR. ADAMS: I guess I'll take a shot at that. The
6 issue is under (2) is whether the funding type and the
7 continued eligibility are separated out. And right
8 now, in current practice, there is no statutory -- or
9 regulatory language on this issue. So this is really
10 giving the guidance that HUD needs to take care of this
11 conversion issue.

12 And again, the difference on (2) is the funding
13 type. You know, if it's a Mutual Help converted to a
14 low rent, it continues to get funded as a Mutual Help.

15 If you leave it as a low rent forever, it'll always be
16 funded as a Mutual Help, and that's what the
17 distinction is on that number (2).

18 MS. PODZIBA: Jason? Jason Dollarhide?

19 MR. DOLLARHIDE: The question I have is the two
20 words "vice versa." From a -- I'm assuming that means
21 from a low rent to a -- convert from a low rent to a
22 home ownership, and the first sentence is number (c).

1 It says conversion of FCAS units from home ownership to
2 low rent or vice versa.

3 What I guess -- I guess my question is how does
4 that come to play within the eligibility? Also does
5 the 25 years come into play whenever you convert that
6 from a low rent to a Mutual Help? And then also I mean
7 could you just keep -- could you just keep flipping
8 these back and forth from low rent to Mutual Help to
9 keep -- in order to keep them in your count?

10 MR. ADAMS: To answer your first question, in
11 regards to the statement at (c), that is basically just
12 clarifying what conversion is. So it's conversion can
13 be either from home ownership to low rent or from low
14 rent to Mutual Help -- or home ownership, however you
15 define home ownership.

16 In regards to the second part of your question,
17 the issue that we tried to, again, address in (2) is
18 that you can do that, you know, if you want to -- if
19 you want to change all your Mutual Helps to low rents.

20 And therefore, they live on. Then the other part of
21 that issue is that you won't get the higher subsidy
22 amounts for that as a low rent unit. They will live as

1 Mutual Helps.

2 So there isn't the financial bonus to that. The
3 life is there for the life of the unit. So in low
4 rent, it can live on as long as you maintain it as
5 such, but if you have Mutual Help units that are
6 getting near their time or their life, then you flip
7 them over. Then, yeah, so the other scenario is from
8 low rent to Mutual Help.

9 When you enter into that situation, then you enter
10 into a new agreement. And whatever the life of that
11 agreement is, is when that unit then expires.

12 MS. PODZIBA: Earl?

13 MR. EVANS: Earl Evans, Haliwa-Saponi.

14 So just to make sure that I understand this
15 correctly, if I switch a Mutual Help to a low rent
16 unit, the subsidy that I continue to get, even though
17 that becomes low rent and counts for FCAS eligibility,
18 continue to get paid at the Mutual Help amount?

19 But then, and when it says whether or not it's the
20 first conversion, then if I layer, switch that back to
21 a Mutual Help and then back to a low rent, it still
22 keeps the same, no matter how many times I convert it?

1 MR. ADAMS: Correct.

2 MR. EVANS: Am I understanding that correctly?

3 MR. ADAMS: Correct.

4 MR. EVANS: Okay. Thank you.

5 MR. ADAMS: And again, this -- this is putting
6 into regulation current practice because right now
7 there's not guidance, and that very thing is what's
8 happening now, that units are getting funded at that
9 original ACC, whatever they were developed as.

10 MS. PODZIBA: Sam?

11 MR. OKAKOK: I did have a follow-up question to
12 Earl's question. This one would be also regarding
13 NAHASDA units after '96. If units, low rent units were
14 built after that and would they be able to convert to
15 Mutual Help or Turnkey?

16 MR. ADAMS: The answer to your question, Sam, is
17 that after '96, those units aren't part of FCAS. So
18 whatever you do, however you operate them, as low rent
19 or Mutual Help, they're not counted as FCAS. So you're
20 not getting funding for them as FCAS.

21 That's really up to you on a local decision on how
22 you switch those, convert those, whatever you do.

1 That's outside of this issue because they're not FCAS.

2 MR. OKAKOK: Okay. I just wanted that
3 clarification because it didn't quite say that. But,
4 you know, that's what popped in my head, and I was
5 thinking about that, that conversion.

6 MR. ADAMS: Our workgroup is right knee deep in
7 the NAHASDA assisted units discussion. So that's where
8 that issue will come from.

9 MS. PODZIBA: Thank you. Are there other
10 clarifying questions about this proposal? Okay. So
11 shall we -- yes, Earl?

12 MR. EVANS: Thank you. Earl Evans, Haliwa-Saponi.
13 In thinking about how all of this works, I know
14 this is something that will occur locally. But would -
15 - would you be opposed to an amendment that asked a
16 local tribe to enact a law concerning how that
17 conversion would occur within the tribe?

18 And the reason I ask that is because I'm thinking
19 of how those home owners that are in Mutual Help
20 process then convert, and they've got all that time
21 invested. They've got the portion they were paying
22 invested. So I'm just wondering should there be a

1 tribal law passed that specifies how those things
2 occur?

3 MR. ADAMS: Again, I guess my shot at answering
4 your question is that's a local decision, a local
5 control issue. It doesn't necessarily affect this
6 issue. If you have an MHOA with -- Mutual Help
7 occupancy agreement with somebody now, how you convert
8 that at the local level, that's your decision. I don't
9 think it affects this language.

10 MR. EVANS: I guess in follow-up, what I'm asking
11 is rather than HUD coming out with a guidance telling
12 you how to do it, shouldn't we put in something that
13 says that the conversion will occur consistent with
14 tribal law, for example?

15 Because I'm wondering if this will lead to a
16 guidance on how those agreements conclude in order to
17 do a conversion. Or maybe someone can answer my
18 question as to how they do it now?

19 MR. ADAMS: Well, right now, basically, this --
20 what we're proposing here is what happens, per
21 guidance. And so, we're giving it the regulatory
22 backing to continue that practice that's happening now.

1 And all's we're dealing with is the funding for the
2 unit and what happens when you convert units, and it's
3 basically again just that the funding stays with what
4 the original unit was being built as.

5 That's what we're clarifying. Jennifer?

6 MS. BULLOUGH: I think this particularly pertains
7 to home ownership units that might be converted to low
8 rent. So if the home ownership unit is vacant, it's
9 not an issue because there's not a family in there.

10 If the home ownership unit is not vacant, then
11 that family is protected by the MHOA, and the family
12 has to agree to the conversion. So it's something that
13 the family wants to do and is not being forced upon
14 them.

15 If the housing authority were forcing a conversion
16 on them, then the family could go to tribal court with
17 their MHOA and argue in court that their MHOA is being
18 violated. So I think the provisions of -- the legal
19 provisions are already there to protect the home owner.

20 MS. PODZIBA: Okay. Annette?

21 MS. BRYAN: Annette Bryan, Puyallup Nation Housing
22 Authority.

1 I just wanted to offer a little bit about how we
2 do this, and I appreciate codifying the current
3 practice because at our housing authority, we do have
4 units where home owners have failed for whatever
5 reason, and the unit is vacant. And we have such a
6 high waiting list with no qualified home buyers or
7 people who just aren't ready to become home owners that
8 we do convert them into rental units to move another
9 family into that unit so they have a place to live.

10 So these units that we're talking about, we're not
11 talking about someone who's at the end of their 25
12 years and then converting it to low rent for the sake
13 of converting it to low rent. When -- we've had a few
14 successful, just this last year convert -- the 25 years
15 has been up, we convey those units.

16 But the units that we turn into low rent units are
17 units, as Jennifer was stating, that are vacant or, for
18 some reason, the home owner has failed or, you know,
19 it's not a unit that a family is living in and we
20 convert it while they're in it. Although that's
21 probably a local decision as well.

22 MS. PODZIBA: Thank you. Other clarifying

1 questions or comments? Yes, Rusty?

2 MR. SOSSAMON: I just have a question. I
3 understand what you said, Annette, as at the end of the
4 25 years period, you go ahead and convey those. You
5 don't convert them into a low rent unit. But is there
6 anything in this language that would stop you from
7 doing it, from not conveying and simply converting it
8 to a low rent unit and the family continues to live
9 there under whatever agreement you made with them?

10 MR. ADAMS: If the question is if any of this
11 language would not allow that to happen, the answer
12 would be no because, again, that's a local decision
13 based on, again, as Jennifer just said, that the MHOA,
14 if there's allowable circumstances under the MHOA for
15 that to happen, then it can happen.

16 But if a family is being forced, then like she
17 said, they can go to court, fight for their right to be
18 home. But this language doesn't -- doesn't get into
19 that issue. It allows that to be a local decision.
20 And also the guidance language that's out there now
21 doesn't get into that. Again, we're just dealing with
22 the conversion and the funding that follows it.

1 MS. PODZIBA: Okay. Shall we go through the
2 language section by section?

3 MR. ADAMS: Yes, now that's it been properly put
4 into its form, and I didn't catch that from the
5 beginning. So, yeah, let's do that.

6 MS. PODZIBA: All right. So let's start with
7 (c) (1). So the fix, so the sentence after conversions
8 and paragraph (1) as fixed, not really revised, but
9 just fixed. Are there any questions or comments on
10 (c) (1)?

11 (No response.)

12 MS. PODZIBA: Okay. Then can I ask you to look at
13 (2)? (2) has a friendly amendment already in there,
14 which was just the change of the sentence order. Are
15 there any further comments or questions or suggested
16 revisions to paragraph (2)?

17 (No response.)

18 MS. PODZIBA: Okay. How about -- oops, I'm sorry.

19 (Pause.)

20 MS. PODZIBA: Rusty?

21 MR. SOSSAMON: Under (2) (a), where it says funding
22 type, and I believe this is the intent where it says

1 units that converted after October 1, 1997, will be
2 counted as the type of unit specified on the original
3 ACC. And where it says "counted as" right between
4 "the" and "type" as the funding type, I think it would
5 help.

6 I think that's what you're intending by that. Is
7 that correct?

8 MR. ADAMS: Yeah, you're correct, and that's why
9 at the beginning, it says "funding type" because that's
10 what it's talking about. But if you want to clarify
11 it, I have no problem with adding the term "funding
12 type" into that. I don't think it changes the intent
13 at all.

14 MS. PODZIBA: Okay. So the proposal is to -- the
15 amendment is to add "funding" before "type" in that
16 sentence is accepted by Jason. Is it acceptable to
17 everyone else around the table? Okay.

18 I just want to give another -- is there anything
19 else on paragraph (2)? Rusty?

20 MR. SOSSAMON: On (2)(b), to make it clear what
21 this does, it's converted from Mutual Help into low
22 rent. It'll still be counted as a Mutual Help unit and

1 funded at whatever that level is. However, it'll be
2 treated as a low rent unit, which means as long as you
3 continue to operate it as a low rent unit, it continues
4 to be eligible, okay?

5 And if you convert it back to the Mutual Help
6 unit, then it's --

7 MR. ADAMS: The terms of the MHOA would apply.

8 MR. SOSSAMON: Right. And would have a new 25-
9 year period on it before conveyance.

10 MR. ADAMS: Or whatever the agreement said. I
11 mean, I don't know if folks still use those old MHOAs
12 or if they've updated them and shortened the time
13 period. I don't know. It's up to you. You don't get
14 money for them. So --

15 MR. SOSSAMON: Don't get money for them?

16 MR. ADAMS: In that scenario, you don't. The
17 funding has a rule using it for the maintenance and
18 upkeep. There are restrictions contained in the MHOAs
19 surrounding the funding per these amount, payments and
20 all that. You don't have to (inaudible). Maybe I'm
21 confusing things by saying that. I'm just adding my
22 opinion.

1 MR. SOSSAMON: Yeah, the clarification is under
2 this that you could convert them, and I think they
3 would get to low rent, and then as long as you continue
4 for however many years, 50 years, to operate it as a
5 low rent unit, then you receive the FCAS funding. But
6 it would still be at the type of -- considered a Mutual
7 Help. Correct?

8 MR. ADAMS: Yes.

9 MS. PODZIBA: Jason?

10 MR. DOLLARHIDE: Maybe you answered this, Jason,
11 with Rusty, but I kind of lost some of it. So if you -
12 - if you convert that from a low rent to a Mutual Help
13 or should I say I'm assuming that's going to go as to a
14 NAHASDA unit when you convert that, when you do your
15 agreement, will that just go into the back into the
16 Mutual Help program? That's still in the '37 Act. So
17 you could still get FCAS money for that unit over the
18 life of that for a NAHASDA unit.

19 Just whenever you start that 25-year process over
20 again from a -- because once you go from -- well, you
21 understand what I'm asking. Is that going to be
22 considered a NAHASDA unit once it goes from a low rent

1 to when you convert that over, or does it say under
2 '37, you still get your FCAS money?

3 MR. ADAMS: I'll try to answer your question
4 because what I see is maybe you're asking two different
5 things. If it's counted as FCAS, be it a low rent or
6 Mutual Help, it will continue to be counted as FCAS
7 units.

8 Now if you convert a low rent to a home ownership
9 unit in whatever form you use, then it's a home
10 ownership unit. It might not be a Mutual Help unit,
11 but it could be a home ownership unit with a different
12 kind of contract that governs you are creating with the
13 home owner.

14 MR. DOLLARHIDE: And (a) keeps us -- okay, I'm
15 with you.

16 MS. PODZIBA: Rusty?

17 MR. SOSSAMON: In that case, where you converted a
18 rental property, you know, into a home ownership unit
19 that's anything other than Mutual Help or Turnkey III,
20 then it's not eligible for funding, formula funding
21 anymore, right?

22 MR. ADAMS: Well, according to this language, it

1 is because it says a unit that is converted to home
2 ownership will be treated as a home ownership unit for
3 purpose of determining continuing FCAS eligibility. We
4 specifically say home ownership and not Mutual Help.

5 MR. SOSSAMON: Well, in (c) at the beginning of
6 the new subsection, it says conversion. Conversion of
7 FCAS unit from home ownership, and then it has Mutual
8 Help and Turnkey III to low rent and vice versa. So
9 I'm assuming from low rent to vice versa, which would
10 then be first "vice," I guess.

11 (Laughter.)

12 MR. SOSSAMON: Would be low rent to Mutual Help or
13 Turnkey III. If you converted it to something other
14 than that, a home ownership unit that was never
15 developed under '37 Act, then it would be a NAHASDA
16 unit, but it would be a different home ownership unit.

17 MR. ADAMS: Yeah.

18 MR. SOSSAMON: And I believe we could do it, but
19 it wouldn't be eligible for FCAS at that point.

20 MR. ADAMS: What we're saying here under (b),
21 (2) (b) is that it continues to be counted as your FCAS
22 eligibility because that original unit, being a low

1 rent unit, lives on as a low rent unit, however you
2 treat it as home ownership. Whether it's -- because
3 it's not Mutual Help or Turnkey III, whatever home
4 ownership form it takes, it was originally a low rent
5 unit. So then it lives on with that subsidy as long as
6 you have an agreement with that home buyer.

7 Once that agreement expires and you give title to
8 the unit to the home buyer, then it gets pulled away
9 permanently.

10 MS. PODZIBA: Carol?

11 MS. GORE: Okay. So all this chatter has got me
12 confused. I have two questions specifically. Under
13 (2)(b), the last sentence says, "A unit that's
14 converted to home ownership shall continue to be FCAS
15 eligible." And I want to know if by "home ownership,"
16 you mean exclusively Mutual Help and you mean anything.

17 So a tribe could convert to a home ownership that was
18 never subject to an ACC? Okay?

19 MR. ADAMS: Go ahead, Jad. I'm going to leave
20 this to you.

21 MS. GORE: That's my first question. I do have a
22 second question. So, Jad, do you want to respond to

1 that one first?

2 MR. ATALLAH: Sure. Sure. So since the beginning
3 of the program, there are some transition notices that
4 you all are pretty familiar with. The basic rule in
5 those cases is that if you convert a low rent unit to a
6 home ownership unit, because the statute says that as
7 long as the unit is a low-income housing dwelling unit
8 that's owned or operated by the recipient and the unit
9 is otherwise in compliance, everything else is in
10 compliance with NAHASDA, the unit will remain on as an
11 FCAS unit.

12 If it's a low rent unit converted, let's say, to
13 lease-purchase, it's in the style of a Mutual Help
14 program, we don't call it a Mutual Help program because
15 you choose not to, but it's similar. As long as there
16 is a bilateral agreement by the recipient and the home
17 owner or the occupant to do that, and as long as that
18 agreement is in compliance with the requirements of
19 NAHASDA and you keep owning or operating that unit, we
20 continue to give you that FCAS subsidy.

21 It's a bit nuanced. But the basic point is that
22 you can convert to a home ownership unit from a low

1 rent unit, and it doesn't have to be exactly a Mutual
2 Help style home ownership given it to continue to get
3 an FCAS subsidy for it. You'll continue to get the low
4 rent subsidy, if it was a low rent originally.

5 But the unit, once it's conveyed, will come off.
6 If it stayed as a low rent unit, it would continue. So
7 that's the basic requirement. It's a bit nuanced.

8 MS. GORE: That's helpful. My assumption is when
9 a home ownership unit converts -- or is conveyed, I'm
10 sorry, then it's no longer part of FCAS.

11 MR. ADAMS: Correct.

12 MR. ATALLAH: That's correct.

13 MS. GORE: Thank you. My second question, and I'm
14 not exactly sure how to ask this. So if I could use an
15 example to ask the question?

16 Let's say that I convert a Mutual Help unit that's
17 been in the Mutual Help program for let's call it 5
18 years. I convert it to low rent. Five years later, I
19 convert it back to Mutual Help. What's the life --
20 what's the life of that Mutual Help unit when I convert
21 it back? Does it start at year one again, or does it
22 start at year six?

1 MR. ATALLAH: So your conversion is of a --
2 originally, it was a Mutual Help unit prior to 1997
3 being moved to a low rent, and then you moved it over
4 to a Mutual Help again?

5 MS. GORE: Right.

6 MR. ATALLAH: As long as you own or operate that
7 unit, the unit will stay on as FCAS based on the terms
8 of that new agreement you signed with the new home
9 owner, that new lease-purchase agreement. You're
10 calling it a Mutual Help unit, but really it's not the
11 old Mutual Help unit. It's really a new lease-purchase
12 agreement that you're signing, right?

13 Since you converted it after 1997, the Mutual Help
14 program doesn't exist anymore. So you look at the term
15 of that lease/purchase agreement. You make sure the
16 agreement complies with the requirements of NAHASDA,
17 and you make sure you have a bilateral agreement from
18 the home owner. You can keep that unit on as long as
19 it is owned or operated by.

20 MR. ADAMS: Yes.

21 MS. GORE: Understood. Thank you.

22 MS. PODZIBA: I've got Annette next and then --

1 MS. BRYAN: Carol got to my question. So then,
2 just in terms of logistics, where we say in (c)
3 conversion of FCAS units from home ownership, and we
4 say -- I don't know if this is, for example, Mutual
5 Help or Turnkey. And we're talking about we call ours
6 HOPA, Home Ownership Program Agreement. So our new
7 home ownership program is called HOPA.

8 If the regulation specifies Mutual Help or Turnkey
9 to low rent or vice versa, this may not be an issue,
10 but do we need to clarify that it's the home ownership
11 program, or is that just for example or -- because it
12 says "vice versa" to -- it should say "to low rent."

13 If you go from home ownership -- Mutual Help or
14 Turnkey -- to low rent, or from low rent back to a home
15 ownership program, then we're not talking about back to
16 Mutual Help because Mutual Help doesn't exist anymore.

17 I'm pretty literal. So I don't know if it matters,
18 but --

19 MR. ADAMS: If you're offering that as an
20 amendment, I'd be fine with that. The way I would read
21 it -- would suggest it read is, is that conversion of
22 FCAS units from home ownership (Mutual Help or Turnkey

1 III) to low rent or home ownership -- or from low rent
2 to home ownership. Not "back to" because it could be
3 originally a low rent unit that's converted.

4 MS. BRYAN: That's -- yeah, thank you.

5 MS. PODZIBA: So that's an acceptable change?

6 MR. ADAMS: Yeah, if that's --

7 MS. PODZIBA: Is that change acceptable to
8 everyone? Okay. Sam?

9 MR. OKAKOK: I did have some question in regards
10 to this. When does it end? Is this -- are all the
11 FCAS units going to be here in 100 years after a couple
12 of demolitions?

13 MR. ADAMS: Well, like --

14 MR. OKAKOK: Is there an end to this? I see --
15 see (2)(a), the funding type will convert back to ACC.
16 Is that may be the portion that allows it to continue
17 on and on and on. You know, 400 years from now, we're
18 in for another one.

19 MR. ADAMS: I understand your question, but this
20 specific regulation doesn't deal with that issue. This
21 isn't the area that deals with that issue. This area
22 is just dealing with -- and again, actually, that's a

1 local control type of issue. If you have a bunch of
2 Mutual Help units and you've converted them all to low
3 rent units, as long as they maintain an eligibility for
4 the program --

5 MR. OKAKOK: Yeah, I understand.

6 MR. ADAMS: -- they can live on as low rent units
7 as long as you keep them updated and keep -- put money
8 into them and keep using them as low rent units. So,
9 yeah, they can exist for 100 years.

10 I wouldn't assume that there would be home
11 ownership units around in 100 years because they should
12 have conveyed by now. But at some point in time, the
13 FCAS portion -- in my opinion, the FCAS portion of the
14 formula will just be local units.

15 MR. OKAKOK: Yeah, my thought --

16 MR. ADAMS: And Section 8, yes. And Section 8.

17 (Laughter.)

18 MR. OKAKOK: My thought around this, that we're
19 getting away from conveying and allowing home ownership
20 for our tribal members. That's exactly what I'm
21 getting at is I don't want them to wait and wait and
22 wait until they can own a home.

1 MR. ADAMS: You just -- you hit the very critical
2 differentiation. That's a conveyance issue. And
3 again, that goes back to the Mutual Help agreement or
4 home buyer agreement, whatever you want to call it. At
5 some point in time, those end. And so, when they do
6 end, they come off your FCAS portion of the count for
7 home ownership.

8 MS. PODZIBA: Okay. We're still on paragraph (2),
9 and I'm wondering if there are any other questions or
10 suggested revisions to paragraph (2)?

11 (Pause.)

12 MS. PODZIBA: Every time I'm ready to move to (3),
13 someone raises their hand.

14 MS. BRYAN: Let's go.

15 MS. PODZIBA: So I just want to be sure to give it
16 an extra little bit of time. Okay. Moving then to -
17 yes?

18 MR. JACOBS: I call for the question on this.

19 MS. PODZIBA: Call the question. Okay. Let's
20 move it to the chairs.

21 MS. BRYAN: Thank you, Leon. Is everybody ready
22 to call for consensus?

1 All right. I would like to call for consensus on
2 revisions to Section 1000.316, adding new subsection
3 (c), as amended in front of you. All in favor for
4 consensus?

5 (Voting.)

6 MS. BRYAN: Okay. Excuse me, sir. We're calling
7 for consensus.

8 MR. ADAMS: Can I say no?

9 (Laughter.)

10 MS. BRYAN: Yes, sir, you can.

11 MR. ADAMS: I apologize.

12 MS. BRYAN: You will explain your reason. That's
13 fine. And offer -- offer an alternative. That's fine.

14 MR. ADAMS: Well, the issue that I'm being asked
15 about is the -- the (2)(a), the way it reads is
16 grammatically incorrect. And so, if we could propose
17 just to make that read correctly, then that's --

18 MS. BRYAN: So we have a --

19 MR. ADAMS: If we want it to go into the process
20 and not read right, then I'm all for it.

21 MS. BRYAN: So part of the process is if you have
22 an objection, you would present a proposal to us.

1 MR. HEISTERKAMP: Technical correction. Perhaps
2 you would consider, "Units that converted after October
3 1997 will be funded as the type of unit specified in
4 the original ACC." Because I'm not sure anybody knows
5 what a funding type of unit is. I think it was just a
6 misplaced amendment in the first place. So it should -
7 -

8 MS. BRYAN: "Funded" in place of "counted"?

9 MR. HEISTERKAMP: Yes. "Funded as the type of
10 unit specified in the ACC." I think that gets to
11 Rusty's -- he just wanted to make that part clear. It
12 was just a misapplication there.

13 MS. BRYAN: Yeah, we tried to correct that
14 earlier. Thank you.

15 MR. HEISTERKAMP: So, otherwise, it means the same
16 thing.

17 MS. BRYAN: Okay. Call for consensus was put on
18 pause.

19 (Laughter.)

20 MS. BRYAN: So there was a technical word
21 placement correction. I'm going to call for consensus
22 on the amendment in front of you.

1 MR. SAWYERS: It wouldn't be put on pause. It
2 would be that was voted down, and then you change that,
3 and then you vote again, for the record. For the
4 record.

5 MS. BRYAN: Okay. We have a new proposal in front
6 of us. We'll call for consensus on this new proposal,
7 amended proposal.

8 MALE SPEAKER: I'm really mad at you --

9 MS. BRYAN: Quickly, may I see consensus?

10 (Voting.)

11 MS. BRYAN: Thank you. Good job.

12 (Applause.)

13 MS. PODZIBA: Okay. Next up?

14 MR. ADAMS: Madam Chair, the issue -- the only
15 issue we have remaining, the documents that are passed
16 out. The item that's headed 1000.310 is not ready for
17 consideration by the committee, and so I just want to
18 make sure they're not entered there.

19 And so, the only item we have left is to come back
20 to the 318 language at (d)(1) and finalize that if HUD
21 is ready to propose a friendly or unfriendly, some type
22 of amendment.

1 MS. BRYAN: Thank you, Jason. We're going to
2 bring 318, ask if HUD is ready for us to bring back
3 318? So we can start the clock and pull 318 up,
4 Section 1000.318. I believe we have 1 hour, 8 minutes,
5 and 55 seconds up on the clock remaining.

6 (Pause.)

7 MS. PODZIBA: Okay. So this is the proposal from
8 HUD, proposed revision.

9 (Pause.)

10 MS. PODZIBA: Okay. Does someone from HUD want to
11 speak to that? This replaces (d)(1). Can everyone see
12 it? Would it be helpful to read it out?

13 MS. BRYAN: And if you guys can make the font
14 bigger up there? I don't know if there's room on the
15 screen. It is hard to see from back here.

16 MR. ADAMS: I guess as far as the -- accepting the
17 amendment, I don't -- in my first read of this, I don't
18 really -- I see the changes, the issue of demolition,
19 beginning terms there. And in light of that, I don't
20 have any problem with it.

21 I don't know if the rest of the workgroup wants to
22 speak for themselves and see if there is a change here

1 or something they can't live with. But for me,
2 bringing this to the table, I'm okay with it.

3 MS. PODZIBA: Any questions about HUD's proposed
4 revision to (d)(1)?

5 (Pause.)

6 MS. PODZIBA: So if I understand correctly, this
7 would replace the (d)(1) of the original draft. Is
8 that correct? Okay. Leon?

9 MR. ADAMS: (d)(1)(i).

10 MR. JACOBS: Leon Jacobs, Lumbee Tribe.

11 In the notification to HUD, is the APR sufficient
12 for informing HUD?

13 MR. BOYD: Yes.

14 MR. ADAMS: Get it all on one page.

15 (Pause.)

16 MR. BOYD: It should be on the formula response
17 form.

18 MS. BRYAN: And can we redline the top, just for
19 clarify where we've taken out (d)(1)(ii). Is that
20 right, or is this something separate? This replaces
21 that. That is that right?

22 MR. ADAMS: This replaces (1)(i) and (ii). And I

1 believe there is -- well, I think that's it then.

2 MS. BRYAN: Thank you.

3 MS. PODZIBA: Jason?

4 MR. ADAMS: There's nothing further down?

5 (Pause.)

6 MS. PODZIBA: Jason?

7 MR. ADAMS: I guess I want to clarify, then does
8 the -- does (2) then still exist? (d)(2)? Are you
9 trying to eliminate that, too? I guess I shouldn't
10 have given my consent to the amendment as clarifying
11 then.

12 MR. BOYD: No, we do have -- it's actually -- the
13 question cleared this up. But, yeah, there is -- we
14 are also proposing a change then in (ii).

15 MR. ADAMS: But I guess then the next part of it
16 is (d)(2). Does (d)(2) stay in its current form
17 unamended?

18 MS. BRYON: No, there is a proposed -- it's coming
19 up.

20 MR. BOYD: There is a proposal.

21 MR. ADAMS: Oh.

22 (Pause.)

1 MR. ADAMS: I guess then this is a significant
2 change from the original (d) (2) because now you are
3 asking for the repayment of those amounts, and you are
4 saying that they were overpaid. And in our opinion
5 from the workgroup, that those -- that unit was in a
6 rebuilding status, therefore should still be eligible
7 for those.

8 And the tradeoff on that was that after that 4-
9 year period, if we did -- if the recipient didn't
10 notify HUD that the unit was done, then the unit would
11 automatically come off the count. It requires then the
12 recipient to do something to keep it on. Yes?

13 MR. ATALLAH: Hi. Jad Atallah with HUD.

14 I guess our concern with the first draft as
15 proposed is that the 1-year clock starts ticking when
16 the demolition is complete. And it's not -- for us,
17 when we administer the formula, we need to have a much
18 clearer date as to when that clock begins.

19 And if the clock begins when the demolition is
20 complete, you could have situations where let's say a
21 natural disaster happens and the unit is partially
22 damaged, but it's not demolished yet. And 3 years go

1 by or 4 years go by where the unit sits vacant, and
2 you're receiving an FCAS subsidy for that unit for
3 those 3 or 4 years.

4 And then the demolition commences and is
5 completed. Let's say it gets completed in 6 months.
6 That's the date the clock starts ticking. Then you
7 have another 4 years from that date to complete the
8 rebuilding of the unit. That comes out to about 8
9 years of funding subsidy for a unit with nobody in the
10 unit.

11 Now HUD's concern is the following. We need to
12 have a clear early start date on this clock. We're
13 fine with the 4-year period, and we're really, you
14 know, being very lenient in that the statute says the
15 rebuilding takes place in 1 year, whatever that means.

16 We're construing it in a lenient manner to allow you a
17 4-year period to complete that rebuilding process, but
18 the clock has to start early. And it has to start at a
19 definitive date.

20 Our revisions, what they do is try to start that
21 clock at an earlier point and a more definitive point
22 where the unit becomes uninhabitable or otherwise not

1 available for occupancy due to the condition of the
2 unit. So if a natural disaster happens, the unit is no
3 longer available for occupancy, the clock starts
4 ticking then.

5 But also in the voluntary demolition situation,
6 the unit is no longer available for occupancy because
7 you move people out to demolish the units, that's when
8 the clock starts ticking. That alleviates some of our
9 concerns because it means that the clock starts ticking
10 earlier, and we'll give you the 4 years.

11 MR. ADAMS: I agree with you. And that's why,
12 when I first read (d)(1)(i) and (ii) that that makes
13 sense to me that you're solidifying that issue as to
14 when the clock starts, and I understand that.

15 But to then further penalize recipients by if they
16 don't complete within that 4 years then to ask for a
17 repayment. Your first explanation I understood it as
18 far as drag that out 8 years, that's fine. In this
19 scenario, you've made sure that that can't happen, to
20 some degree. But then now you're still going to ask
21 for the money back.

22 I thought the tradeoff in the workgroup was that

1 you wouldn't, that you would allow that timeframe to
2 happen, and then the recipient would have to notify HUD
3 that it's done. If they didn't notify HUD, then on
4 that fifth year, it comes off the count. If they
5 haven't done their part to notify you, it comes off,
6 doesn't get counted anymore. They've had their 4 years
7 to rebuild. It's done.

8 MS. PODZIBA: Rodger?

9 MR. BOYD: Thank you. I guess we didn't look at
10 it as a penalty. We really looked at it as an
11 incentive to get the work done and to get people back
12 into the home.

13 MS. PODZIBA: Let me go to Earl because he's been
14 patient for a while. Earl?

15 MR. EVANS: Earl Evans, Haliwa-Saponi Indian
16 Tribe.

17 I think on the second line of (d)(1), I think what
18 you should do is instead of saying the unit "may
19 continue," the unit "shall continue." And I also think
20 that in terms of the -- the paragraph (d)(2), I think
21 the first sentence there is inconsistent with what the
22 rest of it says.

1 Because it's saying at the end of the 4-year
2 period, the unit shall not be considered -- well, I
3 take that back. I'm sorry. The end of the 4-year
4 period, okay.

5 I've got one last thing. I agree with the
6 statement Jason made about amounts overpaid because
7 it's not really an over -- you're saying it's an
8 overpayment after the 4 years. But really it's -- it's
9 really a subsidy or an allocation. So I think -- I
10 think it was better to say to repay the amounts
11 allocated because, during that time, it was a
12 legitimate allocation.

13 That concludes my feedback on that. Thank you.

14 MS. PODZIBA: So those are friendly amendments to
15 the HUD proposal. Are those acceptable, Rodger?

16 MR. BOYD: Yes.

17 MS. PODZIBA: Okay. Let me go to Leon and then
18 Carol. And then we'll come back --

19 MR. JACOBS: Leon Jacobs, Lumbee Tribe.

20 Since this is a substantial change and the full
21 committee has not addressed this, I'm recommending that
22 we take it back to the committee.

1 MS. PODZIBA: Okay. Carol?

2 MS. GORE: I just had a clarifying question. I
3 think it's for HUD. Since my understanding this was
4 really driven by a HUD practice and they wanted more or
5 better guidance within the regulation, my question is
6 whether or not it's your practice today to seek that
7 payback if the unit is not complete, or if this is a
8 new practice?

9 Thank you.

10 MS. PODZIBA: Yes?

11 MR. ATALLAH: Jad Atallah with HUD.

12 Currently, our practice is a lot stricter than
13 this. Currently, we had a statute that says the unit
14 has to be -- if it's demolished, it has to be rebuilt
15 within 1 year. We apply it strictly because that's
16 what the statute says.

17 Now with this regulation, we have a little more
18 leeway in allowing an additional 3 years to get funding
19 while that unit is not being occupied or operated
20 because of the demolition or the demolition process.
21 However, we do require repayment if we've provided
22 overfunding amount or over allocate, I should say, for

1 years where we thought the unit existed or was rebuilt,
2 and it happened that it took 5 years to rebuild a unit
3 that was demolished.

4 So, currently, this is consistent with current
5 practice, but it's even more generous than current
6 practice because it's giving you 4 years as opposed to
7 1. We're construing the statute really kind of loosely
8 to allow you those additional 3 years.

9 But current practices, we're stuck with the
10 statute and no reg. So we do a straight 1 year.

11 MS. GORE: Thank you.

12 MR. ADAMS: Madam Chair, I have a point of order
13 question here because we just -- or the facilitator
14 just accepted an amendment to something that I didn't
15 accept the friendly amendment to in the beginning. The
16 original language that was presented has been changed,
17 and I did not accept that.

18 I stated my reason that this overpayment language
19 that's in there now, I'm not agreeing to.

20 MS. BRYAN: I appreciate the clarification. I did
21 step out for a moment, and I do see that the language
22 has changed a little bit substantially. So let's go

1 back. HUD has prepared for us an amendment to present
2 to Jason, who is offering this issue.

3 So, Jason, do you accept this amendment?

4 MR. ADAMS: I do not. Once again, because again
5 the workgroup worked very hard at the language that was
6 originally presented, and a big part of that I know was
7 concession on an issue that was very relevant to the
8 tribes was that there would not be this repayment time,
9 this repayment of amounts. And so, that's a big issue
10 that I know we overcome in the workgroup.

11 And now when we get to the floor, I understand
12 (d) (1) and both the bullets there. I'm okay with that.

13 Those issues further clarify when this time period
14 clock starts. But when you get into (d) (2), the last
15 sentence of that is when HUD shall require the
16 repayment -- the recipient to repay amounts allocated,
17 overpaid, whatever we're calling it, that I cannot
18 accept.

19 MS. BRYAN: Thank you. So we go back to HUD for a
20 response.

21 (Pause.)

22 MS. PODZIBA: Jemine?

1 MS. BRYON: Let me just reiterate, and I know,
2 Jason, you described it as a penalty, being penalized.

3 I think, you know, we definitely saw this as an
4 incentive. Okay. It's already 4 years, and adding in
5 some incentive to get it done within 4 years was the
6 notion that such subsidy would have to be repaid.

7 It was not intended to penalize. It was intended
8 to incentivize. So I would just ask for just
9 consideration to view it in that way. Think about it
10 one more time. We're already talking about units
11 subsidy going to a property that's not being put to use
12 for 4 years and trying to find a way to incentivize
13 even more so to get that unit back online.

14 MR. ADAMS: Well, I guess in response, it seems
15 like, you know, if it's not a penalty, then terming it
16 as an incentive, I mean, I come from a position and in
17 my own housing authority that we have all kinds of
18 incentive and pressure put on us by our tribal
19 leadership to get that unit back online as fast as we
20 can. And so, the incentive is there locally.

21 I guess I was just saying the tradeoff at the
22 workgroup was that at the point of 4 years if the

1 recipient hasn't done their diligence to let you know
2 the unit is done, then you just automatically knock
3 that off the count. There is no process. There is no
4 dispute. There is no -- there is nothing, repayment or
5 calculation or dispute with the recipient. It just
6 comes off because they didn't do what they're supposed
7 to do.

8 That was the tradeoff. It seemed very clean to
9 me. It seemed less administratively burdensome for HUD
10 to then have to say, okay, you didn't do this. Now
11 give us all this money back. Now the recipient is
12 going to reply and say, well, I'm halfway through the
13 unit. I'm halfway done. Then what happens? Then you
14 have a back and forth.

15 In light of that issue and to keep it
16 administratively simple, we just said 4 years, let it
17 drop off, unless the recipient said it's done. We're
18 done. Units should continue on. There is no issue.

19 It just seemed administratively easy for HUD to
20 administer a program that way.

21 MS. PODZIBA: So just process point, Jason, there
22 are a couple of your other co-committee members who

1 seem to have comments on this. Should we hear from
2 them, or should we just keep the focus on this
3 proposal?

4 MR. ADAMS: Again, we don't have a proposal. We
5 have the language that existed originally because I did
6 not accept the amendment.

7 MS. PODZIBA: So I guess -- I apologize. So
8 should we hear from other people or just maintain the
9 focus on this amendment that you haven't yet -- that
10 you have not accepted?

11 MR. ADAMS: I don't know.

12 MS. BRYAN: I'm thinking for process, might I
13 offer this? I know people want to speak, and we can
14 talk about this a lot because it is a new issue. But
15 for process, we have something that was presented. We
16 had an amendment. An amendment was rejected.

17 So we're back to the original proposal. That's
18 where we are.

19 MR. ADAMS: I guess then if folks want to make
20 comment to another amendment or changes to the original
21 language, then I guess that should be considered or
22 additional amendments. I think that's where we're at.

1 Otherwise, I would call for consensus on the
2 original language. If it gets voted down, then we move
3 on.

4 MS. BRYAN: Right. Thank you.

5 MS. PODZIBA: Do you want me to call the question?

6 MS. BRYAN: I just wanted to know if the folks who
7 are in the queue have amendments to the proposal? I
8 see cards up for Earl, Tom, and Leon. Are any of those
9 in response to making amendments to Jason's proposal?
10 Earl?

11 MR. EVANS: Well, first, a process question. So
12 if I'm understanding correctly, what you want to do now
13 is simply call for a vote for consensus on the original
14 language?

15 MS. BRYAN: Yes, sir.

16 MR. EVANS: Okay.

17 MS. BRYAN: That's for process.

18 MR. ADAMS: Unless somebody is offering to amend
19 the original language.

20 MS. BRYAN: Yes, that's right.

21 MR. EVANS: Then I have a compromise position that
22 I'd like for the group to consider. What if after the

1 comma in the next to the last sentence on the original
2 proposal for (2), after the word "complete" and comma
3 in the next to the last sentence, delete that and
4 replace it with something to the effect of "the unit
5 shall no longer be funded as an FCAS unit and shall
6 convert to a NAHASDA assisted unit."

7 So there's no repayment of the amounts that have
8 been allocated during that 4-year cycle, but if you
9 have not notified HUD of completion at the end of that
10 4-year cycle, then that unit converts to a NAHASDA
11 assisted unit and is no longer eligible for subsidy.

12 MS. BRYAN: Jason, we have a proposal. Jason, we
13 have a proposal. Do you accept that amendment?

14 MR. ADAMS: Just a matter of a point of order just
15 real quick. I would prefer that it be the FCAS
16 workgroup proposal and not Jason's proposal because I'm
17 just speaking on behalf of the FCAS workgroup.

18 Any of the other FCAS members want to come and
19 take my position, you're more than welcome to.

20 (Laughter.)

21 MR. ADAMS: But in light of this item came out of
22 the FCAS workgroup, and I want to make sure that's

1 stated for the record. Because the FCAS workgroup
2 consisted of HUD and everybody else that was available
3 to enter that room and participate. I want to make
4 sure the record clarifies that.

5 And as far as this amendment, I'm okay with it
6 because it basically says what we originally said.

7 MS. BRYAN: Thank you. We have the FCAS workgroup
8 chairman has accepted the proposal to his -- the
9 amendment to his proposal. Are there any other
10 amendments? So I'm ready -- are we ready to call for
11 consensus?

12 So on the proposal in front of you with the
13 amendment that was accepted, do we have consensus? I'm
14 calling for consensus?

15 (Voting.)

16 MS. BRYAN: Okay. We have --

17 MR. SAWYERS: No, we do not.

18 MS. BRYAN: -- three dissensions. Four
19 dissensions.

20 MS. VOGEL: I'm a dissent.

21 MS. BRYAN: Five dissensions. Okay. So since
22 there's more than one or two or three or four

1 dissensions, I don't think we need to entertain each
2 person offering a proposal or an amendment or an
3 alternative.

4 So, in terms of process, do we have a dead fish or
5 what?

6 MR. ADAMS: Can I do this? As the proposal from
7 the workgroup originally in its original form, call for
8 consensus? I'm just wondering if the amendment that
9 was accepted was the issue. If not, then I want to
10 call for consensus on the original form of the proposal
11 and see how many thumbs down it gets.

12 MS. BRYAN: I think that's fair. Let's call --
13 let's -- the original proposal. We're going to call
14 for consensus on the original proposal. Can I have
15 everyone vote, please?

16 (Voting.)

17 MS. BRYAN: Okay. We have a dissension. So, at
18 this time, we're going to ask Rodger Boyd from HUD to
19 offer an alternative.

20 MR. ADAMS: Exactly. You're learning.

21 (Pause.)

22 MR. BOYD: Yes. I'd like to put up the original

1 or the proposal we put up a few minutes ago. We have a
2 couple of things that we will take out, but I'd
3 appreciate it if we could put up (d) (1) as we had
4 originally proposed and also put up (2) at the same
5 time.

6 So, in (d) (1), I felt like we were pretty close on
7 that one. Going to (2), strike the word "not." It
8 should be --

9 MS. BRYON: Put it back in.

10 MR. BOYD: "HUD shall not require the recipient to
11 repay the amounts." That should be put back in. But
12 what we would like to stay is where it reads "the unit
13 became uninhabitable or otherwise not available for
14 occupancy."

15 MS. BRYON: Last, next, after the comma. After
16 the comma at the last sentence, "HUD" insert the word
17 after "shall," put back in "not require the recipient
18 to repay."

19 MS. PODZIBA: Is that the whole proposal? So as
20 it had been except for the addition of "not." Okay.

21 MR. ADAMS: If I could in regards to accepting
22 this, I have one question. First of all, I want to

1 thank you for the -- for the addition of the word "not"
2 there. I think that satisfied a lot of the concern.

3 But just to clarify that this language that stays
4 in regards to unit becoming uninhabitable or otherwise
5 not available for occupancy, that is just the
6 clarification of the demolition of the unit because I'm
7 concerned about that in the instance that what if
8 there's other circumstances, such as substantial
9 rehabilitation to a unit.

10 If you have to -- if you have to rebuild the
11 flooring in a house or, you know, get into some
12 structural issues, thereby the unit is not is
13 uninhabitable in that definition. Would that mean --
14 would that come into play?

15 MR. ATALLAH: Jad Atallah with HUD.

16 So, you know, the statute requires or the way the
17 statute is written is as a part of the funding formula,
18 to be technical about it, is you count low-income
19 housing dwelling units that are owned or occupied by
20 the recipient. There are units that are lost to the
21 recipient that aren't operational because of the
22 condition of the unit. The unit has been vacant, and

1 it's not habitable. It needs rehabilitation.

2 Currently, we require that unit to be rebuilt
3 within 1 year because of the provision in NAHASDA that
4 says you demolish the unit, you've got to rebuild it
5 within 1 year to continue to get an FCAS funding for
6 it. I think this probably captures those situations.

7 If the unit is not -- is in such bad condition
8 that it's not habitable, then -- and you're rebuilding
9 it, you would go through this process. You've got a 4-
10 year period to reconstruct it or rehab it or whatever.

11 But you've got this 4-year period in order to continue
12 to get that funding.

13 MR. ADAMS: So then I guess the reason I raise
14 this issue is for the -- for the circumstance that we
15 are seeing a lot in our area of units that are testing
16 positive for methamphetamine, and in some cases, the
17 rebuilding of that unit or the cleaning up of the
18 situation depending on, again, the location and the
19 availability of resources to clean that unit up, the
20 unit is then deemed uninhabitable. But the
21 reconstruction of it depends on third party,
22 essentially, because you could have a contractor come

1 in to try and tell you how much remediation has to
2 happen.

3 And then to find a certified entity out there to
4 remediate your unit, then could -- to me, that's a
5 little different scenario than what the statute is
6 getting at as far as the demolition of a unit where a
7 natural disaster has occurred or a geothermal condition
8 has happened, whereby you're looking for another
9 location. And I know that's what we're trying to set
10 the boundaries on here. But I just want to make sure
11 that we exhaust this discussion while we have the
12 opportunity of what HUD is intending uninhabitable to
13 be.

14 MR. ATALLAH: So, so under this framework, a 4-
15 year period would be available to you to remediate
16 those meth-stricken homes. You know, it's a question
17 for the committee as to how much funding we want to
18 give to units that are not operational because of the
19 condition, for whatever reason, whether it's a natural
20 disaster, whether it's anything causing a unit to not
21 be habitable.

22 I think this provision would cover those cases,

1 but you would have a 4-year period to get that unit up
2 and running again, as opposed to when you demolish that
3 unit, currently under the statute, we only have 1 if
4 there's no rent expanding on it.

5 MR. ADAMS: I thank you for the -- for the
6 dialogue, and I accept the proposal.

7 MS. BRYAN: We have two in the queue, Sharon. Do
8 you want to --

9 MS. VOGEL: Okay.

10 MS. BRYAN: Okay. So we have Rusty. We have
11 Michael Thom.

12 MR. THOM: Hello. Michael Thom, Karuk Tribe.

13 I'm a tribal leader, and when we set out our
14 working groups, the FCAS and the needs working groups,
15 to me, we go in those groups and we work these things
16 out. We don't come out to full committee and allow HUD
17 to rewrite what we wrote in that working committee.

18 It's something that we need to work together on,
19 and I think I kind of feel ashamed of our working group
20 not being able to come up with the proper language and
21 then have HUD rewrite it for us. That's something that
22 the working group needs to work together on and work as

1 a unit and bring it to the committee to get it
2 approved.

3 And that's why I had to say that. I'm sorry.

4 MS. BRYAN: Thank you, sir. Jack Sawyers?

5 MR. SAWYERS: I object to it says for any reason.

6 I mean, you're saying if it's not habitable for any
7 reason, then -- then you have 4 years to fix it, and I
8 thought we were just talking about demolition. And my
9 problem is I think you're -- it's too broad. I think
10 we should -- we should be talking again about
11 demolition.

12 And I don't think it says that we -- that it
13 doesn't have to be inhabited. It has to be part of our
14 program. So I don't think that the word is inhabited.

15 And when you said you said that it would have to be
16 inhabited in order to be under that -- under our
17 program, that's not true.

18 So I object to inhabit because there's lots of
19 reason. I mean, drugs, one. Roof. I mean, you've got
20 a roofing project or whatever. You're making it so
21 broad, and we're just -- when we talked about it, we're
22 just talking about demolition.

1 And I think that what we're trying -- we're doing
2 is really too broad a stroke.

3 MS. BRYAN: Thank you, Jack. Would you offer a
4 friendly amendment to the amendment? Or someone offer
5 language that will make you more comfortable?

6 MR. SAWYERS: I'll offer an idea, but I don't know
7 how we put that together because I'm a football coach.

8 But the idea is not inhabitable. In other words,
9 well, that's because it's just -- I'm just saying
10 there's a whole bunch of reasons why you don't have
11 houses that's inhabitable.

12 One of them is other reasons like, for instance,
13 people move out and you're not sure of the disposition
14 of that house and a few things like that. I'm just
15 saying it's just too broad for me. I just think that
16 we want to talk about demolition and not about the
17 other things.

18 MS. BRYAN: Thank you. Sharon?

19 MS. VOGEL: Thank you. Being new to this process,
20 what's going through my mind right now is to be
21 respectful to the workgroup and the hard work that they
22 put into this. And I just think that with a

1 substantial change like this, that it's only -- that we
2 have to go back to them. They aren't sitting here.

3 I have people from my region that were involved in
4 this, and it's unfair to them to not be able to see
5 this language and have input into it. And I am just
6 really pleased with the participation that we have from
7 people not on the committee, and I want to be
8 respectful and encouraging to them that, you know, we
9 are listening to them.

10 So I think with this change, we need to go back to
11 the workgroup and consult them. Thank you.

12 MS. BRYAN: Thank you. Leon?

13 MR. JACOBS: Leon Jacobs, Lumbee Tribe.

14 About 30 minutes ago, I made up a proposal, I
15 don't know if you were here or not, to take it back to
16 the committee. And I think that's where we need to go.

17 There's too many things that's coming up that we need
18 to address within the committee.

19 MS. BRYAN: That is correct, and I do hear you
20 both loud and clear. However, we have a process. We
21 have a proposal. We have had an amendment to the
22 proposal, and the proposal was reintroduced after it

1 was voted down.

2 And Jason is in the process of having accepted
3 HUD's proposal. We've had some discussion about it,
4 and now we need to call for the consensus on it because
5 it is on the table and it is an open proposal in front
6 of this full committee.

7 So I'm going to call if everybody is ready to call
8 for consensus of you did accept the amendment. There
9 was some discussion about it. Are you comfortable
10 moving forward with the call, or are you feeling like
11 you -- after the discussion, you may not want to accept
12 what's in front of you?

13 MR. ADAMS: I'm feeling like I shouldn't be the
14 chair of the workgroup anymore.

15 (Laughter.)

16 MR. ADAMS: No, I'm just joking. In light of the
17 good discussion that we've had, I would just recommend
18 maybe that we stop the clock and table this issue, pick
19 it back up the next time we meet. With the 28 minutes
20 remaining, that will give us time to go back to the
21 workgroup, mull this new language over.

22 Because right now, as I see it, this is what we've

1 accepted, and it's on the table to be voted on. But if
2 we take a break, you know, we're past -- the time is
3 actually past time to quit for the day anyway. So I'm
4 good to just stop the clock, go back to pick it up next
5 meeting.

6 MS. BRYAN: Thank you, FCAS chairman Jason. I
7 think we have a request to table this issue. I think
8 that's a good idea. I think we're very, very close,
9 and a lot of thought has gone into this. We just need
10 to get back to our workgroups where the discussion can
11 take place and bring it back at our next meeting.

12 Thank you. Those are the issues that were before
13 us today for negotiation from the FCAS workgroup.
14 We've already heard from the needs workgroup.

15 For the record, we have 28 minutes remaining.
16 Thank you.

17 I would like -- I don't have my agenda in front of
18 me. So somebody tap me if we have something else, but
19 we are at a point at the end of 5:25 p.m., and we do
20 need to have public comments. So I'd like to take this
21 time to offer public comments for day three of Session
22 5 of formula negotiated rulemaking.

1 We do have microphones at both sides of the room
2 if anybody would like to present public comments at
3 this time.

4 MR. GEORGE: This is Scott George from the Citizen
5 Potawatomi Nation. Actually, I'm Osage, who work for
6 the Citizen Potawatomi Nation.

7 I would like to express my gratitude to this group
8 for working so hard on this. I'm satisfied after
9 leaving here that I probably won't need to come back to
10 the next one to interject any more information. It
11 looks like you're headed in the right direction.

12 I had some issues, and I'll probably still have
13 issues when I go home. But I rest assured after the
14 process is over with, I believe that some of these
15 issues will be taken care of.

16 I do have one thing to say to kind of take up
17 everybody's time, you know? Where I'm from, you know,
18 we have -- we always have community meetings, and
19 there's always this old man that always gets up at the
20 end and says something for everything that goes on.

21 (Laughter.)

22 MR. GEORGE: That's pretty much me. You know,

1 I've heard from our tribal leaders and people have
2 gotten up, and we've talked about social issues,
3 problems that we have back in our reservations and our
4 villages and our small towns, you know, with drugs and
5 other issues like that. You know, those -- I wanted to
6 make the comment that those are social issues, and this
7 money, as far as we would like for it to go, is never
8 going to touch those issues.

9 I've built a lot of houses and put people in
10 houses over the last 20 years, and those social issues
11 haven't really gone away for us. They're still there.

12 And as we go back home and talk to our people,
13 that those social issues should be addressed by our
14 communities. You know, it takes love and it takes
15 involvement from our people to pull those drugs out of
16 our houses and to -- it takes effort from our
17 grandmothers who are raising our grandchildren to teach
18 those people, to teach those young people the right
19 way, as opposed to allowing this to continue on in this
20 chase of whatever the world is seemingly continuing to
21 throw at us.

22 You know, I'm a traditional person. I sing for my

1 people, and I'm the keeper of all of our individual
2 songs. And I watch all of our people get away from
3 that, and to me, that's the only way to pull them back
4 in is to send them to school, yes, and a majority of
5 them go to school and never come back. They become
6 urbanized.

7 And the ones that we're left with are the ones
8 that didn't -- fell through the cracks, and those are
9 the people who we need to chase down and say, hey, you
10 know, let's do this. Let's go back to our traditional
11 ways. You have the option or you go here on our
12 reservation. Let's do that.

13 But it's like I said, the housing money is set
14 aside for bricks and mortar. Yes, there is some room
15 to operate programs out of there, but I've never seen
16 any of them change a whole lot because of the issue is
17 a social issue.

18 And so, when you go home, maybe you'll consider
19 that, that it takes more than just a little money
20 thrown at it. And maybe we will continue your good
21 work here that, you know, refine the things that we do
22 here, and I just appreciate the opportunity to be part

1 of it.

2 Thank you.

3 MS. BRYAN: Thank you, sir, for your words.

4 Are there other folks who would like to offer
5 public comments into the record?

6 (No response.)

7 MS. BRYAN: We will have another session August
8 25th -- or 26th through the 28th in Scottsdale,
9 Arizona. And we do take public comments at the end of
10 every working session day for the public to offer
11 comments into the record, as well as I'm sure there's
12 an opportunity to offer your public comment into the
13 written record as well.

14 So please keep in mind that we do want to hear
15 from you, everybody.

16 So, for logistics, I think we need to do selection
17 of co-chairs for the next meeting. Earl?

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

20 Madam Chair, if I'm in order, I move that we
21 continue with the same co-chairs we have now.

22 MR. JACOBS: I second.

1 MS. BRYAN: Call for consensus?

2 (Voting.)

3 MS. BRYAN: Thank you, everybody, so much.

4 (Applause.)

5 MS. BRYAN: We have -- I'd open it up for comment.

6 I have left Jason in charge the last two times. So

7 I'm going to do my best to close the meeting. I

8 haven't been here for that part yet.

9 Sami Jo?

10 MS. DIFUNTORUM: Thank you. He's not here, but I

11 really want to thank Gary for his leadership with the

12 needs workgroup today. We broke into some smaller

13 groups, and I felt we really got a lot done.

14 I appreciate Susan also facilitating. I think it

15 worked really well.

16 So they're passing around right now a summary of

17 the formula area overlap subgroup to the workgroup, and

18 it's just informational, not regulation or anything

19 like that. This is just a summary of what we discussed

20 and where we're going with the formula overlap in case

21 anybody's interested when we meet again.

22 Thank you.

1 MS. BRYAN: Great. Thank you, Sami Jo.

2 Any other announcements for workgroups that might
3 be meeting or sub-workgroups that might be meeting?
4 Any work that's going to be done between now and the
5 next meeting? Carol?

6 MS. GORE: I apologize if I'm a little out of
7 order. And Gary and I sort of strategized before he
8 left, but we didn't coordinate our timing very well.

9 I think many of you know Cathy King from Gary
10 Cooper's region, and you likely know that she's had
11 some very serious health issues. And I'm just asking
12 the committee to keep her in their prayers. She was a
13 very smart, strategic participant in not just this
14 committee, but the prior two committees. And I think
15 she would welcome some words on the record from all of
16 us wishing her well in her recovery.

17 Thank you.

18 MS. BRYAN: Thank you, Carol.

19 Jemine?

20 MS. BRYON: I just wanted to thank you all for my
21 first experience. At my age, there aren't very many
22 first experiences. But you know, I really did

1 appreciate this, and I must say I admire tremendously
2 all of you, your passion to this effort. It is so
3 clear the care, concern, and seriousness with which you
4 take this entire process.

5 So I thank you for that, and I remain very
6 committed to this effort. Thank you.

7 MS. BRYAN: Thank you, and we're glad to have you
8 at the table.

9 So, in closing remarks, I'll just say that, you
10 know, we are all very passionate about this. We do
11 take our communities back home, we are in some of the
12 most impoverished situations in the country at our
13 homes, the people we serve. Someone described it as
14 the Third World country within -- Third World countries
15 within the country.

16 So, you know, we all have very desperate needs,
17 and this funding is not enough, and it's very hard to
18 talk about. So I appreciate everyone's efforts, your
19 willingness to be respectful of other people's
20 opinions. And for all the work that you got done, I
21 really commend each and every one of you and thank you
22 all for coming.

1 We're going to end our session, if there's no more
2 announcements for the good of the order, with a closing
3 prayer from Leon Jacobs.

4 MR. JACOBS: I would recommend that all of you say
5 a prayer in your own way. And thank God for this
6 opportunity that we've had.

7 Thank you, Lord, for the last 3 days of sharing
8 and meeting together in one of the most needy
9 situations throughout Indian Country. We thank you for
10 the time that we were sharing our thoughts, our prayers
11 and our thoughts. It's very important for what's
12 happening throughout Indian Country.

13 We thank you for the news that we've heard this
14 week that the Congress in the House has moved forward
15 on a bill for appropriations. And we ask you also for
16 the Senate to move forward in making sure that there is
17 continuing funding to help with the needs throughout
18 Indian Country.

19 We pray especially for the need that was stated
20 tonight by Carol. Ms. King, we ask that you touch her
21 body, bring her back to full health in Jesus' name.

22 And we ask you to give us a safe trip back to our

1 home land. And as we share to our tribal members and
2 those throughout Indian Country what has happened here
3 in the last 3 days, that we will make sure that we
4 emphasize the unity that is impressed here and has been
5 carried out by the membership.

6 And we ask that you bring us back again next month
7 to finish some of the most important work that we've
8 been elected to do.

9 In Jesus' name we pray, amen.

10 (Whereupon, at 5:38 p.m., the meeting was
11 adjourned.)

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