

1 **§1000.310 What are the components of the IHBG formula?**

2 The IHBG formula consists of four components:

3 (a) Formula Current Assisted Stock(FCAS) (§ 1000.316);

4 (b) Need (§ 1000.324);

5 (c) 1996 Minimum (§ 1000.340); and

6 (d) Undisbursed IHBG funds (§ 1000.342).

7 **§1000.336 How may an Indian tribe, TDHE, or HUD challenge data or appeal HUD**
8 **formula determinations?**

9 (a) An Indian tribe, TDHE, or HUD may challenge data used in the IHBG Formula and
10 HUD formula determinations regarding:

11 (1) U.S. Census data;

12 (2) Tribal enrollment;

13 (3) Formula area;

14 (4) Formula Current Assisted Stock (FCAS);

15 (5) Total Development Cost (TDC);

16 (6) Fair Market Rents (FMRs);

17 (7) Indian Health Service projections based upon birth and death rate data provided by
18 the National Center for Health Statistics; and

19 (8) The undisbursed funds factor.

20 (d) An Indian tribe or TDHE that seeks to appeal data or a HUD formula determination, and
21 has data in its possession that are acceptable to HUD, shall submit the challenge or appeal in
22 writing with data and proper documentation to HUD. An Indian tribe or TDHE may appeal the
23 undisbursed funds factor no later than 30 days after the receipt of the formula determination.

1 Data used to challenge data contained in the U.S. Census must meet the requirements described
2 in §1000.330(a). Further, in order for a census challenge to be considered for the upcoming
3 fiscal year allocation, documentation must be submitted by March 30th.

4 (e) HUD shall respond to all challenges or appeals no later than 45 days after receipt and
5 either approve or deny the appeal in writing, setting forth the reasons for its decision.

6 (1) If HUD challenges the validity of the submitted data HUD and the Indian tribe or TDHE shall
7 attempt in good faith to resolve any discrepancies so that such data may be included in the
8 formula allocation.

9 (2) If HUD denies a challenge or appeal, the Indian tribe or TDHE may request
10 reconsideration of HUD's denial within 30 calendar days of receipt of HUD's denial. The
11 request shall be in writing and set forth justification for reconsideration.

12 (3) HUD shall in writing affirm or deny the Indian tribe's or TDHE's request for
13 reconsideration, setting forth HUD's reasons for the decision, within 20 calendar days of
14 receiving the request. HUD's denial of a request for reconsideration shall constitute final agency
15 action.

16 (4) If HUD approves the Indian tribe or TDHE's appeal, HUD will adjust to the Indian
17 tribe's or TDHE's subsequent fiscal year allocation to include only the disputed fiscal year(s).

18 (f) In the event HUD questions whether the data contained in the formula accurately
19 represents the Indian tribe's need, HUD shall request the Indian tribe to submit supporting
20 documentation to justify the data and, if applicable, to provide a commitment to serve the
21 population indicated in the geographic area.

1 **§1000.342 Are undisbursed IHBG funds a factor in the grant formula?**

2 Yes, beginning Fiscal Year 2018. After calculating the initial allocation calculation for the
3 current fiscal year by calculating FCAS, Need, the 1996 Minimum, and repayments or additions
4 for past over- or under-funding for each Indian tribe, the undisbursed funds factor shall be applied
5 as follows:

6 (a) The undisbursed funds factor applies if an Indian tribe's initial allocation calculation
7 is \$5 million or more and the Indian tribe has undisbursed IHBG funds in an amount that is
8 greater than the sum of the prior 3 years' initial allocation calculations.

9 (b) If subject to paragraph (a) of this section, the Indian tribe's grant allocation shall be the
10 greater of the initial allocation calculation minus the amount of undisbursed IHBG funds that
11 exceed the sum of the prior 3 years' initial allocation calculations, or its 1996

12 **Minimum.**

13 (c) For purposes of this section, "undisbursed IHBG funds" means the amount of IHBG
14 funds allocated to an Indian tribe in HUD's line of credit control system (or successor system) on
15 October 1 of the fiscal year for which the allocation is made. For Indian tribes under an umbrella
16 TDHE (a recipient that has been designated to receive grant amounts by more than one Indian
17 tribe), if the Indian tribe's initial allocation calculation is \$5 million or more, its undisbursed
18 IHBG funds is the amount calculated by multiplying the umbrella TDHE's total balance in
19 HUD's line of credit control system (or successor system) on October 1 of the fiscal year for
20 which the allocation is made by a percentage based on the Indian tribe's proportional share of the
21 initial allocation calculation of all tribes under the umbrella.

22 (d) Amounts subtracted from an initial allocation calculation under this section shall be

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- 23 redistributed under the Need component among all Indian tribes not subject to paragraph (a) of
- 24 this section (while also retaining the 1996 Minimum).

FINAL: Approved by Committee

1 **Appendix A is amended by adding a new paragraph:**

2 (10) When applying the undisbursed funds factor under §1000.342, HUD will do an initial run of
3 the formula to determine the tribes subject to the undisbursed funds factor in a fiscal year, and to
4 determine their final grant allocation. HUD will then re-run the Needs component formula a
5 second time (while applying the 1996 Minimum) without tribes impacted by the undisbursed
6 factor.

FINAL: Approved by Committee