

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

4

5 Thursday, June 12, 2014

6 8:30 a.m.

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20 Salon 4

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

2 MR. DOLLARHIDE: It is 8:30 a.m. So we will go  
3 ahead and reconvene the Negotiated Rulemaking Committee  
4 meeting.

5 I have asked Jason Adams to open us up with a  
6 prayer this morning.

7 MR. ADAMS: (Off-mike.) And so, with that, join  
8 with me in a word of prayer.

9 Heavenly Father, we thank you once again for this  
10 morning. We thank you for this time together as we  
11 gather once again.

12 Father, we just, as I look across this room and as  
13 we meet, Lord, we just -- I see so many friends and  
14 commonalities among our people, and we thank you for  
15 that. We thank you that, first and foremost, we've  
16 looked to you, and we've been taught that by our  
17 ancestors that through the years we come to you for  
18 everything that we need, and you've provided that for  
19 us.

20 Once again, our people are coming before you and  
21 asking for things that we need, and so we ask for our  
22 guidance for this day here today. As we meet and as we

1 deliberate, Father, help us to be -- to be transparent  
2 and righteous before you, first and foremost.

3 And so, we thank you for this time. We thank you  
4 for each and every person here, as we begin this work  
5 and continue this hard work. We thank you for the  
6 responsibility.

7 We thank you for the blessings that we have back  
8 home with our families and all those that are relying  
9 upon us. We know we don't take this work lightly.

10 So we thank you once again. We thank you for our  
11 leadership, for here and for home, throughout our  
12 country. Lord, we just ask for you to watch over those  
13 that you've placed in those positions and help them to  
14 know that you placed them there.

15 We thank you again for our children, for our  
16 elders back home, those that we've lost loved ones  
17 recently, those that are struggling with sick parents.

18 We remember them today, and we ask for you to guide  
19 them and bless them and watch over them. Hold them in  
20 the palm of your hand.

21 For all these things, Lord, I pray in Jesus' name,  
22 amen.

1 MS. BRYAN: Thank you, Jason.

2 Good morning, everyone. We are on Day 2 of  
3 Session 4. Summary of Day 1 and plan for Day 2 is on  
4 the agenda. So yesterday we heard from the workgroups  
5 that a lot of progress was being made, and we heard an  
6 update from both workgroups.

7 And for today, the workgroups I think are ready to  
8 get back to work this morning. So are there any  
9 comments or additions to today's agenda before we get  
10 started? Jason?

11 MR. DOLLARHIDE: Good morning. Yesterday, before  
12 the close of the meeting, I believe -- and correct me  
13 if I'm wrong -- there was a proposal put on the table  
14 before this committee. Was that proposal withdrawn  
15 until -- until perhaps later today so more information  
16 could come out of the workgroups? Do I remember that  
17 correctly?

18 MS. BRYAN: I thought that the proposal put in  
19 front of us was draft, just as an update for folks to  
20 see where the workgroup was at.

21 Sami?

22 MS. DIFUNTORUM: Good morning. Pardon me. Sami

1 Jo Difuntorum.

2 Yes, that is not a proposal that's on the table  
3 for consideration at this time. I don't think the  
4 workgroup was actually quite done with it.

5 So thank you.

6 MR. ADAMS: And in regards to the FCAS workgroup,  
7 we did in my report talked about some product that  
8 we're ready to present to the committee, but I guess as  
9 far as process, are we going to finish the workgroup  
10 work that's on the table? Because we've got nine items  
11 that we'll possibly have proposed language for the  
12 committee, and then have, you know, as we've done in  
13 the past, we've had -- finished up the workgroup and  
14 divvied up all of those items and then went into the  
15 full committee and just went through those items, item  
16 by item.

17 Is that kind of the plan here? I don't know.  
18 Because I'm being asked in the workgroup.

19 MR. DOLLARHIDE: I understand. I just -- I know  
20 at 1:30 p.m. on the agenda, it is scheduled for  
21 proposals from the workgroup to the committee today,  
22 according to the agenda for today. I just wanted to --

1 the reason I brought that up, I just wanted to make  
2 sure that we did not have a proposal on the table last  
3 night that was made out of the workgroup.

4 So I just -- I wanted to clarify that. I believe  
5 Rodger has a comment?

6 MR. BOYD: Good morning. After our meeting  
7 yesterday, I started thinking about this process that  
8 we're going through. And I'm glad we did get some  
9 clarification, Mr. Chairman, about the proposed study  
10 that was put on the table.

11 And I started thinking about this this morning.  
12 And I do not know within the working group how many  
13 people have been involved in doing studies or research,  
14 and I found the conversation yesterday very  
15 unstructured. And being an urban and regional planner  
16 and an architect, I need -- professionally, I love  
17 structure, whether it be two-dimensional or three-  
18 dimensional.

19 So I think it's really important, and I would  
20 encourage this committee this morning to make it very  
21 clear as to what the mission of this working group  
22 should be. And I think it's important to maybe -- and



1 I would encourage us to think about outlining this so  
2 that everybody clearly sees what they're going to be  
3 doing. And certainly, that doesn't mean that the  
4 respective committee members that are working on that  
5 also I think should -- and I would hope would  
6 appreciate that.

7 Because at the beginning of the study or the  
8 discussion yesterday, it was all over the place. And  
9 there was a lot of talk in circles, and as I  
10 understand, a lot of things that came up yesterday had  
11 been discussed in the third session that we had several  
12 months ago.

13 I just want to comment on a couple of things, and  
14 again, this isn't, I mean, in my own mind an outline on  
15 the proposed study. And again, you know, being  
16 proposed, it really does have to come back to the full  
17 committee for a final vote. We all should keep that in  
18 mind.

19 I'd like the conversation to be expanded, and I  
20 think one of the first things we really have to do  
21 because I think what was put on the table also included  
22 the "freeze" to the current formula. And so, I think

1 there has to be a really good understanding of what  
2 does that mean?

3 And excuse me, and I think that needs to be  
4 defined and make it very clear for the committee, but  
5 also for those folks in the audience that are  
6 participating in this session. And you know, that sort  
7 of that we want to define the parameters of the study,  
8 but also -- excuse me, let me back up.

9 The freeze, are there any impacts on the formula  
10 distribution or the way the formula is designed to be  
11 implemented or continue being implemented as it is  
12 today? I think that really has to be discussed.

13 The study itself, you know, how in depth, what's  
14 the depth of this? You know there's an old saying  
15 about designing something by committee, and it really  
16 if you want to design a horse, it ends up looking like  
17 an elephant, a giraffe, what have you.

18 So I think it's very difficult, I believe, to  
19 design something by committee. But be as it may.

20 The goal, I think the goal for this "study" I  
21 think has to be clearly defined by the committee or by  
22 the working group so that we understand. And I

1 appreciate Jason's comment about transparency because I  
2 think that that's a really guiding element to all of  
3 this so that the committee fully understands the  
4 responsibility that they are taking on.

5 And not only defining that goal, but what's the  
6 outcome? What do we really want to see as a committee  
7 out of this proposal? The structure, we need to talk  
8 about the structure. In other words, the methodology.

9 Who conducts it? Who pays for it? The timeframe.  
10 The timeframe was bouncing around a little bit  
11 yesterday.

12 And how comprehensive is this going to be? Is it  
13 based on regional or national? There was some debate  
14 in our first session, as I recall, and some committee  
15 members, and with all due respect, some committee  
16 members felt like they were only representing their  
17 tribe, not tribes in their region. Okay?

18 So if this is a study, are we just doing a study  
19 for a tribe, a respective tribe in your region, or is  
20 it going to be a regional study, or is it going to be a  
21 national study? I don't think anybody has really  
22 talked about that yet.

1           So all of those, I think, have a big impact and  
2           also have a lot of responsibility because, you know, we  
3           at this table are not the only stakeholders in this  
4           process. Essentially, if you're looking at developing  
5           something nationally and policy wise, you have to --  
6           this has to be very, very inclusive, which I think is  
7           another key element. Has to be inclusive because it's  
8           going to have an impact on all 566 federally recognized  
9           tribes and 5 State tribes. So we have to keep that in  
10          mind.

11          So the need, I think, and as Jason pointed out,  
12          transparency certainly is, I think, a key element to  
13          it. I think it has to be conclusive, and it has to be  
14          fair to all. And by that, I mean small tribes, medium  
15          tribes, large tribes, and of course, the one mega-tribe  
16          in the country.

17          So I would like, what I would encourage this  
18          committee to do before we break out into our working  
19          session is give, define and give some further guidance  
20          to the working group. And I think that was stressed  
21          early on, I think, by Madam Chairman was that they  
22          wanted -- they seemed to want more structure to it, and

1 I think it would be helpful to the working group for  
2 this committee to put it in writing as to what our  
3 expectations are in this working group.

4 Thank you.

5 MS. BRYAN: Thank you, Rodger.

6 I agree it did get a little cloudy. I'm almost  
7 hearing as you asked for parameters and structure in  
8 the time that it's going to take to talk about the  
9 study that's going to be proposed to the workgroup, is  
10 that a separate working group? I mean, does that need  
11 to happen in the needs workgroup, or can the needs  
12 workgroup not get on to do their work until the study  
13 is defined?

14 Just throwing that out there. Earl?

15 MR. EVANS: Thank you for recognizing me, Madam  
16 Co-Chair. Earl Evans, Haliwa-Saponi Indian Tribe.

17 If I'm correct in the way I remember yesterday,  
18 the discussions that we had surrounding those matters  
19 that you just mentioned and that Rodger has just spoken  
20 about were suggestions after the full day's discussions  
21 and debate. I don't think anyone necessarily had any  
22 answers to those questions you raised or that he

1 raised, or maybe they have them today?

2 But I don't think we had any of them last night.

3 I think we were just coming to some -- and Sami Jo can

4 correct me if I'm wrong. But I think we had just

5 gotten to the point to where we had achieved some sense

6 of a common ground on a few things, and that's as far

7 as it pretty much had gotten.

8 And I think while I think those questions that

9 you've raised and that Rodger has raised are all very,

10 very valid and very good questions that would need to

11 be answered if this results in a proposal that goes

12 forward, I don't think it's yet to the point, and I

13 think Sami Jo mentioned yesterday that it's not gotten

14 to the point to where it's a proposal that's ready to

15 be voted on.

16 We simply had, as she stated, a robust discussion,

17 and we're finally able to get to some sense of a common

18 ground, which resulted in just reporting out to you

19 yesterday that one thing that we were able to achieve

20 common ground on. But I do share the sentiment that we

21 need more affirmative direction on where to go.

22 Because this discussion about some of the factors

1 that we had playing in on yesterday, it is something  
2 that has gone on continuously and for a while. But I'm  
3 hoping that since we have some sense of a common ground  
4 from yesterday, that I'm hoping and very cautiously  
5 optimistic that we'll achieve some greater successes  
6 today.

7 MS. BRYAN: Thank you, Earl. Sami Jo?

8 MS. DIFUNTORUM: Thank you. Sami Jo Difuntorum.

9 I appreciate your comments this morning, and I  
10 agree with you. When we went into the workgroup, I  
11 think different people had different understandings of  
12 what our goal was, and people have different expected  
13 outcomes from the workgroup. So the discussion was  
14 definitely circular at times.

15 I don't think that a proposal can come forward  
16 like the one that we talked about yesterday in general  
17 terms without better understanding what the study is  
18 going to be because that's going to impact whether the  
19 group agrees to a delayed implementation or not. So I  
20 think we're going to need to tackle that this morning,  
21 and it may need to be a subgroup of the workgroup that  
22 takes that on so that we can get on to some other

1 things.

2 But you know, whatever the -- however the  
3 committee feels is fine. But I wouldn't be opposed to  
4 a subgroup looking at that.

5 MS. BRYAN: Thank you, Sami Jo. Jason?

6 MR. ADAMS: Yes, good morning. Jason Adams,  
7 Salish Kootenai.

8 Just wanted to add my comments to the discussion  
9 here. I don't necessarily disagree with Rodger's  
10 comments, and I understand where he's coming from. But  
11 being a workgroup chair, it would always be nice to  
12 have more direction because, you know, we get into our  
13 workgroups and sometimes I feel like, you know, are we  
14 too far off into the weeds? You know, where are we  
15 headed with this discussion?

16 And so, any kind of direction would be nice coming  
17 from this body. But I do have to say that I do believe  
18 that the discussions that maybe are off the beaten path  
19 that are maybe taking off into the weeds a little bit  
20 should happen in the workgroups, and that's where the  
21 discussion in detail should happen so that we can  
22 really flesh out an issue.



1           And I think this is a huge issue that really needs  
2   that time and effort, whether it's, you know, in the  
3   needs workgroup or a sub-workgroup of that committee --  
4   or that workgroup. So that you can really get into the  
5   detail, and everybody that has an understanding or a  
6   perception of where we're headed with this can have  
7   their input and say, well, we want to make sure that  
8   this is covered or that we take this on.

9           And again, I think Earl put it real well. It  
10   sounded like there was a lot of that happening  
11   yesterday, from what I hear and from your comments this  
12   morning. But there was also some coming together, some  
13   commonality started to arise out of the discussion.

14           And I think that's what's important, to have those  
15   discussions so that can happen. And then once that's  
16   done, then the product of that comes back to us. And  
17   those of us that don't participate can understand that,  
18   yes, the in detail discussions have happened. This is  
19   where everybody has found common ground, and hopefully,  
20   we can respect that and move forward from that  
21   position.

22           Thank you.

1 MS. BRYAN: Thank you, Jason. Carol?

2 MS. GORE: Good morning. Yesterday, I asked the  
3 committee if they wanted to offer some guiding  
4 principles to the needs workgroup, and I want to  
5 resurrect that comment because I think that would be  
6 helpful. You know, we're all feeling the pressure of  
7 time.

8 So while we're looking for our common ground, and  
9 I think some of us know where there isn't common  
10 ground. So we're trying to find that alternate path  
11 where we might find some agreement. But we don't have  
12 a lot of time.

13 So having some guidance that comes to that needs  
14 group could be very helpful, and I'm not suggesting  
15 hours-long conversation with the committee, but maybe a  
16 15-minute brainstorming of study/no study.  
17 Regional/national. Stay where it is. What else do you  
18 want us to explore? So that we just get sort of a  
19 running list, and it gives us some framework to report  
20 back to you.

21 I'm just going to make that suggestion again, and  
22 then I had one process question. And maybe, Jason,

1 I've been here almost as many times as you, but maybe a  
2 little older. And I'm trying to remember where the  
3 drafting committee fits in and whether or not -- as I  
4 recall, when we came to a proposal, we worked in the  
5 framework of the actual regulations and that the  
6 drafting committee would help both the working groups  
7 and the committee to make sure that they were framed  
8 properly.

9 So I just want to remind the committee that we do  
10 have a drafting committee, and I'm hoping they'll be  
11 active today in both workgroups, and maybe that will be  
12 helpful in bringing a product back to the committee. I  
13 know that Jason has been bringing his in the framework  
14 of a regulation, and I've appreciated that.

15 Thank you.

16 MS. BRYAN: Thank you, Carol. Jason?

17 MR. ADAMS: Just in response -- in response to the  
18 drafting committee discussion. As far as our  
19 workgroup, we've already employed our drafting  
20 committee. And what the discussions kind of center  
21 around -- and this is not just with this negotiated  
22 rulemaking, but it kind of comes from the past -- is

1 our workgroup will really put up the sidebars and the  
2 kind of the parameters of the discussion, hand that off  
3 to the drafting committee then to formulate that into  
4 regulatory language.

5 And that's what happened in the instance that I  
6 shared with you yesterday. We had language come back  
7 to the workgroup in a regulatory format, and we went  
8 through it and agreed to it, and we're ready to present  
9 that to the full committee.

10 And that work drafting group, also we talked about  
11 this yesterday, is responsible to bring issues forward  
12 and make those issues recorded into the -- oh, gee, I  
13 just lost it -- the preamble. The preamble of the  
14 workgroup or of this committee, that language that goes  
15 into the preamble. And so, that is a crucial part of  
16 the drafting committee's work is that they carry that  
17 message that goes into the preamble on important  
18 discussions.

19 So that's kind of my background and history with  
20 the drafting committee, and we have a few members. I  
21 think in our workgroup, but I think the drafting  
22 committee is open to anybody in the room that wants to

1 participate. That's my recollection.

2 Thank you.

3 MS. BRYAN: Thank you, Jason.

4 So I'm hearing a not really a proposal, but an  
5 opportunity that we can open up in this morning's  
6 agenda to spend just 15 minutes putting structure  
7 around the study, that we kind of came to some  
8 agreement that we do need more information before we  
9 can make these really serious decisions that are going  
10 to impact all the tribes in the country.

11 Earl?

12 MR. EVANS: Thank you, Madam Co-Chair. Earl  
13 Evans, Haliwa-Saponi Indian Tribe.

14 In terms of what Carol mentioned about some  
15 parameters for the working group, one of the things  
16 that I'll just put on the table again that I put into  
17 verbiage on yesterday during the working group exchange  
18 is that I fervently believe that the best way to  
19 resolve some of the issues that we're deadlocked on  
20 would be for us to discuss those as a part of the  
21 challenge regulations, the data challenge regulations.

22 So my suggestion is for the needs working group to

1 come up with some parameters through which a drafting  
2 committee can develop regulations surrounding data  
3 challenges that will allow tribes who feel that the  
4 whatever data source is used is not adequate to be able  
5 to challenge the data in a way that will allow them to  
6 make their case and provide some obligation to HUD to  
7 consider the various forms of data challenge, as  
8 opposed to them having to be formatted in a certain way  
9 or using certain parameters that has been explained to  
10 us that are currently used by HUD.

11 And when I say that, I don't mean in any way to  
12 diminish anyone's perception of what the issues are  
13 that they came here to do. I think everything that has  
14 been said has been valuable. Everyone has provided  
15 some very good input, and I very much appreciate some  
16 of the discussion and a lot of the emotion that has  
17 gone into the issues that have been put on the table.

18 And I love the people who've done that and the  
19 reasons that they have done it for. But when I think  
20 about some of the things that we're doing, we're just -  
21 - we're not even here to represent our region. We're  
22 here to represent all tribes across the United States.

1           And so, we've got to do something. We can't --  
2           just as we need to help out tribes that are in certain  
3           circumstances that may be specific to only that tribe,  
4           we also at the same time don't need to penalize tribes  
5           who are in better circumstances just because they so  
6           happen to be in better areas that in terms of the way  
7           the formula is applied or what have you.

8           We need to try and find ways to common ground that  
9           allow for those things to balance out, and I think that  
10          those data challenge regulations would be very critical  
11          to that process in a way that we can resolve in this --  
12          in this committee in the form of a regulation.

13          Whereas some of those other things that we've  
14          discussed, I don't believe we will resolve within the  
15          parameters of the timeframes we have allowed in this  
16          committee.

17          Thank you, Madam Chair.

18          MS. BRYAN: Thank you, Earl. Carol?

19          MS. GORE: Just quickly, it sounds like Earl  
20          started the guiding principles. Could we have someone  
21          capture these guiding principles so that we can all see  
22          them and they can be delivered to the needs workgroup?

1 That will give us a framework to report back to the  
2 committee.

3 Thank you.

4 MS. BRYAN: Good. Thank you, Carol.

5 Yeah, I was just going to suggest that we start  
6 this portion. Let's give ourselves 15 minutes and  
7 check in after that. And we'll just start this list of  
8 guiding principles. Please feel free to speak up,  
9 those of you around the table.

10 If you're in the audience and have a friend at the  
11 table, feel free to, you know, help us out here. We  
12 are going to start looking at what I heard to be very  
13 clear in defining our parameters.

14 The goal has to be clearly defined. We need to  
15 define the outcome, and we need to talk about the  
16 structure, methodology. Who's paying for it? How  
17 comprehensive is it? Getting to the individual,  
18 regional, national question.

19 And those are the things that I heard when we were  
20 talking this morning. So please feel free to comment.

21 I see David Greendeer and then Jack Sawyers.

22 MR. GREENDEER: Good morning. (Speaking Native



1 language.)

2 I'm going to explain, I guess, a little bit of  
3 what I captured, too. You talked about the statement  
4 of the problem. Usually in any research study, you're  
5 trying to say that there's an issue. And so, what I  
6 heard yesterday wasn't a clear statement of what the  
7 problem was.

8 And perhaps the very first area to start is to  
9 actually talk about the statement of the problem. What  
10 is the actual issue? And then lay that out. That's  
11 usually your first thing that you would do.

12 The next then afterwards is after you identify  
13 what your research problem is, you identify why it's  
14 important. So if they're going to throw this down or  
15 put this down on paper, why is -- why is this problem  
16 important? And why should we be talking about this as  
17 a problem that's going to affect all of us?

18 Then after you do that, why was the previous  
19 information not adequate? So we're saying that the ACS  
20 and the census is not adequate. So then you would  
21 actually define why it's not adequate. And that also  
22 gives you direction. You're talking about the

1 parameters.

2           So after you do that, usually you'll spell out  
3 kind of like your methodology. So how we're going to  
4 approach it as a group, analytically looking at how  
5 we're going to sit here and define the problem.

6           And then you already talked about the budget. We  
7 talked a little bit about the logistics, and then  
8 personnel. Who's going to be responsible every step of  
9 the way? So that has to be broken out into a category.

10           Your scope and timeframe of the project, whether  
11 it's the individual team defining that in our  
12 workgroup, and then also the length of the project that  
13 we're talking about because we're saying a 3-year  
14 study. However, there is other parts, and I want to  
15 bring this to your attention.

16           When you're talking about doing methodology and  
17 doing an RFP and bringing in outside people, there is  
18 four parts to like data collection or in terms of  
19 methodology. So it's data collection, data analysis,  
20 your interpretation, and then who's going to report  
21 results? Those are four separate RFPs or four separate  
22 groups or ways to look at this, and that's going to be

1 an issue. So those types of things need to be written  
2 out.

3 So what I would actually suggest is if somebody  
4 does any mind mapping or process mapping while we're  
5 doing this, it would actually probably be very  
6 beneficial to have someone on the board go through and  
7 actually build a process map. Because there's going to  
8 be a lot more little intangibles that we're not seeing.

9 So the other two elements that we also talked  
10 about, and these are your guiding principles. Who are  
11 the people affected by the action? What options  
12 benefit me or others the most? What options benefit  
13 the social group or the region the most? What options  
14 are legal and what options are not legal? What options  
15 are the greatest good for the greatest number of people  
16 affected? And what option is based on truthfulness and  
17 integrity?

18 So those are your guiding principles that you're  
19 asking for. And then in terms of the remainder of the  
20 workgroup for the needs workgroup, I did hear data  
21 challenges, which was brought up, which is a separate  
22 kind of like function or separate group that would have

1 to look at that if you're going to do it  
2 simultaneously. And then the hold harmless never got  
3 finished yesterday.

4 And so, then those are other pieces then that  
5 possibly follow a similar framework. So I just wanted  
6 to bring it up.

7 Thank you.

8 MR. SAWYERS: I'm sorry. I didn't hear that.  
9 Could you repeat that?

10 (Laughter.)

11 MR. SAWYERS: He pretty well said some of the  
12 things I wanted to say, and I think the 15 minutes are  
13 up, and I think we need to get to our groups and talk  
14 about those kind of things that were mentioned. I  
15 think that's a pretty good start.

16 I had some other ideas, but man, that was good.

17 MS. BRYAN: Thank you, Jack. Earl?

18 MR. EVANS: Thank you, Madam Co-Chair. Earl  
19 Evans, Haliwa-Saponi Indian Tribe.

20 Jack's a tough act to follow. I just wanted to  
21 again mention what I said earlier. I know that he  
22 mentioned about the Barstow study and one part of it

1 being data collection. But I don't want to lose that  
2 focus on draft regulations concerning the data  
3 challenge.

4 So I believe that that should be something that we  
5 have as a charge to the working group is to come up  
6 with those regulations. And perhaps, as Jason  
7 mentioned, we could come up with the general parameters  
8 and then hand it off to the drafting group to come up  
9 with specific language.

10 MS. BRYAN: Thank you, Earl. Jason?

11 MR. ADAMS: I do want to point out that, you know,  
12 in the existing statute, there is an amendment made at  
13 I'm not sure which -- when this happened. But you  
14 know, the color coding on these books, you know, when  
15 you get into the pinks and the salmons and the reds,  
16 and they all kind of look the same. So I'm not sure  
17 when this happened.

18 But under Section 302, Allocation Formula, there  
19 is a section called Study of Need Data. And so, it's  
20 right there in the statute that there is supposed to be  
21 a study. And I know that that was asked for to be  
22 funded and never was. But these, to me, are some of

1 the issue that need to be answered, as far as from day  
2 one, as I mentioned earlier and before in the committee  
3 discussions on this issue, is that from day one when  
4 the first NegReg met, they were talking about dataset,  
5 and they acknowledged that universally the census was  
6 probably the dataset to start using to begin with, but  
7 that there were shortcomings.

8 And so, from that perspective, I think this  
9 statutory language is in there for that purpose so that  
10 this issue can be revisited, that a study can be done  
11 that hasn't been done to date. How many years into  
12 using this formula and being under NAHASDA are we, and  
13 we've never taken the time or made the effort to make  
14 this happen.

15 And so, in respect to that first Negotiated  
16 Rulemaking Committee and their efforts to, again,  
17 revisit this issue at some other point in time, I would  
18 like to just fulfill this section of 302(a)(2), Study  
19 of Need Data. It's right there, the information that a  
20 study is supposed to be done.

21 What I would deviate from this language a little  
22 bit is this says to hire somebody. That hasn't been

1 accomplished. It hasn't been successful to get  
2 appropriations to make happen. Therefore, I'm saying  
3 that maybe we should take this on. We should, as a  
4 workgroup or study group, or however we want to call  
5 it, we make this happen.

6 We study the dataset issue and, as far as the  
7 issue, revisit the dataset and educate ourselves.  
8 Educate ourselves as far as what's out there now and  
9 what we're using now and what we could potentially be  
10 using as far as ACS. Because as, again, I stated  
11 before, I cannot tell the one tribe that spoke  
12 yesterday why they're going to lose -- if ACS is used,  
13 why they're going to lose \$780,000. I can't.

14 I don't know if anybody else in this room can  
15 articulate that to them in a way that they'll  
16 understand. I can't. So let's do this work and  
17 educate ourselves to understand the mechanics so that  
18 we can do that, that we have a firm understanding.

19 Thank you.

20 MS. BRYAN: Thank you, Jason.

21 We have some time left. Other inputs or comments  
22 to the guiding principles and/or the discussion on

1 Section 302(a)(2)? Rodger?

2 MR. BOYD: Madam Chairman, I think before a lot of  
3 things are put up on the screen, which I think are all  
4 really good, I'd like to see -- and again, getting back  
5 to my need for structure, I'd like to see if we could  
6 break that down into an outline with key things, and  
7 then underneath it, and I've asked David to get his  
8 thoughts together. And if it's okay, I'd like him to  
9 go ahead and do that for us as we are talking.

10 And then he can send it to the editor on the other  
11 side of the room and maybe print it out so that  
12 everybody can walk away from this meeting with  
13 something in hand.

14 Thank you.

15 MS. BRYAN: Thank you, Rodger. I think we, not  
16 speaking on behalf of the workgroup, but being a  
17 participant in the workgroup, appreciate the guidance  
18 and the structure going into that discussion this  
19 morning.

20 Does that sound good to you, Sami Jo?

21 MS. DIFUNTORUM: Yes.

22 MS. BRYAN: So, Rodger, is that something will



1 happen during the break, or do we need to just take the  
2 time here to -- shall we let him finish that and get it  
3 over to the editor?

4 MR. BOYD: I'm hoping he's a fast typer. And so,  
5 maybe he can get that done, and then before we break to  
6 go to the working groups, we could have something in  
7 writing as we walk out of this room.

8 MS. BRYAN: Any other additions to this while it's  
9 being drafted? Sami, are you up still, or did that --  
10 your name is up.

11 MS. DIFUNTORUM: Um, yeah.

12 MS. BRYAN: Jack?

13 MR. SAWYERS: May I suggest we go to our  
14 workgroups, and the chairman picks that up before we  
15 reconvene because it is a workgroup matter. And I  
16 agree with Rodger that it'd be nice to have that  
17 structure. But why don't we just -- instead of waiting  
18 around for that, why don't we just go to workgroups and  
19 then have someone get the information and bring it in?

20 MS. BRYAN: Thank you, Jack. So Jack's sleeves  
21 are rolled up, and he is ready to go. So I'm going to  
22 say with taking the silence around the table as

1 agreement that we can finish these guiding principles  
2 during a break while everybody go to their workgroups,  
3 and this, what's up on the screen, will be finished and  
4 agreed upon in the needs workgroup.

5 So let's take a break for our workgroups. Looks  
6 like we reconvene here at 1:30 p.m.

7 Thank you.

8 Oh, the workgroup chair for FCAS suggested that  
9 they may not be ready at 1:30 p.m. So there's a  
10 proposal to come back actually this afternoon for  
11 report-out and public comment. I don't believe that  
12 the workgroups are going to have enough time to come  
13 back by 1:30 p.m.

14 Is that -- are we coming back at --

15 Well, there's a proposal to come back at 4:00 p.m.

16 So let's come back at 4:00 p.m.

17 Thank you.

18 MR. COOPER: Annette? Sami Jo? I don't know if  
19 Sami Jo is the chair of the workgroup for FCAS. I know  
20 that the room we met in earlier was a little crowded.

21 MS. DIFUNTORUM: What?

22 MR. COOPER: Was a little crowded.

1 MS. DIFUNTORUM: Yes.

2 MR. COOPER: Would it be better to maybe utilize  
3 this room, a larger area, or do we want to just squeeze  
4 everyone in that other one?

5 MS. DIFUNTORUM: I like the small room better. I  
6 really do.

7 MR. COOPER: Okay. Okay.

8 (Recessed at 9:12 a.m.)

9 (Reconvened at 4:30 p.m.)

10 MS. BRYAN: Good afternoon. I'm seeing everybody  
11 getting settled. Looks like we have both workgroup  
12 chairs here.

13 Thank you all for returning back, and on the  
14 agenda now we have reports out from the committees.  
15 And I think we will start with Jason and the FCAS.

16 MR. ADAMS: The ones that were on time? No.

17 (Laughter.)

18 MS. BRYAN: Yes, sir.

19 MR. ADAMS: I just had to throw that out there.

20 Thank you, Madam Chair, Co-Chair. Jason Adams, Salish  
21 Kootenai.

22 And in regards to the FCAS workgroup and our

1 report-out for today's work, we got right back to work  
2 this morning in regards to the list of issues that we  
3 were to work ourselves down through.

4 The next item that we had was -- and Item 4 on our  
5 list of 9 was Regulation 306(c), which deals  
6 specifically with the issue of the regulation says that  
7 during the 5-year review of housing stock for formula  
8 purposes, Section 8 units shall be reduced by the same  
9 percentage as the current assisted stock has diminished  
10 since September 30, 1999. And so, we had a good  
11 conversation on that issue.

12 And through our conversation, we actually --  
13 another issue came up that we had -- as our workgroup  
14 got its charge and formed itself for this negotiated  
15 rulemaking, we agreed that we were going to look at  
16 another issue of if there was a HUD guidance or a HUD  
17 document out there that guides the program of PAIH  
18 notice, that is either doesn't follow current  
19 regulations or there's no regulations behind.

20 And through our discussion on the Section 8 issue,  
21 there was an issue that came up that a HUD Guidance 19,  
22 1998 HUD Guidance 19 dealt specifically with conversion

1 of units. So we kind of have that issue to deal with.

2 We finished the discussion on the Section 8 units.

3 Just to let you know, after some research on this  
4 existing regulation, it was found out that the existing  
5 regulation here and at I believe it was 318(c) were  
6 both drafted from the original negotiated rulemaking,  
7 and subsequent statutory amendments are in conflict  
8 with especially 306(c).

9 And so, to make a long story short, what we  
10 decided to do was classify this as a technical  
11 correction, and we will be bringing language to the  
12 table to propose to remove Section 1000.306(c) because  
13 the statutory language that was amended I think in  
14 2008? Yeah, 2008 allows for -- excuse me?

15 FEMALE SPEAKER: 2000.

16 MR. ADAMS: Oh, 2000, yeah, that's right. In 2000  
17 allows for Section 8 units to live on in perpetuity.  
18 So there's no reason to research and reduce that  
19 number.

20 So from that perspective, we are going to bring  
21 that, and that was consensus of the workgroup to bring  
22 that technical correction back to the committee. So we

1 will be pursuing that, bringing that back to you.

2 So then we picked up on the new issue that came to  
3 the table in regards to the HUD guidance on conversion  
4 of units, and the issue really centers around this idea  
5 that if you have a mutual help unit and that mutual  
6 help unit is through your operation of your housing,  
7 you want to convert that to a low rent unit.

8 Current practice in the HUD guidance is that you  
9 can do that, but you still just get funded for that  
10 unit as a mutual help unit. And so, we looked and saw  
11 that there's no regulation that says that, and there's  
12 no statute that says that. It's a HUD guidance that  
13 the practices follow.

14 So that was a concern to us, and so we began a  
15 very lengthy discussion for most of the day on this  
16 issue, trying to boil it down and figure out how we --  
17 how we can figure this out.

18 So what we ended up doing in the end, after a long  
19 discussion, is that we are going to recommend that we  
20 take the HUD guidance language that's there, along with  
21 some other bullet points, and basically put regulation  
22 behind the current practice because to deviate from

1 that, there was just no agreement or no common ground  
2 to do that.

3 And again, I think not knowing the amount of how  
4 big this issue is, some people believe it's a very  
5 small issue. Some people believe that it might be big.

6 The one thing that everybody agreed to is if we allow  
7 this conversion to happen, especially if you have  
8 mutual help units and at some point in the process you  
9 convert them over to low rents and you get money as low  
10 rents, that could take a big bite out of the needs  
11 money and forever take a bite out of the needs money  
12 because low rents don't go away.

13 So that was really a big part of the discussion.  
14 And so, we're going to add clarifying language in the  
15 proposed regulation that will also clarify when that  
16 funding ends, and so that will be coming back.

17 We shipped off the bullet points that we come up  
18 with in our workgroup to our drafting committee. And  
19 just before I forget, our drafting committee and  
20 whoever is involved in our drafting committee is going  
21 to meet after this session is over this afternoon and  
22 begin to work on this. And they're going to do the

1 evening work to get that done.

2           Then we moved on. We got back to our list, and we  
3 moved on to Item Number 5, which is recipients of FCAS  
4 money but have no needs. We had a brief discussion on  
5 that issue, and we're looking at some of the issues,  
6 such as the 1996 statutory language or -- I keep saying  
7 '96. The statutory language that points to 1996 that  
8 says you can't get any money less than the amount you  
9 received in '96.

10           And we're trying to see how that plays into this  
11 issue, and we submitted TA requests that are going to  
12 give us numbers as to how many people, how many tribes  
13 are in this situation? How big is the situation before  
14 -- we don't want to spend a lot of time on an issue  
15 that maybe it's just a few people.

16           It might be worth the time if it's big dollar  
17 amounts because, again, the one region that's driving  
18 this issue is concerned that there's tribes out there  
19 that don't have a need that are getting some money.  
20 And that money in our -- in some of the regions is they  
21 have a large need. They can't meet their own need for  
22 their own tribal members and that there are some other



1 folks getting money that that is going to other tribes.

2 So we're trying to get some TA requests and get  
3 the parameters of what really the issue is.

4 So then we moved on to Item Number 6 on our list,  
5 and I told our workgroup this morning I had a goal of  
6 getting to Number 6 today, and we made it. So we're  
7 moving ahead out of the nine items we have.

8 Number 6 is putting a time limit on grantee  
9 expenditures, and we had a good discussion on this this  
10 afternoon, really trying to figure out, you know, some  
11 of the history on this issue. And there is  
12 appropriations language that passed in 2012 that kind  
13 of guides what HUD does now.

14 There's no what HUD terms as "no year money,"  
15 which doesn't have a timeframe. And then the 2012  
16 appropriation language does put some time limits on  
17 expenditure of those monies from 2012 forward.

18 We also had a discussion on current bill language  
19 that's out there, Senate and House versions and the  
20 distinctions between those because they limit the  
21 appropriations of new monies for some of these folks  
22 that have pipeline dollars.

1           We did realize that, you know, there is an issue  
2   that's an expenditure issue in the statute, that's 203,  
3   and it was pointed out that that's outside of the  
4   formula area that we're called to look at. So we  
5   didn't discuss that area any more.

6           But there is statutory language in 302, which is  
7   the formula section that deals with performance issues.

8           And those two areas cited, (b) (3) and (c), there is no  
9   current regulations that play into that section. So  
10   we're taking a look at that.

11           We finished our discussion this afternoon on  
12   coming up with regulation in light of the President's  
13   budget request and the congressional bills that are out  
14   there just trying to have our discussion and our input  
15   into this process. Whether it passes or not, that's up  
16   to the committee to decide, but in our workgroup we're  
17   going to exhaust that conversation anyway.

18           So that's where we ended. Thank you.

19           MS. BRYAN: Thank you, Jason. And thank you all  
20   for your hard work and dedication to that goal.

21           Next, we have the needs workgroup. Sami Jo?

22           MS. DIFUNTORUM: Sami Jo Difuntorum, the late

1 needs workgroup.

2 (Laughter.)

3 MS. DIFUNTORUM: So we had a lot of discussion  
4 today about some really, I felt, tough issues. We  
5 started out with talking about challenge procedures and  
6 looking at the challenge regulation and discussing  
7 whether or not there was a proposed change or proposed  
8 regulation that we would advance from the workgroup.  
9 And at this time, there isn't.

10 When we were looking at the issues related to data  
11 challenges, data source, data collection procedures,  
12 weights and variables were the three areas that it kind  
13 of condensed down to. So I believe that will be taken  
14 up by the study group when the study group, for lack of  
15 a better term for them, when they start meeting.

16 So we talked about the study group, and there was  
17 a TA request that resulted from the data collection  
18 discussion, and that is related to the amount of  
19 challenges that have been submitted relative to census  
20 and how many have been successful, et cetera. I don't  
21 remember. It was quite a lengthy, quite a lengthy  
22 document.

1           So talking about the study group, we did come up  
2 with a mission statement, thanks in large part to John  
3 Tillinghast. And basically recommending by consensus a  
4 needs data source that achieves an optimal balance,  
5 recognition of actual tribal needs, equity among  
6 tribes, minimizing disruption of tribal housing  
7 programs, and recognition of tribal sovereignty. Oh,  
8 and one more, practicality, including cost.

9           So that's basically -- oh, it's up there. So  
10 that's basically what the study group will use as their  
11 guidance when they start meeting.

12           So the next thing that you have -- actually, the  
13 first part of that, we were looking at the proposal  
14 that was sent forward yesterday on delayed  
15 implementation of -- I thought you were talking to me,  
16 but I couldn't quite hear you.

17           Oh, that's okay. I wanted to make sure I wasn't  
18 missing it.

19           MR. ADAMS: A little argument.

20           MS. DIFUNTORUM: Well, turn the microphone on. I  
21 want to hear this. Oh, my apologies.

22           So what you have on the screen is our proposal

1 that we're asking the full committee to take up and  
2 consider to send on to drafting, and it's basically  
3 delayed implementation of any new data source for 2016  
4 and 2017, I'm sorry, allocations until completion of a  
5 study by a study group of this committee, meaning the  
6 Rulemaking Committee, not to exceed 12 months of all  
7 relevant data sources.

8 Commencing in FY 2018, the introduction of a new  
9 data source may not result in any tribe receiving less  
10 than 90 percent of its prior year, prior fiscal year  
11 needs portion of the grant provided. However, that any  
12 tribe is subject to any proportional reduction that all  
13 tribes are subject to in the event of a shortfall in  
14 the total amount available for needs, meaning  
15 appropriations.

16 At the conclusion of the study, the current  
17 Negotiated Rulemaking Committee will review study  
18 findings to consider alternate data sources.

19 So that's what we have to present today for  
20 discussion and vote. The first part is delayed  
21 implementation of a reduction or anything. We'd  
22 continue using census as it exists right now for two

1 funding cycles past '15.

2 And then, in the event that there's a new data  
3 source introduced, and there will have to be at some  
4 point, the study group will determine what that is and  
5 make recommendations on that. It would be a -- and  
6 we're going to get lost in the math here. I hope not.

7 A 10 percent reduction of your prior year needs  
8 allocation. That speaks only to reductions that are a  
9 result of the introduction of a new dataset.

10 It doesn't talk about or include, and it isn't  
11 intended to, challenges, changes in formula area,  
12 changes in appropriation amount, sequestration, and all  
13 of those things. This is just the result of a new data  
14 source, introduction of a new data source allocation  
15 wide.

16 So, with that, let's go ahead and open it up for  
17 discussion.

18 MS. BRYAN: Thank you, Sami. That was quite a  
19 mouthful.

20 I see a proposal that needs some discussion, and  
21 you said vote. So let's have a discussion, and I'm  
22 sure those of you who were not in the room have

1 questions. Know I do.

2 (Pause.)

3 MR. SAWYERS: We actually -- I don't know quite  
4 how to proceed because we haven't sent it to drafting,  
5 and so do we need to send it to drafting before we  
6 vote? Or do you want to kind of look at it and get  
7 some kind of a consensus before? We just want to make  
8 sure that it's -- we don't want to do it twice.

9 In other words, if you want to wait until we've  
10 gone through drafting to -- to get consensus or try to  
11 get consensus, that's fine with us. Or if you want to  
12 get consensus and then look at it and make some tweaks  
13 in it. But if we do consensus, we ought to really not  
14 go through the whole thing once we get to drafting  
15 again.

16 So it's up to you folks.

17 MR. DOLLARHIDE: I think that it's up to the  
18 committee on how they want to proceed. My  
19 understanding is once a proposal is brought before this  
20 committee, there has to be a vote on that proposal.  
21 That's the way that I understand the charter. If  
22 somebody would like to correct me if I am wrong?

1 MS. DIFUNTORUM: I wasn't going to correct you. I  
2 was just going to state my preference that before this  
3 goes to drafting committee, it has agreement of the  
4 full committee here.

5 MS. BRYAN: Thank you. Karin?

6 MS. FOSTER: Karin Foster, Yakama Nation Housing  
7 Authority.

8 I just wanted to note that the proposal, so to  
9 speak, is actually a proposal concept, and I think  
10 that's the way it was also discussed in the working  
11 group. So an adoption of this proposal concept would  
12 not necessarily -- I mean, you know, or some feedback  
13 on it wouldn't necessarily preclude it coming before  
14 the full committee as an actual developed proposal.

15 I heard some talk, I think, at the end of our  
16 meeting about some massaging of the language maybe from  
17 the standpoint of, you know, how do you implement the  
18 90 percent provision? So, I mean, there could be some  
19 tweaks in the language that the working group would  
20 want to actually put forward as a formal proposal.

21 MS. BRYAN: Thank you. Carol?

22 MS. GORE: Yes. I want to acknowledge that this



1 was a pretty robust conversation in the workgroup.

2 Maybe "robust" is not the right word.

3 In any case, I think at the conclusion of the  
4 discussion, Alaska would like to have a caucus before  
5 the committee takes a vote. So I just want to put that  
6 on the table. That may defer the vote until morning.  
7 I don't know how the timing will work, but we do want  
8 to request a caucus before a vote is taken.

9 Thank you.

10 MS. BRYAN: Thank you, Carol. Russell?

11 MR. SOSSAMON: Thank you, Madam Chair.

12 Yeah, I'd just be interested in seeing just the --  
13 if there's general agreement by the committee to the  
14 concept. Not asking you to vote for consensus until  
15 you actually see a formal proposal with the actual  
16 language, but I'd kind of like to know just the general  
17 feeling of the committee members.

18 MS. BRYAN: Thank you.

19 (Pause.)

20 MS. BRYAN: There is iced tea in the back if you  
21 need caffeine.

22 (Laughter.)

1 MS. BRYAN: Jack?

2 MR. SAWYERS: I would like to present this as a  
3 concept to vote on.

4 MS. BRYAN: Rusty?

5 MR. SOSSAMON: Jack, when you say to vote on it,  
6 is it just to get an indication of whether you  
7 generally agree with the concept or not?

8 MR. SAWYERS: Yes, I thought that's where we were  
9 heading. Yes, that's --

10 MR. SOSSAMON: Okay. So if we vote on agreement  
11 of the general concept, we're not bound really to  
12 anything. Correct?

13 MS. BRYAN: Yeah, we need to be really clear here.  
14 It sounds like we're not voting on a proposal. We're  
15 looking at this concept and asking if -- a straw poll  
16 of the group to see if this concept should move forward  
17 for further work and possibly to the drafting  
18 committee.

19 And do we need a caucus before we decide if the  
20 concept is able to move forward? I think we might,  
21 yeah. Straw proposal for caucuses?

22 So Alaska called for a caucus. So I'm going to

1 give Alaska a caucus, and would you like to do that  
2 before we formally close the meeting and do public  
3 comment or after?

4 MS. GORE: We simply want to hold a caucus before  
5 the vote is taken or the poll, however you phrase that.

6 MS. BRYAN: Jason?

7 MR. ADAMS: Just in the effort of time, I'm  
8 wondering if that can happen out of session tonight?  
9 They can caucus if they want to do that, and then we  
10 start our day tomorrow with this issue.

11 MS. BRYAN: Thank you. I was going to propose for  
12 your consideration that we open up our public comment,  
13 close our meeting with a prayer, break into caucuses,  
14 and each region decide when you want to do that, before  
15 or after dinner, and then the drafting committee, of  
16 course, is working tonight as well.

17 So that seems like something that we might want to  
18 do in the interest of time? Hearing no objections --  
19 Carol?

20 MS. GORE: Just a comment. It would be helpful to  
21 have hard copies of this for the caucus so that  
22 everyone has something in front of them. So if we can

1 have that before we adjourn the meeting, that would be  
2 great.

3 Thank you.

4 MS. BRYAN: You got it. So, at this time, I would  
5 like to open it up for public comment. We do have two  
6 microphones in the back and hope to hear from anybody  
7 who's been part of the workgroups and part of our  
8 session who wishes to make a public comment into the  
9 record at this time.

10 (No response.)

11 MS. BRYAN: Again, there is iced tea in the back.  
12 All right.

13 So if there are no public comments at this time,  
14 there will another time available tomorrow for public  
15 comment, to put your comments into the record.

16 So I'm going to go ahead and ask -- we're going to  
17 get copies of the paperwork that we need, and I'm going  
18 to ask Leon Jacobs to give us a closing prayer, and  
19 then each person, we'll have their caucus room up on  
20 the board for you so you know where you're going to be.

21 Thank you.

22 MR. JACOBS: Okay. Shall we pray?

1           Our Lord, we approach you again with thanksgiving.

2           We enter your courts with praise. We thank you for  
3 another successful day of meeting to work for the good  
4 of all of the tribes through this great land.

5           We thank you for the commitment that everyone has  
6 brought to the table and for the contributions that  
7 they have made in moving forward in providing those  
8 services to tribal members throughout Indian Country.

9           We thank you for HUD staff, for their  
10 contributions and dedication as well. We thank you for  
11 the visitors that come in and meet with us and also  
12 share their ideas and contributions as well.

13           We ask for a good night tonight, that we keep  
14 things sacred and also to come back tomorrow with the  
15 same dedication and determination to provide the  
16 services that is needed to move forward in this major  
17 process.

18           Thank you. In Jesus' name, amen.

19           MS. BRYAN: So we'll see you back here at 8:30 in  
20 the morning.

21           (Whereupon, at 4:56 p.m., the meeting was  
22 adjourned.)