

**DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT AND TRIBAL REPRESENTATIVES**

**NATIVE AMERICAN HOUSING & SELF-DETERMINATION NEGOTIATED RULEMAKING COMMITTEE 2013**

CHARTER: Draft

*This document is designed to serve as the starting point for the 2013 IHBG Negotiated Rulemaking Session Charter. It combines the charter from the IHBG Negotiated Rulemaking Session in 2003 (red) and the Negotiated Rulemaking Session in 2010 (blue).*

**I. OFFICIAL DETERMINATION/OFFICIAL NAME**

Native American Housing Assistance & Self-Determination Negotiated Rulemaking Committee (Committee).

The official name of the Committee established herein is the Native American Housing Assistance & Self-Determination Negotiated Rulemaking Committee (“Committee”).

**II. PURPOSE**

This Charter establishes a Committee to negotiate with the Department of Housing and Urban Development (“HUD”) regulations that establish the allocation formula used under 24 C.F.R. Part 1000, subpart D, and related sections (such as Section 1000.118 as applicable) and other regulatory issues that arise out of the allocation or reallocation of Indian Housing Block Grant (IHBG) funds, including actions related to data errors, under the IHBG program of the Native American Housing Assistance & Self-Determination Act, Public Law 104-330 (“Act”). The Committee will advise the Secretary of HUD whether changes should be made to the allocation formula established in 24 C.F.R. Part 1000, subpart D, and will recommend such changes as may be deemed necessary and consistent with: (i) the unique responsibility of HUD and the federal government to protect and support Indian tribes and Indian people; and (ii) other legal obligations. The establishment of this Committee provides a non-exclusive means of tribal participation pursuant to the Act. HUD is required to work with the Committee to establish items to be included in the scope for the next Negotiated Rulemaking to be held within one year. HUD shall obtain input from tribes and other non-Committee members in establishing the scope for future negotiated rulemaking changes.

The Charter establishes a Committee, pursuant to Public Laws 101-648, 104-330, 107-292 and 110-411, to negotiate changes to the regulations governing the implementation of the Native American Housing Assistance and Self-Determination Act (PL 104-330) as amended, except that subpart D of 24 CFR Part 1000 shall be excluded from this negotiated rulemaking committee such as regulations are scheduled for negotiations under a different committee in 2012.

### **III. Goals and Objectives**

The goal of the Committee is to negotiate a proposed rule implementing changes as described in Section II of this Charter.

The goal of the Committee is to negotiate a proposed rule implementing changes as described in Sections II and VII (a) of this Charter.

### **IV. Duration**

The Committee shall be authorized to convene until such time as all negotiations are determined by the committee to be final and all regulatory changes negotiated have been published as a Final Rule.

Subject to the limitations of Section VIII of this charter, the Committee shall be authorized to convene until such time as all negotiations are determined by the Committee to be final and all regulatory changes negotiated have been published as a Final Rule

### **V. Principal Federal Government Officer**

Pursuant to the Negotiated Rulemaking Act, the Assistant Secretary for Public and Indian Housing or his/her designee will serve as the Principal Federal Government Officer (PFO) for this Committee. The PFO shall endeavor to ensure that all internal HUD and OMB clearance issues are raised and addressed during the Negotiated Rulemaking process. Should the OMB and Departmental clearance processes identify necessary changes to the proposed rule developed by the Committee, HUD will submit the changes to the Committee for review and approval. This committee will report to the Secretary of HUD through the PFO.

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## VI. Composition of the Committee

### Committee Membership

- a. Tribal Membership: The Secretary of HUD shall appoint twenty-four (24) members representing geographically diverse small, medium and large tribes.
- a. Tribal Membership: The Secretary of HUD shall appoint twenty-five (25) members reflecting geographically diverse cross-section of small, medium and large tribes and other unique significant tribal interests.
- b. Federal Government Membership: The Secretary of HUD will appoint two (2) representatives.
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## VII. Role of the Committee

- a. The role of the Committee shall be:
  1. to determine whether changes or revisions to the regulations that implement the Act are required, as described in Section II of this Charter; and
  2. to develop proposed revisions or changes to these regulations as appropriate; and
  3. to file a report with the Secretary of HUD in accordance with 5 U.S.C. § 566(f); and
  4. to conduct its activities in accordance with the Negotiated Rulemaking Act as adopted to the unique relationship between the Government of the United States and the governments of Indian tribes.
    1. to determine whether changes or additions to the NAHASDA regulations are necessary, desirable or convenient to implement, conform to or clarify any statutory provisions;
    2. to classify and expedite the development of any proposed regulation change that is not controversial or complex, and to begin drafting the report required by Section VII(a)(5) of this charter with respect to such changes, simultaneously with the development of more controversial or complex regulatory changes;
    3. to identify any statutory provisions that is not self-executing, and that requires an implementing regulation before taking effect;
    4. to develop proposed revisions or additions to NAHASDA regulations consistent with this Charter and protocols adopted under this Charter;
    5. to file a single report with the Secretary of HUD in accordance with 5 U.S.C. § 566(f), both with respect to expedited proposed regulation changes under Section VII(a)(2) of this Charter and subsequent proposed regulation changes;
    6. to conduct its activities in accordance with the Negotiated Rulemaking Act as adopted to the unique relationship between the Government of the United States and the Governments of Indian Tribes; and
    7. to register for future consideration regulatory proposals identified by Committee members and not accepted by the committee according to protocol for current consideration.

## 2003- Red 2010- Blue

- b) The Committee shall keep detailed minutes of each meeting and make available for public inspection, subject to 5 U.S.C. § 552, all records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda or other document made available to or prepared by the Committee. Such materials will be available for copying and inspection at a single HUD office.
- b) The Committee shall keep detailed minutes of each meeting and make available for public inspection, all records, reports, transcripts, or other documents made available to or prepared by the Committee. Such materials will be available for copying and inspection at all ONAP offices and on HUD's website, at such time approved by the Committee.
- c) In accordance with the Negotiated Rulemaking Act, if the Committee reaches agreement on a proposed rule, at the conclusion of the negotiations, the Committee shall transmit to HUD a report specifying any areas in which the Committee has reached agreement. The Committee may include in a report any other information, recommendations or materials that the Committee considers appropriate. Any Committee member may include as an addendum to the report additional information, recommendations or materials.
- c) In accordance with the Negotiated Rulemaking Act, if the Committee reaches agreement on a proposed rule, the Committee shall transmit to HUD a report specifying any areas in which the Committee has reached agreement. The Committee may include in a report any other information, recommendations or materials that the Committee considers appropriate, and the report shall be in a form suitable for publication in the *Federal Register* as a preamble to the proposed rule. Any Committee member may include as an addendum to the report additional information, recommendations or materials; however, any such addendum shall not be included in any preamble.

## VIII. Meetings

- a. The number of Committee meetings shall be at least six (6). Meetings shall be scheduled no less frequently than monthly, if feasible. To expedite the work of the Committee, at least one meeting shall be held in Washington, D.C., Denver, Colorado, and Seattle, WA.
- a. The number of Committee meetings shall be no more than six (6). Meetings shall be scheduled no less frequently than monthly, if feasible.
- b. The date, time, place, purpose, and the proposed agenda for each Negotiated Rulemaking Committee meeting will be published in the FEDERAL REGISTER at least 15 calendar days prior to each meeting. The FEDERAL REGISTER notice will also include a statement whether all or part of the meeting is open to the public.
- b. **The date, time, place, purpose, and the proposed agenda for each Negotiated Rulemaking Committee meeting will be published in the *Federal Register*** at least 15 calendar days prior to each meeting. The *Federal Register* notice will also include a statement that the meeting is open to the public.

## IX. Compensation for Services

- a. HUD has determined that the participation of 24 tribal committee members is necessary to assure adequate representation of tribal interests.
- a. HUD has determined that the participation of 25 tribal committee members is necessary to assure adequate representation of tribal interests.
- b. Members of the Committee shall receive no pay, allowance or benefits by reason of their service on the Committee. In accordance with the requirements of the Act and the Negotiated Rulemaking Act, 5 U.S.C. 568(c), while away from their place of residence or business and in performance of services for the Committee, Committee members may be authorized to be reimbursed for travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Federal Government service if:
  - 1. Such member certifies a lack of adequate financial resources to participate in the Committee; and
  - 2. HUD determines that such member's participation in the Committees is necessary to assure an adequate representation of the member's interest.
- b. Members of the Committee shall receive no pay, allowance or benefits by reason of their service on the Committees. In accordance with the requirements of the Act and the Negotiated Rulemaking Act, 5 U.S.C. 568(c), while away from their place of residence or business and in performance of services for the Committee, Committee members may be authorized to be reimbursed for travel expenses, including per diem in lieu subsistence, in the same manner as persons employed intermittently in Federal Government service if:
  - 1. Such member certifies a lack of adequate financial resources to participate in the Committee; and
  - 2. HUD determines that such member's participation in the Committees is necessary to assure an adequate representation of the member's interest.

#### **X. Financial and Support Services**

HUD shall provide travel costs, technical supports, copies of public comments, and logistical support services for the activities of the Committee.

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#### **XI. Statutory Authority**

This Negotiated Rulemaking Committee is established pursuant to Public Law 104-330, Public Law 101-648, and Public Law 107-292.

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