

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

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

2 MS. BRYAN: Day Three of Session Seven, negotiated
3 rulemaking.

4 We're going to get started this morning. We're
5 running a little behind already, and we have a lot of
6 work to do.

7 For this morning, we have asked Deidre Flood to
8 open us up with a prayer.

9 MS. FLOOD: Good morning, everybody.

10 Today, I'd like to ask our creator to be with us
11 as we go through this long day, as He gives us some
12 strength and wisdom, as we look at all these options
13 before us, make decisions for our tribes, for the good
14 of our tribes and the good of our people across this
15 country.

16 We also ask our creator to help us to remember our
17 friendships we've made here. And as we go forward and
18 may not see each other for years to come, that we will
19 always greet each other again with a handshake and a
20 hug to say, hello, how are you doing?

21 And also, Creator, we ask you to give us safe
22 travels as we go home today, and take care of our

1 families and everybody that is not with us today, watch
2 over us and keep us strong.

3 We ask these in your name. Amen.

4 MS. BRYAN: Thank you, Deidre.

5 So this morning, we're going to start with the
6 outcome of the drafting committee's language on what
7 I'm calling the 3 percent.

8 And I would like to ask Aaron from HUD to come up
9 and show us the language that you all had.

10 And also, asking today, we're going to stay on
11 agenda. We do have people leaving today, and we have a
12 preamble to get through. So we're going to do this
13 piece of work, jump right into the preamble, and there
14 will be time after that if people have other business,
15 and then the comments at the end of the day. Thank
16 you.

17 MR. SANTA ANNA: Good morning, everyone.

18 At the request of the committee, the drafting
19 committee came together and attempted to draft language
20 that would address the AIAN issue that we were talking
21 about late last night.

22 The language that you see up on the board,

1 frankly, I'm not sure reflects the consensus of the
2 drafting committee. It was language. There was a lot
3 of discussion. After we had discussion, we were able
4 to put this together. It was sent out last night. We
5 received some comments on it that seemed to suggest
6 that we should go forward. But I'll leave that to
7 members of the drafting committee to indicate whether
8 or not they have any concerns with this or not.

9 One other thing that I would want to highlight for
10 the committee is that we tried to put this together at
11 the request of the committee to be able to assist as it
12 was conducting its work. The language does not
13 necessarily reflect HUD's position relative to the
14 language.

15 We wanted to be able to provide something for you
16 as requested, just to get the discussion started. And
17 essentially, what we would be doing here is revising in
18 1000.324, this is the section that deals with the
19 factors or the variables, I should say, and how they're
20 weighted.

21 For the variable for AIAN persons, that first line
22 there is what is currently codified, AIAN persons

1 weighted at 11 percent. The new language is
2 underlined. And what we would be doing here would be
3 adding a provision that kind of provides a little bit
4 more description of that.

5 We would be basically saying that, for purposes of
6 this one little section, this one paragraph, paragraph
7 (d) of the section, that is, this would not affect
8 anything else in the formula, "that AIAN persons shall
9 be persons that self-identify as AIAN, that AIAN
10 persons shall not include persons that self-identify
11 they're enrolled or principle tribe as a tribe as one
12 that is not within the boundaries of the United States,
13 and AIAN persons shall include American Indian, Alaska
14 Native persons that do not self-report with any
15 specific enrolled or principle tribe."

16 Then we would add a second provision that provides
17 that the term, "enrolled or principle tribe" shall have
18 the same meaning as provided by the US Census Bureau.
19 And this is what the language was.

20 MS. BRYAN: Thank you.

21 Are there any questions for the drafting
22 committee?

1 Open it up for discussion.

2 MR. ADAMS: Good morning. Jason Adams.

3 First question is, is this now back to -- are we
4 negotiating on this? So is the time clock ticking on
5 this issue?

6 MS. BRYAN: Thank you for that. Yes, we should
7 start the clock.

8 And also, if someone would like to make it a
9 proposal, this is the time that someone would do that.

10 So we've heard from the drafting committee. We've
11 heard that HUD had some concerns with it and will
12 likely not be able to support it or vote for it. Would
13 someone like to propose this?

14 Aneva?

15 MS. YAZZIE: Good morning. Thank you, Madam Co-
16 Chair.

17 I have a question on sub-iii. I guess I just need
18 more clarification as to what that means. And it
19 reads, "AIAN persons shall include American Indian and
20 Alaska Native persons that do not self-identify with
21 any specific enrolled or principle tribe."

22 Just needed some clarification as to how that's

1 interpreted if they do not self-identify.

2 MR. COOPER: Madam Co-Chair, could I ask for a
3 point of order?

4 MS. BRYAN: Yes.

5 MR. COOPER: Don't we need a member of the
6 committee to bring this proposal forward first?

7 MS. BRYAN: Yes, we do.

8 I'm asking for a proposal. But I did invite
9 questions for the language. Are you wanting to talk
10 about before you propose it? So we'll answer the
11 question.

12 But it's not a proposal at this time. We agreed
13 to discuss it. The drafting committee agreed to give
14 us some language to consider for a proposal, so it's
15 not technically a proposal.

16 MR. RICHARDSON: The issue here is is that when
17 folks fill out the census form, they'll check that they
18 are Native American, AIAN. And then there are about 20
19 percent of folks who do that do not write down anything
20 in the write in box about what tribe that they're
21 enrolled or principle tribe. So that asks them, what's
22 your enrolled or principle tribe, and they don't say

1 anything.

2 So it's unknown what tribe they might be
3 associated with, whether it's a US based tribe or not.
4 So this language is obviously saying, since we don't
5 know, we're not going to exclude that. That's, I think
6 what this language is saying.

7 Is that fair? Correct? Okay. Does that make
8 sense?

9 MS. BRYAN: Yeah, and HUD would like a response,
10 too.

11 MR. SANTA ANNA: I guess I could speak loud
12 enough. I just want to clarify that what I said was
13 that the language does reflect HUD's position. It was
14 (inaudible). Thank you.

15 MS. BRYAN: Thank you. Yeah, it's the concept.

16 So we have the language in front of us. The
17 drafting committee, I'd like to thank you for all of
18 your work on this. I know you guys spent a lot of time
19 and had some good discussion to come up with what we
20 asked you to come up with.

21 And so I need to ask the committee at this time if
22 anybody would like to make a proposal for us to

1 discuss.

2 Sharon?

3 MS. VOGEL: I have a question, not to make a
4 proposal.

5 If this were to pass, does this mean that anyone
6 that's counted or that doesn't get counted, it falls
7 over into all the other variables, or are they just
8 speaking specifically to the population? Would they be
9 carved out of every variable?

10 MS. BRYAN: I'm going to let Todd answer that
11 question or Aaron.

12 MR. SANTA ANNA: It would only be for this
13 variable. And the language that highlights that is in
14 (g) (1) that limits it to paragraph (g) of this section,
15 which is 324.

16 MS. BRYAN: All right. Please lift your tent card
17 if you'd like to make this a proposal.

18 Seeing none, I again, thank the drafting committee
19 for your work on this. This is a topic that we've been
20 able to discuss, so I appreciate that.

21 And at this time, there is no proposal, so we'll
22 move onto the next -- Jason?

1 MR. ADAMS: Jason Adams, Salish Kootenai.

2 I guess just to make sure, I mean, what we were
3 taking a look at here as some language that was drafted
4 took a look at an issue that I would still like us, for
5 future Negotiated Rulemaking Committees on this issue
6 to take a look at. And so I would hope that, for the
7 record again, we put these issues in the parking lot
8 for future discussion, and it's not forgotten.

9 I mean, seemed like there was an attempt, in this
10 language, to talk about that 20 percent that we need to
11 study that issue, figure out who that 20 percent is,
12 because the three little I's there that were talked
13 about, that was an attempt to include them when -- we
14 haven't studied that issue sufficiently enough in my
15 opinion. Thank you.

16 MS. BRYAN: Thank you. I agree.

17 Next on the agenda, we have our preamble. And
18 we're going to have Aaron walk us through that. And
19 we're not going to necessarily go line by line, but
20 I'll let him introduce his presentation.

21 MR. SANTA ANNA: Thank you, and good morning,
22 again.

1 We had copies of the preamble and regulatory text
2 sitting on the table outside. And it might be helpful,
3 as we talk about the preamble to have copies in front
4 of you.

5 What we typically do in terms of drafting, and
6 this is not only for negotiated rulemaking, but it's
7 for anything that we do in the Department, we do
8 everything by line numbers, and we do page numbers, so
9 that we can all be on the same page as we talk about
10 issues, given the fact that different printers might
11 print differently.

12 I wanted to kind of give you a little bit of a
13 sense as these are being passed around about the
14 preamble in general. Every rule needs to be able to
15 have a preamble. Essentially, it's a short and concise
16 statement of explanation of what the regulatory text
17 means. It's to help the public understand what we're
18 doing and why we're doing it.

19 What we've tried to do here in this preamble is
20 keep it short and concise and reflective of what the
21 regulatory text means. So oftentimes, what you'll see
22 is that you may have the same regulatory text that is

1 included in the preamble, because we're creating a rule
2 that says HUD will do this, and the preamble will
3 basically recite the same thing. We try to keep it as
4 concise as possible.

5 Again, it's for the benefit of the public, who, at
6 some point in time, will be reviewing it, to be able to
7 give them a better sense of what we've done.

8 And to give people a little bit of a background in
9 terms of what we've done thus far, we drafted this
10 basically in-house and then sent it to the drafting
11 committee back in, I guess it was late June. We
12 provided a couple of weeks of time for individuals to
13 take a look at the preamble and to give us comments on
14 it.

15 We received three comments that were pretty minor,
16 I thought, given everything else there. And to the
17 extent that we could, we included those changes. And
18 so this is a document that the drafting committee has
19 seen and they've already had a chance to comment on.

20 There are a couple of things that I would like to
21 highlight for you. If you would turn first to page 2,
22 paragraph two there, about electronic submission of

1 comments. The thing I just want to highlight here is
2 that everything now is pretty much electronic.

3 There is a website that is at www.regulations.gov.
4 The rule will be provided there. Individuals are
5 directed to submit comments there. It's a very user-
6 friendly type of site where people can either type in
7 their comments directly to a text box, or they can
8 attach a Word or PDF version of their comments.

9 And the benefit of [regulations.gov](http://www.regulations.gov) is that the
10 comments become available almost instantaneously.
11 Whereas in the past we would get hard copies, and we
12 would have to PDF them, we'd have to transport them to
13 the Federal Register or to GPO people, whoever have it,
14 keep these dockets, or I guess we would keep our own
15 dockets, now people can look at the comments pretty
16 much after they're submitted electronically.

17 And I want to encourage you to really look at that
18 as the proposed rule is published, so you can keep
19 track and see what kind of comments are coming in. And
20 certainly, to the extent that we want to be able to
21 make sure that a lot of people see this, direct them to
22 the www.regulations.gov site.

1 We continue, as we say there a little bit lower, I
2 guess in number three, to take -- well, I guess number
3 one, continue to take hard copied comments, but we've
4 been noticing, as a matter of practice, that the number
5 of hard copy comments that we've been getting over the
6 years as this website has been up and functioning has
7 been reducing, but we can continue to receive comments
8 that way as well. But that takes a little bit of time
9 to get those up and available for review.

10 Now, as we sent the draft out to the drafting
11 committee, I kind of tried to lay out the fact that we
12 made no changes to the regulatory text that was
13 approved by the committee. So all of those regulatory
14 provisions that were voted on, you'll see them in the
15 package that you have in front of you, and we did not
16 make changes to those.

17 We tried to remind everybody about the procedure
18 that's required by the protocols, that if there were
19 substantive changes, that we would have to reopen those
20 discussions, and we could only do it by consensus. And
21 consequently, everybody was respectful of that, and so
22 the regulatory text that you have in front of you is

1 what was approved by this committee over the course of
2 the various sessions that we had.

3 There was one addition that I want to highlight
4 for you. And if you turn to page 6, line 15. This
5 section, we added. This was something that was not
6 discussed at the committee.

7 As people, I think, generally understand, the 10th
8 Circuit basically ruled that our definition of a
9 formula area wasn't consistent with what the statute
10 provided. And consequently, the law in the 10th
11 Circuit said that the reference to court jurisdiction
12 that's currently in our definition was invalid.

13 HUD wanted to be able to take the opportunity of
14 this proposed rule to be able to make this apply
15 nationwide. We consider it a technical change, because
16 it really just reflects what the law is for the 10th
17 Circuit. We don't really have much opportunity to
18 change things there, because that's what the court has
19 ruled.

20 But we want to be able to -- as opposed to having
21 different definitions in different regions, ensure that
22 there's uniformity across the nation. And so

1 consequently, we added this provision to the rule, just
2 to be able to use this as a vehicle to get it codified.

3 If you look at the regulatory text for this
4 provision, which is beginning at page 20, and I don't
5 know if this is going to be helpful, but if you could
6 just turn to that, you'll see that all that we did here
7 was basically take the currently codified definition of
8 formula area and we excised out that one provision that
9 would require that tribes show that they have court
10 jurisdiction to be able to establish their claim. That
11 was the one thing that we did.

12 Does anyone have any questions about that?

13 The other thing about the preamble is again, we
14 decided just to, as I indicated, paragraph by
15 paragraph, describe what the regulatory provision was
16 going to be doing, and we tried to do that in the
17 various paragraphs, beginning at Roman numeral III(b)
18 at page 6.

19 I don't necessarily want to go through each of
20 those provisions. I wanted to be able to provide you
21 the opportunity to take a look at it, and if you have
22 any questions, I would try to respond to those

1 questions or try to seek the experts who can better
2 explain them. But if anybody has any questions about
3 those provisions, please, I'd welcome those questions.

4 Just kind of going through the sections, just to
5 be able to highlight for everybody, and these are
6 listed sequentially, of course, there's a paragraph
7 that talks about the continued funding of the Section 8
8 units. That was a provision that was approved on July
9 31st of '14.

10 We have a provision in the preamble that describes
11 the changes that we're making to 1000.310 which lists
12 the components of the formula. The change there was
13 that we added the 1996 minimum, which was already
14 codified, but we thought it would be better reflected
15 in this section as well. But we also needed to be able
16 to revise the section to incorporate the section on the
17 undispersed IHGB funds factor. So that's what those
18 changes are.

19 We have a paragraph dealing with the conversion of
20 the units from low rent FCAS to Mutual Help and vice
21 versa. And basically added paragraph (c) to establish
22 the regulatory text that was agreed upon by the

1 committee.

2 In paragraph (f), we discussed the Mutual Help and
3 unit conveyance, the changes that would take place at
4 318(a). In paragraph (f), we talked about the
5 demolition and rebuilding of FCAS units, the changes
6 that would take place as 318(d), which was approved on
7 the 28th of August, almost a year ago.

8 In paragraph (g), we're describing the changes to
9 the overlapping formula area. And it was pointed out
10 to me this morning that, in the preamble, we didn't
11 include an explanation to the changes that the
12 committee had approved to 326(a)(3), and so we'll go
13 ahead and correct that.

14 What we would be doing is again, trying to reflect
15 what was the regulatory text by saying the committee
16 also revised Section 1000.324(a)(3) to clarify the
17 allocation of funds. If the formula area of a
18 federally recognized Indian tribe overlaps with the
19 formula area of a state recognized Indian tribe,
20 specifically, the federally recognized Indian tribe
21 will receive the allocation of the state -- wait, I'm
22 sorry, I need glasses. Specifically, the committee

1 agreed that the federally recognized Indian tribe will
2 receive the allocation of the formula area up to its
3 population cap, and the state recognized tribe will
4 receive the balance of the overlapping area, if any, up
5 to its population cap.

6 And that is language that is already reflected in
7 the regulatory text, because it was something that the
8 committee had already agreed on. And that would be at
9 page 24, beginning at line 15 through 22.

10 The next part dealing with the language that was
11 agreed to at 1000.330, I'm going to put aside to the
12 end of our discussion.

13 Paragraph (j) deals with the volatility controls
14 that was agreed early on in our discussions. And
15 again, it just basically reflects the regulatory
16 language that was agreed on.

17 Paragraph (k) is the data challenges. Changes
18 here were required to reflect that we added the
19 undispersed funds factor, and we kind of tweaked the
20 language a little bit to format it a little bit better.
21 But those changes are described in paragraph (k).

22 And finally, in paragraph (l), we have a

1 discussion of the undispersed IHGB funds factor, a new
2 section that we would be adding to this subpart. And
3 again, what we tried to do was simply reflect what the
4 regulatory language was.

5 At page 15 of your draft, we have a section that's
6 essentially a straw man. What it does is it says,
7 "non-consensus items, others used for consideration."
8 That language has not been drafted yet. Some of the
9 things that probably will go in there certainly would
10 be the discussion that we had with regard to the USDA
11 515 data, which was not approved.

12 And I'm trying to think if there was anything else
13 that we had not reached consensus. But that's
14 essentially what would go in there. The language, in
15 my view, will be as non-committal as possible, just
16 saying that the committee could not agree or did not
17 agree.

18 The other thing that we haven't added here is the
19 recommendation for a work group, study group to look at
20 the factors. And that would probably be added at a new
21 section, Section 5 of the preamble. And my sense is
22 that is going to be, again, very concise, just

1 basically providing for the public the text that was
2 recommended.

3 The balance of currently Section 5, it's just a
4 lot of certifications that we have to be able to
5 provide for the public, and I won't spend any time
6 talking about those.

7 Going back to the preamble text for 1000.330, it
8 hasn't been drafted yet. We're reviewing the language
9 to determine what we might do with that. And
10 certainly, once that determination is made, we will
11 share it with the committee.

12 One of the things that I'm certainly personally
13 committed to is ensuring that everyone has the
14 opportunity to see the language, so that they have the
15 opportunity to read through it and provide comment on
16 it. We'll try to be able to make sure that we have
17 that available once it's drafted.

18 Just one other thing that comes to mind before I
19 close is that -- and we had a little bit of this
20 discussion yesterday -- or I guess it was Monday in the
21 FCAS working group, and that was with regard to the
22 appendixes that are currently codified in Part C.

1 We have not yet drafted that language, and we
2 don't intend to publish any appendixes as part of the
3 proposed rule. And the reason for that is that we see
4 the appendixes as really an identical reflection of
5 what the final rule is going to provide, what the
6 formula will be.

7 We try to use the appendixes to explain to the
8 public, in both a mathematical formula and more of a
9 plain English formula, how the formula will work.

10 At this point in time, all we're doing here is
11 we're proposing for comment what the formula should be.
12 We really don't know what the final formula will be,
13 and that won't be determined until after we receive
14 public comments, we consider the public comments, and
15 we then determine, based on public comment, where we
16 should be with this.

17 One of the legal obligations of the Agency, and
18 this is not only true for HUD, but it's true for all
19 federal agencies who engage in rulemaking, is that it
20 is essential that we offer proposals for comment, that
21 we try to engage the public to be able to provide us
22 feedback on the proposals, and that we seriously

1 consider all comments before we make a final
2 determination.

3 To make a final determination ahead of time, at
4 this point in time, really would undercut that
5 principle and, I think, undercut the integrity of the
6 rulemaking process. And we want to be able to make
7 sure that we dot the I's and cross the T's. And we
8 want to be able to make sure that, as I said, that
9 we're as transparent as possible, that we provide as
10 broad an opportunity for people to be able to give us
11 their thoughts and ideas with regard to what we should
12 be doing in this rule.

13 I have nothing else to say. I'd be happy to take
14 any questions that anyone might have.

15 MS. BRYAN: Carol?

16 MS. GORE: I want to thank you for the work you
17 and the drafting committee did. It's thorough but
18 concise enough to understand.

19 But I think just for the committee, I'd like to
20 understand the process between now and our final
21 meeting to include what happens with OMB? We know that
22 they have the ability to make changes that we haven't

1 considered as a committee.

2 So could you maybe just walk through the steps
3 between now what happens? And I'm guessing we're not
4 accepting the preamble, because it's really not final.

5 So if you could cover that, I would appreciate it.

6 Thank you.

7 MR. SANTA ANNA: Sure. I guess the first place to
8 start is that we still have work to do, both in HUD and
9 the committee.

10 For HUD, what we will be doing is trying to
11 finalize the preamble. Certainly, we'll try to make it
12 as available as possible to the committee by posting it
13 at the website. We need to be able to send it through
14 departmental clearance, so everybody in the department
15 gets a chance to look at it.

16 And to give you a sense of why we do that is
17 because we have offices, for example, our Fair Housing
18 and Equal Opportunity Office, are concerned about the
19 civil rights that our rules may have implications for
20 or may implicate. And they want to be able to make
21 sure that they don't see anything that would affect
22 their area of interest.

1 Frankly, I think that what I intend in doing is
2 making sure that everybody in the Department
3 understands that the clearance document that they're
4 looking at was negotiated and trying to ensure that
5 people give it as much integrity as possible, that is,
6 only changes where we see a legal problem perhaps, then
7 we would have to change it. The policy has been
8 decided, and that's really where we should be.

9 We then have to send it to the Office of
10 Management and Budget.

11 And you're right, Carol. OMB, their concern is
12 that it's consistent with administration policy and
13 that it doesn't affect or is inconsistent with other
14 agencies. They would certainly want to be able to make
15 sure that, for example, other agencies that deal with
16 Indian issues might want to also look at it and provide
17 comment.

18 But again, what we intend to do is to highlight
19 the fact that it's a product of negotiations. In the
20 past, OMB has tried to really respect the decisions of
21 the committee. And consequently, they limit their
22 comments. They have limited their comments in the past

1 to just very critical issues, and we hope to be able to
2 make sure that that's the case this time around.

3 After OMB review, we'll see what happens. I
4 really don't know.

5 I'm trying to, as I'm standing here, figure out a
6 way to get around OMB review, to ask them not to --
7 there's an Executive Order that we deal with that
8 really sets the parameters for what rules they look at,
9 and what they look for are rules that are a significant
10 policy change. And so the challenge becomes trying to
11 articulate an argument that is not significant for
12 them.

13 We have nothing to lose, and we might give it a
14 shot. I haven't really talked too much about it. But
15 it would save us time. But I'm not sure that it's
16 going to be likely. I mean, the fact that it's
17 negotiated rulemaking, they're going to want to look at
18 it. The fact that it's changing the formula, they're
19 going to want to look at it.

20 The good thing that we have going for us is that
21 we've done so many data runs that I think that the
22 request to be able to understand what the impact of the

1 changes being proposed are, it will be easy to provide
2 that to them.

3 Oftentimes, when we work with program offices,
4 we're always asking for data about what's the impact?
5 But this is not going to be the case.

6 But the Executive Order provides that OMB has 90
7 days to review the proposed rule. And we have to, as
8 we're thinking about time frames, understand that we
9 have to anticipate the 90 days, because they have a
10 workload, and they have a queue of rules that they're
11 looking at.

12 After OMB review, HUD is required by statute to
13 share its proposed rule before publication with our
14 authorizing committees for 15 calendar days. So once
15 OMB reviews, we will move the package through -- we
16 will move the rule through key offices within HUD, have
17 it signed by our Principle Deputy, and then we'll send
18 it to our authorizing committee for 15 days.

19 At that point in time, it takes about five days
20 for the federal register to actually publish something
21 once we send it.

22 So I hope that answers the question. We still

1 have a number of hurdles to face before we get to
2 publication, but we've been down this road before, and
3 I don't see anything that is going to be a significant
4 problem for us.

5 MS. BRYAN: Karin?

6 MS. FOSTER: Thank you, Aaron, very much for this
7 work. I just have one question, and you probably
8 already covered it, and I'm sorry if I missed it.

9 But you said that the section on 1000.330, will
10 that be circulated then for comment, that section
11 summarizing changes there?

12 MR. SANTA ANNA: Yes, it will.

13 MS. FOSTER: Okay.

14 MR. SANTA ANNA: We'll share it.

15 MS. FOSTER: Because I'm looking at the regulation
16 itself and the reference in 330(2), initially, the data
17 used are the most recent available data that is
18 available for all tribes from the US Census Bureau.
19 That seems kind of broad to me, I guess, looking at it
20 now, looking backwards.

21 So I wanted to make sure that the preamble does
22 reflect that there was, of course, not a consensus on

1 ACS insofar as it could be interpreted to mean that.
2 So I think that's important, and I'm glad to know that
3 we'll have an opportunity to see the preamble and to
4 make those comments. Thank you.

5 MR. SANTA ANNA: Absolutely.

6 Thank you very much.

7 MS. BRYAN: Thank you. I would like to give HUD a
8 big round of applause. That was a lot of work. We
9 appreciate you.

10 (Applause).

11 MS. BRYAN: Thank you for all you do for us. We
12 do appreciate you.

13 We would like to open the floor for any other
14 business the committee members might have at this time,
15 please.

16 And this is our first time up here. So reading
17 the agenda, it says full committee consider proposal of
18 preamble language. Is that not stated correctly on the
19 agenda? Does this committee then, as a process
20 question, do a proposal on this preamble? IIs that
21 what we need to do? Or is it just a presentation at
22 this point, because public comment comes next?

1 MR. SANTA ANNA: It's just a presentation that the
2 drafting committee needed to be able to make to the
3 committee.

4 MS. BRYAN: Thank you for that clarification.
5 Sharon?

6 MS. VOGEL: I was just going to say that there's
7 too many blanks for us to consider approving it.

8 MS. BRYAN: Karin?

9 MS. FOSTER: Karen Foster, Yakama Nation Housing
10 Authority.

11 Since this is our last meeting, though, of course,
12 as a committee then, will we have an opportunity to
13 have, I guess, input on the final preamble? I mean,
14 I'm on the drafting committee, so I will receive a copy
15 of that and be a part of that, but it would seem
16 appropriate for the committee to review it.

17 Perhaps it should just be sent out to the entire
18 committee in addition to just the drafting group.

19 MS. BRYAN: So I'll rely on someone who's been
20 here in the past to know what happens from here and
21 maybe ask HUD what the process is.

22 I know at the end of the agenda, we talk about

1 where we go from here, but the question is specific to
2 the preamble and will the committee have a chance to
3 review it before it goes out for public comment.

4 Can we get an answer for that from HUD?

5 Jack?

6 MR. SANTA ANNA: As I indicated, we do intend to
7 share the preamble, the holes that are in it, the two
8 that I see right now. And the one thing I did not
9 indicate was that if there are provisions that any of
10 the committee would want to be able to address
11 differently, we would certainly be able to provide the
12 opportunity to incorporate that language in a concise
13 and short way so that we can be able to provide to the
14 public a document that reflects what's going on here.

15 MS. BRYAN: Thank you. Okay.

16 Earl?

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

19 Just a question. Is there anything that would
20 preclude the committee from simply -- and this may not
21 even be necessary, I don't know, but from adopting this
22 as sort of the working draft?

1 I know that we've got one more meeting coming up
2 potentially for everything to be finalized, so I'm
3 guessing there is where we'll approve or come to
4 consensus on the actual final version, but do we need
5 to do anything to adopt this as the working draft, or
6 are we fine to just keep working on it?

7 MS. BRYAN: Again, I think I'll let HUD answer
8 that question, because my understanding is the next
9 meeting is to go through the public comments that are
10 received. So at the time we reconvene as a committee,
11 that process will already have taken place. The public
12 comments will already have been received.

13 But if HUD would like to clarify, that would be
14 great.

15 MR. SANTA ANNA: I just wanted to reemphasize the
16 fact that what we have before you is simply a proposal
17 that will be made to the public that reflects the work
18 of this committee.

19 It is nothing final. There's nothing in what
20 we're doing in this draft that commits HUD or the
21 committee to making any of the changes that are listed
22 here.

1 Of course, as I mentioned before, we do need to be
2 able to ensure that we have public comment and consider
3 the public comment before anything final is done.

4 Consequently, this is a proposal, and people will
5 have the opportunity to be able to make changes as we
6 move, particularly at the final rule stage.

7 MS. BRYAN: Thank you. Karin?

8 MS. FOSTER: Karin Foster, Yakama Nation Housing
9 Authority.

10 Aaron, do you anticipate that HUD will have
11 changes to this document?

12 MR. SANTA ANNA: I'm sorry?

13 MS. FOSTER: Do you anticipate that HUD will have
14 further changes to this document? Is it preliminary
15 enough that it hasn't had final HUD review as well?

16 MR. SANTA ANNA: The question was whether or not
17 HUD anticipates any changes to the document. As I
18 indicated before, we intend to be able to put this into
19 departmental clearance. My sense is that we will not
20 get any comments that are worth making coming out of
21 that.

22 Last time that we put a rule, a negotiated

1 rulemaking rule, into a departmental clearance, we did
2 have comments. I don't anticipate that at this point.
3 But obviously, we would need to be able to address
4 those comments.

5 The only changes that I see in addition to those,
6 if any, would be to fill in the blanks that Sharon
7 mentioned. Again, there are two blanks that need to be
8 fixed. One deals with the language at 330. The other
9 deals with adding the language with regard to the study
10 group that was approved during this session the other
11 day.

12 We have language that we've drafted for that
13 recommendation, and I need to be able to send it, and I
14 do intend to send it to the drafting committee so that
15 they can have input. So hopefully, we can be able to
16 provide that to you today.

17 We regard to 330, we have not yet drafted that
18 language. And I do want to be able to assure you that
19 we will be able to provide it to you so that you can
20 have the opportunity to review it and that you have the
21 opportunity to comment on it.

22 One of the things that I would like to be able to

1 do is to ensure that, if you have any changes, that we
2 might be able to reflect those in the preamble.

3 Again, what I am conceiving of is a situation
4 where that language would be concise enough to be able
5 to fit within that document so that the public can
6 understand what the various discussions were.

7 As you are well aware, the transcripts of the
8 proceedings are available online. All of the documents
9 that are approved by the committee are available
10 online. And we intend to be able to try to maintain
11 that effort of transparency to the public with regard
12 to what we're doing.

13 MS. BRYAN: Thank you.

14 Aneva?

15 MS. YAZZIE: Thank you, Madam Co-Chair.

16 Just a question on time frame. So today, after we
17 depart, we're going to be looking at a preamble, a
18 draft preamble posted to the website. I just wanted to
19 know what is the expected time frame for that posting.

20 And then soon after the posting, what is the time
21 period for public comment.

22 And then after public comment, I guess, when are

1 we anticipating a reconvening of this committee?

2 Madam Co-Chair.

3 MR. SANTA ANNA: With regards to the first
4 question about posting, I'd like to be able to try to
5 provide something as soon as possible, hopefully,
6 sometime early next month. We will try to be able to
7 do it in an expedited manner.

8 This is a rule that has priority for the
9 Department, and we want to be able to make sure that
10 everyone has time to be able to do what they need to
11 do.

12 We regard to the second question about the public
13 comment, this rule will be made available to the public
14 for 60 days' worth of public comment. That language is
15 included in the draft that you have before you. It's a
16 policy of the Department to provide at least 60 days
17 for every proposed rule that we publish, and that will
18 be reflective in this rule as well.

19 And what was the last question? Subsequent to
20 public comment. At the close of the public comment
21 period, HUD will take all the public comments and
22 summarize them in a way that kind of highlights the

1 issues that the public raised with regards to the
2 proposal.

3 So we will look through everything, try to
4 identify the same issues that we hear repeated over the
5 course of the public comments, and try to articulate it
6 in a summary.

7 The summary then will be shared with the committee
8 when we get together at our next negotiated rulemaking.
9 We will then go through that summary. And then we'll
10 decide how to respond to the public comment.

11 It could be a situation where a public comment or
12 public comments say that we get the formula area wrong.
13 And so that issue will be provided to you in a summary
14 form, and we'll have the opportunity to talk about the
15 public comment, we'll have the opportunity to determine
16 whether or not there's any valid or reason why we
17 needed to make the change, and then we'll go ahead and
18 make the change and vote on it as a committee. And
19 that would be the process.

20 Ultimately, everything that is agreed upon at that
21 stage would be reflected in the final rule that would
22 be ultimately published.

1 MS. BRYAN: Thank you.

2 Jemine, good morning.

3 MS. BRYON: Thank you, good morning.

4 I believe Aaron did clarify the process, and thank
5 you for the question. I think he did clarify.

6 MS. BRYAN: Thank you.

7 Karin?

8 MS. FOSTER: Yes, thank you. Karin Foster, Yakama
9 Nation Housing Authority.

10 I was wondering if, in between the point where we
11 have a complete draft and we have the sections filled
12 in, particularly on 330, and when the preamble is
13 actually sent for departmental clearnace, can there be
14 kind of a scheduled opportunity for the committee to
15 submit any additional language or changes that they
16 want to?

17 This is a little bit different, because I believe,
18 at least what I remember from the last rulemaking, we
19 didn't have the delay of the study group and all that
20 information that needs to be input, so I certainly
21 understand this isn't complete yet, but the last time
22 we did this, I believe we approved a preamble, so it's

1 a little bit different not being able to do that.

2 And I just thought if we could have a scheduled
3 time for when you could receive comments and then the
4 document could go forward, it might be helpful.

5 MS. BRYON: Can I just suggest -- I mean, because
6 I think that is -- on a very high level, the idea is to
7 go back, do some of the changes, fill some of the holes
8 that are in there, send the documents to the drafting
9 committee, and then based on today's conversation, to
10 also send it to the committee members and then move to
11 the public process, preparing the proposed rule and
12 going through everything Aaron just said.

13 Why don't we propose a schedule, and we will post
14 that and send it out to the committee members that
15 gives a little bit more of a detail on timing and
16 process. Okay? To follow. But in general, that's the
17 process.

18 MS. BRYAN: Thank you.

19 MS. BRYON: Is that okay, Aaron? I didn't get him
20 to nod his head yet. Is that okay?

21 MR. SANTA ANNA: Absolutely.

22 MS. BRYON: Okay. Thank you.

1 MS. BRYAN: That's great.

2 Any other questions on this preamble?

3 So looking at the agenda, I'm going to ask if
4 there's any other things the committee members would
5 like to put on the record, any other comments that
6 you'd like to make, this is the time for those, and
7 there is time for those.

8 I would like to propose a 10-minute break, and
9 we'll come back at 10:00. Thank you.

10 (Recessed at 9:41 a.m.)

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

12 MS. BRYAN: Thank you, everybody. We'll
13 reconvene.

14 And over the break, we were able to get a lot of
15 clarification about our protocols and where we're at in
16 this stage of our negotiated rulemaking with the
17 preamble.

18 The committee will go through the preamble with
19 what's written section by section and give approval for
20 what we do have in writing. There are some sections
21 that are not complete that HUD will need some time as
22 well as the drafting committee to complete, and those

1 will also be put in front of the committee. However,
2 it may have to be done by teleconference call.

3 So that's where we're at, and that's the work that
4 we need to do.

5 And again, I will ask Aaron to come up, and we
6 will just chunk through this. Thank you.

7 MR. SANTA ANNA: Thank you.

8 And just to be able to understand, the process as
9 I understand it is we'll put up language. We'll want
10 to see if there were any changes that the committee
11 wants. As there are changes, we'll redline it, we'll
12 talk about it, and then we'll vote on it so that we can
13 try to get through it.

14 So why don't we just go ahead and start at
15 paragraph (a), which is on page 6? Line 15 down to 20.
16 Again, this was the language that I mentioned dealing
17 with the change to the definition of formula area based
18 on UKB versus HUD.

19 MS. BRYAN: Earl?

20 MR. EVANS: Madam Chair, if I'm in order, I move
21 to call for a consensus on paragraph (a) line 15, page
22 6.

1 MS. BRYAN: We have a call for the question. Do
2 we have consensus on this section in front of us? Line
3 15, page 6, lines 15 to 20.

4 Thank you. We have consensus.

5 MR. SANTA ANNA: Then we'll take paragraph (b),
6 the continued funding of Section 8 units.

7 MS. BRYAN: Excuse me, Karin has a question.

8 MS. FOSTER: Thank you. Karin Foster, Yakama
9 Nation Housing Authority.

10 Aaron, we started at page 6, which I understand,
11 because that's where our rule starts. But I'm looking
12 back at page 5 and the characterization of the
13 committee membership, and I wonder if we don't need to
14 look at that a little bit.

15 I understand why we started at page 6, because
16 that's where our proposed rule starts, but in looking
17 at the earlier page 5, I think we need to look at the
18 language that's used to describe the committee
19 membership as consisting of 24 elected officers of
20 tribal governments or their designees. I know that's
21 not accurate.

22 So I think we need to describe ourselves

1 differently than that. And we can come back to that,
2 if you'd like, but as I'm going through the earlier
3 pages, I wanted to highlight that as something we need
4 make a change to, I think.

5 MR. SANTA ANNA: At the pleasure of the committee.

6 MS. FOSTER: I can propose some language in a few
7 minutes if you'd like.

8 MR. SANTA ANNA: Yes, yeah, let's do that.

9 If you could roll it up to page 5, this is at line
10 2. And I think the issue is elected officials of
11 tribal governments or authorized designees.

12 Did you want to propose some --

13 MS. FOSTER: I'd be happy to do that. I'd
14 probably go back to the initial announcement. But if
15 we want to keep moving, I can propose some language in
16 one of our next steps here. I don't have it off the
17 top of my head.

18 MR. SANTA ANNA: Okay. Great.

19 MS. BRYAN: Thank you, Karin.

20 MR. SANTA ANNA: Then we'll go to paragraph (b) on
21 page 6 beginning at line 21. This is the language
22 dealing with continued funding of Section 8 units, and

1 it reflects the change in the statute and tries to
2 conform the regulations to that change.

3 I don't know if there's an ability to be able to
4 capture the whole thing on screen.

5 MS. BRYAN: Sami Jo?

6 MS. DIFUNTORUM: Thank you. I propose we accept
7 the paragraph 1000.306 as presented.

8 MS. BRYAN: We have a call for the question on
9 Section 1000.306 as presented.

10 All right. We have consensus. Thank you.

11 MR. SANTA ANNA: And what I've asked staff to do
12 is to have the preamble language over on one side and
13 the regulatory text over on the other side, so you can
14 take a look at that.

15 Next, let's move to paragraph (c). This is the
16 revision to Section 1000.310 to reflect the addition of
17 the undispersed IHGB funds factor and also, which we
18 have listed, the 1995 minimum. It was something that
19 was codified already, and this just is a laundry list
20 of the various components of the formula.

21 MS. BRYAN: Jason? Jack or Jason?

22 SPEAKER: Call for question.

1 MS. BRYAN: We have a call for the question,
2 paragraph (c), components of IHBG formula, 1000.310 as
3 presented.

4 I see consensus. Thank you.

5 Karin?

6 MS. FOSTER: Yes, thank you, Madam Chair. Karin
7 Foster, Yakama Nation Housing Authority.

8 I have language to propose for the top of page 5,
9 where line 2, it reads, "The committee membership
10 consists of 24 elected officers," etc.

11 I'd like to suggest that this read instead, "The
12 committee membership consists of 24 designated
13 representatives of tribal governments and tribally
14 designated housing entities."

15 SPEAKER: Call for the question.

16 MS. BRYAN: Call for the question. Page 5, line 2
17 and 3 with the change.

18 And I see dissention. Earl?

19 MR. EVANS: Thank you.

20 The reason for my hesitation to vote with
21 consensus is because the change leaves out the HUD
22 membership, because if we're talking the total

1 committee membership, we also have to mention the
2 federal government representatives.

3 In addition to that, I'm okay with saying
4 designated represents of tribal governments, but I want
5 to look back at what the Federal Register notice said
6 about the membership on the committee, because
7 officially, consultation is with the Indian tribal
8 governments.

9 And so some tribes have TDHE, some don't. So I
10 just want to check the original language in the Federal
11 Register notice real quick before making a decision on
12 exactly how we describe who's representing the tribal
13 entities. Does that makes sense?

14 MS. BRYAN: Thank you.

15 Karin?

16 MS. FOSTER: Thank you, Earl. I think that does
17 make sense, although I just want to note that the
18 Yakima Nation doesn't consider this a government-to-
19 government consultation, because they are only to be
20 represented by elected officials on the tribal council
21 and general council, so I can't be authorized to do a
22 government-to-government consultation.

1 I'm here on behalf of the Yakama Nation Housing
2 Authority, so there does need to be some language in
3 there to that effect, but I'll go back to the initial
4 public register -- I mean, the Federal Register
5 announcement is on the net. We can check it.

6 MS. BRYAN: Is this something we have?

7 MR. SANTA ANNA: It's something that we are
8 finding.

9 MS. BRYAN: Here we go. Okay.

10 MR. SANTA ANNA: Okay.

11 MS. BRYAN: Okay. We have a request for the
12 language in the preamble to be put back up on the
13 screen please, page 5, the top of the page.

14 Karin?

15 MS. FOSTER: Yeah, I'm looking at the charter
16 actually, although I may be looking at an older
17 charter.

18 In the charter, I'm looking that we describe the
19 tribal members as 24 members representing
20 geographically diverse small, medium, and large tribes.

21 May I?

22 MS. BRYAN: Yes, Karen.

1 MS. FOSTER: Yeah, I'd like to make an alternate
2 proposal that will respond to Earl's suggestions, and I
3 appreciate that, too, we can't forget HUD when we
4 describe the committee membership.

5 I guess I'm going back to the charter and would
6 like to suggest that perhaps the committee membership
7 consists of 25 members reflecting geographically
8 diverse cross section of small, medium, and large
9 tribes.

10 And then it's fine with me to leave the reference
11 to the HUD representatives in the following sentence,
12 but shall we include it?

13 Which would you prefer, Earl?

14 MR. EVANS: That's fine. That's fine.

15 MS. BRYAN: Aneva? Okay. Earl, is your card
16 still up?

17 MR. DOLLARHIDE: Jack, do you have something to
18 say? Your little microphone is on over there.

19 Annette?

20 MS. BRYAN: Thank you. Annette Bryan.

21 I am looking at the language, and the current
22 language that says tribal governments and tribally

1 designated housing entities I believe further dilutes
2 it, because tribally designated housing entities do not
3 have the authority to appoint someone to this
4 committee. Only the tribal councils do.

5 Also, I wonder if, in parenthesis, the original
6 language says, "or authorized designees of those tribal
7 governments," says to me that you're being appointed by
8 your tribal council or your tribal government.

9 So I'm curious if that meets the need of the
10 concern that was originally expressed.

11 So we're going to suggest that we come back to
12 this, and let's finish our work, and then we'll try to
13 meet everybody's needs with a little bit more thought
14 put into it.

15 MR. DOLLARHIDE: Before we move on, I would like
16 to say one thing, before I lose my train of thought
17 here, and then we can move on.

18 Where you struck out elected officers, in my
19 opinion, where the parenthesis are need to be put up
20 there where it says, elected officer, parenthesis, or
21 authorized designees of those tribal governments, and I
22 think that would make it a little more clear, in my

1 opinion.

2 MS. BRYAN: Thank you, Jason.

3 Are all the cards up on the table now taken down?

4 Okay.

5 Well, let's move on. Aaron?

6 MR. SANTA ANNA: I'm sorry, the committee did vote
7 on paragraph (c). Am I right on that? All right.

8 Then moving onto paragraph (d), delta, conversion
9 of units from low rent FCAS to Mutual Help or Mutual
10 Help to low rent FCAS. This is Section 1000.316.

11 And as I look at it, we added paragraph (c) to
12 this section to reflect the regulatory provision that
13 was approved by the committee.

14 MR. JACOBS: Call for the question.

15 MS. BRYAN: I have a call for the question from
16 Leon Jacobs.

17 Seeing no dissention, we have consensus. Thank
18 you.

19 MR. SANTA ANNA: We're now at paragraph (e),
20 Mutual Help unit conveyance.

21 This basically provides specific milestones for
22 demonstrating FCAS eligibility. And this is 318(a),

1 alpha.

2 MR. SHURAVLOFF: Call for the question.

3 MS. BRYAN: Thank you. Marty calls for the
4 question.

5 We have consensus. Thank you.

6 MR. SANTA ANNA: Moving to paragraph (f),
7 demolition and rebuilding of FCAS units.

8 MS. BRYAN: Earl calls for the question.

9 We have consensus. Thank you.

10 MR. SANTA ANNA: Next, we will move to paragraph
11 (g), overlapping formula areas.

12 This is a section that we need to add a little bit
13 to cover a provision that was overlooked, so let me get
14 that language.

15 MR. DOLLARHIDE: Call for question.

16 MS. BRYAN: We have consensus. Thank you.

17 MR. DOLLARHIDE: Jason?

18 MR. ADAMS: I just have a question, Aaron, or HUD,
19 or whoever. Should we be calling out typos, or is
20 there going to be a reread and an ability to correct
21 typos when somebody puts another read on this thing?

22 MR. SANTA ANNA: My recommendation to the

1 committee is that we not deal with typos.

2 MR. ADAMS: Okay.

3 MR. SANTA ANNA: The document will be scrubbed by
4 a lot of people before it ultimately gets published.

5 MR. ADAMS: I'm fine with that. Thank you.

6 MR. SANTA ANNA: So do we have consensus on (g)?

7 All right, (h), minimum total grant allocation of
8 carry over funds. This is a provision that we worked
9 with Jack to try to ensure a minimum distribution to
10 small tribes.

11 MS. BRYAN: Call for the question. Call for the
12 question.

13 Seeing no opposition, we have consensus.

14 MR. SANTA ANNA: Skipping (i) and moving to (j),
15 this paragraph deals with the volatility control that
16 would be added as Section 1000.331.

17 MS. BRYAN: We have a call for the question.

18 I see consensus. Thank you.

19 MR. SANTA ANNA: Paragraph (k), data challenges
20 and appeals of HUD formula determinations.

21 The change here was to address the addition of the
22 undispersed funds factor and to provide a little bit

1 more clarity in how the language read.

2 MS. BRYAN: We have a call for the question.

3 I see consensus. Thank you.

4 MR. SANTA ANNA: Paragraph (1), this is an
5 addition of the new section dealing with undispersed
6 IHGB funds factor.

7 MS. BRYAN: I have a call for the question.

8 I see consensus. Thank you.

9 MR. SANTA ANNA: So I think that covers the
10 preamble with the one change that remains on the table.
11 If I'm wrong, please let me know.

12 MS. BRYAN: Thank you, Aaron.

13 Karin?

14 MS. FOSTER: In the interest of simplicity, I
15 appreciated Jason Dollarhide's suggestion that I heard
16 before we closed on this issue and would just like to
17 make one last proposal for page 5.

18 Instead of elected officers, simply substitute
19 designated representatives, the committee membership
20 consists of 24 designated representatives of tribal
21 governments, paren, or authorized designees of those
22 tribal governments, close paren, period. We just go

1 back to the original and just make one substitution.

2 MS. BRYAN: Back to the original, and the
3 substitution was what, Karin, just for getting it up
4 there right?

5 MS. FOSTER: The tribally designated housing
6 entities language would not be included. It would just
7 be 24 designated representatives of tribal governments
8 and then the parenthetical.

9 MS. BRYAN: We have a call for the question.
10 Aneva, is that a dissention?

11 MS. YAZZIE: I had put my -- before you called for
12 the question --

13 MS. BRYAN: So okay. We're calling for the
14 question.

15 MS. YAZZIE: No problem. Thank you.

16 MS. BRYAN: Thank you.

17 I see consensus. Thank you.

18 Again, thank you very much for your work on this,
19 Aaron, and HUD, and the committee.

20 (Applause).

21 MS. BRYAN: Good job.

22 And the committee has requested an opportunity for

1 the non-consensus items to really be discussed and then
2 agreed upon in the preamble. I want to put that on the
3 record that those are not finished at this time, so
4 we're not able to discuss them, and that there will be
5 an opportunity provided to the committee to look at
6 those before it moves forward.

7 And I think HUD agrees to that, that that's part
8 of this process. And we'll likely do that by
9 teleconference call, and they've agreed to put a
10 schedule out for us, so we know when to expect the
11 certain timelines. So good job, everybody.

12 Okay. That takes us through the preamble portion
13 of our agenda.

14 I have a presentation from Jack and Jacob on
15 behalf of the entire committee. Leon. There's a Jacob
16 in his name. Okay.

17 MR. JACOBS: Jack and I were going to come in and
18 give you a lesson on the history of Indian housing, but
19 we decided against that. But between the two of us, I
20 guess we go back to the 70s, right?

21 MR. SAWYERS: At least.

22 (Laughter).

1 MR. JACOBS: Well, one question. Who was the
2 first tribe to start an Indian Housing Authority?

3 SPEAKER: Oglala.

4 MR. JACOBS: All right. All right. And where did
5 the National American Indian Housing Council start?
6 Where was its birth? What state and what town? What
7 town? All right. That's your history lesson.

8 Seriously, Jason, we would like you to come up,
9 please, Dollarhide. Okay, Jack.

10 MR. SAWYERS: First of all, I'd like to say hello
11 to all the little people.

12 (Laughter).

13 MR. SAWYERS: Jason, my friend, I want you to take
14 a minute, your brothers and sisters want to know that
15 we've been thinking about you, praying about you.
16 You've been in our prayers. And then part of your
17 healing, we want you to know that you have the support
18 of all of us.

19 We love you. We respect you. And maybe this may
20 help you just a little bit in your healing.

21 MR. JACOBS: This is a memory for you on your
22 daughter. All right?

1 MR. SAWYERS: As you see that, think of all the
2 support you're getting from your brothers and sisters.

3 (Applause).

4 MR. DOLLARHIDE: I want to thank everybody for
5 this. I'm totally surprised. I do appreciate it very
6 much. I'm at a loss of words. I do appreciate it very
7 much.

8 And as some folks probably know in this room, the
9 loss of a loved one, especially a child, is really
10 heartbreaking and really unbearable, unlike any other
11 feeling. And I've read about it, and they say it's a
12 lifelong healing process that you encounter when that
13 takes place.

14 So in saying that, I want to, once again, say
15 thank you very much. I will hold this near and dear to
16 my heart from everybody. And for those folks out there
17 that have lost children in their lives, this is for you
18 also. So thank you very much.

19 (Applause).

20 MS. BRYAN: Thank you very much, everyone, for
21 going along with us in this way.

22 Our love is here for you, Jason. And feel free to

1 call upon any one of us at any time. I'm sure I speak
2 for all of us when I say that. And for those of you
3 out there offering comfort, keep it coming, just
4 periodically, a year from now, a day from now, a week
5 from now, and help Jason lift his spirits and keep him
6 moving along in a good way.

7 So at this time in our agenda, we will open up for
8 public comments, and then we are ready for closing
9 remarks.

10 So I will offer to the public, there are
11 microphones on either side of the room. Please state
12 your name and where you're from clearly for the record.
13 Thank you.

14 MR. SPRINGER: Good morning. Tom Springer,
15 outside counsel for Ho-Chunk Nation.

16 And I just want to submit a statement in writing
17 on behalf of the Vice President, Darren Brineger, for
18 Ho-Chunk Nation to the committee and to be made part of
19 the record. It's just a brief statement on the
20 Nation's position concerning some of the issues that
21 were discussed over the last few days.

22 So thank you.

1 MS. INESS: Good morning. My name is Carrie
2 Iness. I'm a council member and the board member. And
3 it's just been really interesting for the past two days
4 listening and for the committee here to be able to --
5 you represent small and large tribes. I'm a small
6 tribe. We're non-gaming.

7 And this morning, I happened to listen to the
8 news, and there's going to be a series, and it's
9 talking about housing and race. And when you look back
10 to public housing, and it was for the poor, the poor
11 whites. And then when it came to the people of color,
12 there were double standards that Native people, people
13 of color had to jump through. And so it's really a
14 series. I believe it's going to be happening starting
15 in September. But the series and the name of the show
16 is Show Me a Hero.

17 So when I look at the negotiating committee, it's
18 that very thing when you sit here, you look to you as
19 our representatives, and so I say to you, show me a
20 hero when you're talking about housing in Indian
21 Country.

22 A lot of us, I'm part of the baby-boomers. And we

1 need to think about the young people, housing shortage.
2 There's a great need. And when you talk about the
3 variables and you talk about the American Community
4 Survey, what is that all about? We, as a grassroots
5 people, we don't know.

6 And so when you do talk about the allocations, it
7 was so confusing when what variable were you talking
8 about when you talk about the various options. I think
9 those need to be shared with the people here, the
10 housing people, the tribal people, tribal government.

11 But we're moving along, and I really praise you
12 for coming together and doing what you need to. It's a
13 hard task. Thank you.

14 (Applause).

15 MS. BRYAN: Thank you.

16 MS. IRON CLOUD: Madam Chairman, may I speak from
17 here?

18 One of the things that I'd like to introduce is
19 I'd like to introduce our Chairman, who is not here at
20 the time. His name is AT Stafne. He comes from the
21 Fort Peck tribes. He's Assiniboine, and he's married
22 to a Sioux woman who he lost two years ago.

1 One of the things that find very disturbing today
2 was how you basically took out the elected officials of
3 the tribes. It's like taking out the President of
4 United States and sending a maintenance man here. My
5 son's a maintenance man. I'm very proud of him. Works
6 for the Bureau of Indian Affairs. Maybe he is the
7 elected official next time.

8 But when we say government to government, that's
9 exactly what we mean. That means elected officials.
10 That means government to the HUD, you are here as
11 representatives of President Obama.

12 So all the officials that are sitting here, I know
13 you have a resolution in hand. I know that, or you
14 wouldn't be here. You have been designated by your
15 tribes. So there would be 22 people from the tribes,
16 and there should be two HUD people at this thing.
17 There should be no more than 24 at this table here.

18 So that language has to go back in there. Because
19 in the end, if you do not put that in there, you don't
20 even have to bring a resolution, just bring your
21 neighbor over here, have your neighbor sit at the table
22 here.

1 That's one of the most disturbing things I have
2 seen in this HUD so far. And I hope that goes public.
3 I hope that goes on Facebook, that they took the
4 elected officials out of there. I know you put
5 designees. I know that. I saw that. But if you don't
6 have a resolution in hand, anyone can sit here. And
7 that's the sad part.

8 When I went to my first neg reg meeting in Denver,
9 Colorado, the first thing they asked me, "Come sit at
10 the table. Come sit with us at the table."

11 Not one of you have asked me to sit at this table.
12 Not one. Not one. And how many elected tribal Vice
13 Chairmans, Chairmans, elected officials are here? Only
14 four of us. That's the sad part on our part as well.
15 I just want you to know that. How many Chairmans have
16 walked in here and stayed for the actual negotiating?
17 How many? Not very many.

18 But at that time, in 1998, there was a lot at that
19 time. It's just like our heart needs to go back into
20 it as tribal elected officials. And today, each one of
21 you have opened my eyes. You have opened them, because
22 you have sacrificed your time to be here.

1 Then when I saw Mr. Jason up there, I can't even
2 imagine what he has gone through. But I know each one
3 of you are filled with passion in what you're doing, or
4 else you wouldn't be here. I know that.

5 We carry each other's pain with us. You become
6 brothers and sisters when you sit here, and you see
7 each other across the way. And today, I'm ashamed,
8 because there are not more elected officials from our
9 tribes as Chairmans and Vice Chairmans and council
10 members here.

11 For you that are elected that sit at this table, I
12 applaud you. For you who are designees from your
13 tribe, I uphold you. I uphold that resolution that you
14 have in your hand, and that has to say that on this.
15 It has to say that. Not just authorized, because I
16 could authorize my secretary, come on down there, go
17 sit in there with me.

18 You have to go through the council. I couldn't
19 even come here today unless there was a resolution for
20 me to sit here and speak, and I'm a Vice Chairman of
21 the tribe. So those are so important. So that needs
22 to be back in there.

1 I don't know how you're going to do that, but you
2 have to put that on there. Truly. Or else take the
3 United States President off the HUD altogether. Just
4 so you know that.

5 Thank you, Jason, for your good heart. And I
6 didn't know when you lost your baby, but tell you, it's
7 a rough one.

8 So thank each one of you. Thank you for listening
9 to me. And I'll be heading out in the morning, but
10 thank you so much. Appreciate that.

11 (Applause).

12 MS. BRYAN: Thank you, Vice Chairwoman Iron Cloud.

13 MS. VASQUEZ: Good morning. Is that on? Okay.

14 Thank you, all for all you've been doing here.

15 I would like to go on record as making a request
16 that the data source question not just be gone away,
17 that it be put in the parking lot and discussed at a
18 further time or a future time. If no decision can be
19 made on a new data source, I would request that it
20 remain status quo. Thank you.

21 MS. BRYAN: Thank you.

22 Last call for public comments.

1 I would like to thank those of you who came up to
2 speak, and your comments are entered into the record.

3 And also would like to just announce, again, that
4 everything that's been decided here will be out for
5 public comment, so let's keep our finger on the pulse,
6 pay attention, and make sure those comments continue to
7 come in so that HUD can make the best decision on our
8 behalf with our input.

9 So at this time, we have closing remarks. And I
10 would like to personally thank each and every committee
11 member at the table for all of your hard work and
12 diligence and patience in educating those of us who
13 have sat at this table for the first time, and going
14 along with that, and bringing us up to speak, and
15 educating us through this whole process.

16 And I would also like to thank HUD and all of the
17 staff here from HUD as well as the support staff from
18 FirstPic for really taking good care of us and making
19 sure that this process is set up in a way that we can
20 have an opportunity to be organized, be prepared, get
21 through some very difficult conversations, giving us
22 the time and space that we needed for that.

1 It all matters, and it's all very important to the
2 people we serve back home, to the tiniest babies, the
3 unborn babies, all the way to the eldest elders and
4 even our ancestors who are watching down on us.

5 So with that, I'm just going to say thank you. It
6 has been my honor and my privilege to serve as your Co-
7 Chair.

8 And would you like closing remarks? On behalf of
9 Jason and I, we really, really thank you for allowing
10 us the opportunity to sit in front of this table. And
11 thank you for your patience with us along the way.

12 And at this time, we will have closing remarks
13 from Jemine Bryon from HUD.

14 MS. BRYON: Thank you very, very much. Thank you
15 to the committee members, the audience and the work
16 group. Thanks to everyone that has spent time away
17 from their families and communities to ensure that all
18 people in Indian Country are heard in this process.

19 It has been a long haul which began in 2012 with
20 the first Federal Register notice asking for
21 nominations to the committee, but you have accomplished
22 an incredible task, and I am amazed at the dedication

1 you have made to this process.

2 We still have a few steps to go to complete our
3 work. And over the next several weeks, we'll we
4 working with due speed to get through all of the
5 remaining steps.

6 As you know, the committee has spent a
7 considerable amount of time and effort considering what
8 data source should be used under the needs component of
9 the formula. The current data is old. It does not
10 reflect a number of the situations we understand is
11 going in in Indian Country, such as migration.

12 HUD initially considered introducing data from the
13 American Community Survey in fiscal year 2015. The ACS
14 was available, and in the Department's opinion, a
15 reliable alternative to the 2000 decennial census data
16 that we have been using for many years now. However,
17 in recognition of the important work of this committee,
18 and after hearing some of your concerns, this committee
19 agreed by consensus to do several important things.

20 First, we agreed to delay this committee's work by
21 one year and form a data study group to research all
22 available sources. The data study group was also

1 tasked with recommending data sources to this committee
2 that reflects the housing needs of Indian Country.
3 HUD's staff participated in the data study group, and
4 both HUD and Indian tribes on this committee provided
5 critical resources and support.

6 Second, we agreed to delay the introduction of a
7 new data source into the formula by three years. No
8 new data source will be introduce until fiscal year
9 2018 to allow all tribes additional time to prepare for
10 any potential impacts on the IHBG grants.

11 Third, we agreed to a regulation that provides for
12 significant volatility control to transition the impact
13 from the introduction of a new data source.

14 We are confident that this regulation will provide
15 Indian tribes that would see a reduction in funding
16 with some stability while allowing us to move to a more
17 up to date and reliable data in the IHBG formula.

18 Finally, this committee agreed that, if it could
19 not reach consensus on a data source, HUD would
20 determine the appropriate data source that will be used
21 in the formula starting in fiscal year 2018.

22 Unfortunately, after so much hard work, neither

1 the data study group nor this committee could reach
2 consensus on a data source. Accordingly, the
3 Department is now charged with determining an
4 appropriate data source that will be used starting in
5 2018. HUD will make a decision on the data source that
6 will be used in the near future. We will also include
7 an appropriate discussion in the preamble as to the
8 proposed rule describing our decision.

9 As we have indicated to this committee in previous
10 negotiated rulemaking sessions, the ACS has been our
11 recommended data source for the needs component of the
12 formula. It is collected in a uniform manner that can
13 be confirmed and verified for all AIAN households and
14 persons living in identified areas.

15 We will also assess whether we should use data
16 from the 2010 decennial census for the total AIAN
17 population variable, given that it is also available
18 and a reliable data source.

19 We fully appreciate the concerns of those Indian
20 tribes that may be negatively impacted by the
21 introduction of the ACS into the formula and those who
22 do not feel the ACS fully reflects their housing needs.

1 We hear your concerns and will consider ways to address
2 them.

3 We commit to considering the data study group's
4 recommendations on how to improve ACS and decennial
5 data to better reflect housing needs in Indian Country,
6 and we are committed to working with the Census Bureau
7 to improve it in tribal areas.

8 For example, this was recommended by the study
9 group, as Census increases sample sizes and improving
10 their address lists in tribal areas, we will work with
11 them, so they use tribal areas instead of counties for
12 their control totals. This will improve accuracy in
13 tribal areas.

14 We will work hard to finalize the process, as was
15 previously outlined by Aaron. When we meet next year,
16 we will review the public comments and finalize the
17 rule for publication. We anticipate that to be
18 sometime around late spring or early summer. We will
19 also be coming together to celebrate our hard work and
20 accomplishments, not only for that which we accomplish
21 in this process but for which what you do every day,
22 bringing housing programs to Indian Country.

1 Finally, I would also like to say that HUD fully
2 appreciates the concerns expressed during public
3 comments, particularly about the level of funding for
4 Indian housing.

5 For our FY 2016 budget, the President proposed the
6 largest increase the funding to address housing needs
7 in Indian Country in years. The FY '16 budget request
8 included \$748 million to address housing needs in
9 Native American communities, which included funding for
10 teacher housing, to attract educators to Indian
11 Country, as well as connecting Native American veterans
12 to homeless and vital clinical services.

13 In addition, ONAP has been leading the interagency
14 effort to consolidate and streamline the federal
15 environmental process. We've been working very hard
16 with our VA partners to create the tribal HUD-VASH
17 program, which is a program to support the housing
18 needs for our veterans. It is a demonstration program
19 that is under development, and we hope to have that
20 notice published this fall announcing the program.

21 Another new initiative in Indian Country comes
22 directly from the White House. Gen-I focuses on

1 improving the lives of Native youth through new federal
2 investments and increased federal engagement. HUD
3 fully supports Gen-I and has staff participating in the
4 meetings to make sure housing is included as a
5 component of this groundbreaking initiative.

6 HUD has been working with the Urban Institute
7 since 2011 on a major comprehensive study to assess the
8 housing needs and housing conditions in Indian Country.
9 The needs study will wrap up this year, and a final
10 report is scheduled to be published next summer.

11 HUD appreciates the cooperation shown by all the
12 participating tribes. This study is the most
13 comprehensive of its kind since 1996. As of June 2015,
14 33 of the 38 tribes have completed the household survey
15 with a 70 percent response rate. Thank you for that.

16 HUD has also been working with BIA on implementing
17 the HEARTH Act so that tribes can conduct their own
18 titling operations. HUD encourages all tribes to learn
19 about and take advantage of the opportunities provided
20 by the HEARTH Act.

21 We have also been working very diligently on
22 reauthorization of NAHASDA.

1 I look forward to our continuing relationship. I
2 personally thank you very much for letting me play a
3 role in this process and for introducing me to your
4 rich heritage. It has been my honor.

5 On behalf of HUD and the Secretary of HUD, thank
6 you very, very much.

7 I would also like to take a minute to thank the
8 HUD staff, the contracting staff. You see them running
9 around here quite a bit. That's a slight indication of
10 the immense dedication that they have to all that we do
11 in the Office of ONAP and in Housing and Urban
12 Development.

13 They are truly a committed group of employees, and
14 I hope you recognize that. But I really want them to
15 know how much I appreciate them and we appreciate their
16 efforts at this session and all previous sessions.

17 (Applause).

18 MS. BRYON: So simply put, once more, thank you
19 all for your efforts. Thank you all for the work that
20 we've done to date. We have a little bit more to go,
21 and I'm looking forward to wrapping it all up. So
22 thank you.

1 (Applause).

2 MS. BRYAN: Thank you very much. And I'm glad you
3 were able to participate in this process with us.

4 And thank you, Principle Deputy Assistant
5 Secretary Lourdes, for showing up and being present for
6 us. I'm sure we all invite you out to see us in
7 person.

8 So I was remiss in thanking our facilitator, Susan
9 Podziba. Thank you for your hard work and dedication
10 to this process.

11 (Applause).

12 MS. BRYAN: And I also wanted to acknowledge our
13 tribal representatives as well as our audience and
14 especially our elected officials who took time and
15 resources to come here and sit with us today and during
16 the past few days and during the past few sessions.
17 Thank you very much.

18 (Applause).

19 MS. BRYAN: At this time, we are at closing, and
20 we have asked Jason Adams to deliver us our closing
21 prayer.

22 Thank you very much, everybody.

1 MR. ADAMS: Thank you, Co-Chairs, for this
2 opportunity. It's always an honor to be asked to say a
3 few words and close our sessions or open our sessions,
4 whatever the case may be, in prayer.

5 That is the one thing, before I pray, that you've
6 heard me say before in regards to the differences and
7 the struggles that we have across this continent and as
8 indigenous people. The one thing that I was taught by
9 my father growing up, who was an elected official for
10 many years, is that wherever he went and met with a
11 different Indian people, and throughout our histories,
12 we had wars and disagreements over many things, but the
13 one thing that we never did battle about or disagree
14 about was that we have a creator, we have a God that we
15 can pray to.

16 And so with that in mind, I think of my great
17 grandma, who was the big influence in my life, who
18 taught me about the importance of having a relationship
19 with our creator.

20 And it's been interesting to see this week, as
21 we've had different people pray, that we all express
22 that relationship in different ways. And so with that

1 in mind, I pray today in honor of my great grandma and
2 the things that she taught me, taught me about
3 relationship with God and relationship with Jesus
4 Christ.

5 And so with that in mind, join me in a word of
6 prayer here.

7 Father God, I thank you, once again, for this
8 opportunity as we've had to gather here this week. I
9 thank you that we come from many directions and many
10 places, leaving our families and our loved ones, and
11 our children to come and take care of this important
12 business that you've set before us. And Father, we
13 know that you are in control, even here today. In all
14 that we have, you've placed the people in the places
15 that you've place them by your authority, and we
16 acknowledge that, Lord.

17 And we thank you. We thank you that we have the
18 opportunity here to pray, that we have the privilege to
19 know you in a personal way and acknowledge all that you
20 do for us. We're grateful for the opportunity that we
21 have.

22 Father, you've heard some heavy things this week

1 as people shared their hearts. I pray for those
2 people. I pray for their hearts and their healing.

3 I pray for my brother, Jason, and his heavy heart,
4 and the many others, those that are unspoken in this
5 room that have heavy hearts, that have lost loved ones
6 recently. I know how that feels in losing my brother
7 here just not too long ago. Father, and so we just
8 give those things up to you, too. I pray for Jason
9 that he will find healing and find it in you, Lord.

10 So I thank you, again, for this time. We just
11 thank you that we have the opportunity here to get to
12 know one another and share in this experience and
13 represent those back home that have no voice. I thank
14 you for our elders that have taught us what we have
15 today. We pray for them in their journey.

16 For all these things, Lord, I pray in Jesus name.
17 Amen.

18 MS. BRYAN: Thank you, Jason.

19 (Whereupon, at 11:21 a.m., the meeting was
20 adjourned.)

21

22