

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

5 Thursday, April 24, 2014

6 8:36 a.m.

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20 Washington Hilton Hotel

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

2 MS. BRYAN: I'm going to call the meeting to  
3 order. We'll open up with a prayer.

4 MR. DOLLARHIDE: I've asked Joe Williams with the  
5 Tlingit-Haida Housing Authority to open up with a  
6 prayer.

7 MR. WILLIAMS: Lord, we just give you the glory  
8 and praise for the opportunity to just take a moment  
9 and be with us. Holy Spirit, we welcome you into this  
10 room with open arms, and we praise you, God, for your  
11 presence.

12 Lord, help us never take for granted all the  
13 beauty you created just for our personal enjoyment. We  
14 thank you, Lord, for that. Lord, help us remember why  
15 we're here. Help us represent our people correctly and  
16 proudly. And Lord, help us get our work done.

17 We just ask this in your wonderful son's name.  
18 For Jesus, we truly love you, and above all, we praise  
19 you, God, for showing us every single moment of each  
20 day just exactly how much you love us, and above all,  
21 we praise you, God, for loving us first.

22 In Jesus' name we pray, amen.

1 MS. BRYAN: Okay. I'd like to open up the -- open  
2 it up for comments from Secretary Henriquez.

3 MS. HENRIQUEZ: Thank you, Madam Chair.

4 Good morning, everyone. I have to leave at about  
5 9:30 a.m., and I will be back later on this afternoon.

6 But I want to just take this opportunity before you  
7 all go into workgroups just to share some thoughts, and  
8 I apologize in advance for not having thoroughly read  
9 the blue statement or the statement on the blue form  
10 from the United Native American Housing Association and  
11 their Resolution Number 2014-6.

12 But I felt it important to have this conversation  
13 this morning before you go into workgroups to talk  
14 about data and datasets and formula and need and all of  
15 the policy issues that we are here to discuss at this  
16 negotiated rulemaking.

17 So, first, let me start by saying I'm not sure  
18 quite how to approach this. So I'm just going to sort  
19 of plunge in because I think that there will be people  
20 here, both in the audience and committee members, who  
21 will say that my statements are not consultative, that  
22 they are not negotiating maybe, and that as I've heard

1 in previous sessions, that HUD may be dealing in bad  
2 faith. And I want to assure you that none of that is  
3 true, but I need to put these on the table for your  
4 consideration.

5 As I read the resolution after we ended our  
6 session yesterday, I was struck by two things. One,  
7 that there was a vote by the group, the association, to  
8 reject categorically -- my word, not theirs -- but to  
9 reject the use of ACS as a dataset and the proposal to  
10 say -- to use getting congressional authorization and  
11 funding of tribal data collection to develop individual  
12 tribal datasets that will ultimately comprise a  
13 national tribal dataset, which will replace census data  
14 within the IHBG formula. And that this was a vote  
15 taken on March 31st.

16 So, so it's difficult for me to sit here and know  
17 that there are several committee members who are part  
18 of this association who have already come to this table  
19 knowing that to uphold this resolution, I believe they  
20 did not come in good faith to really talk about the  
21 issue and how we might, if need be, change or look at  
22 alternative datasets. They're locked into one and

1 categorically rejecting something else.

2           So I'm concerned about what that says about good  
3 faith. The protocols ask us to come to this table in  
4 good faith, and I think that this resolution violates  
5 that basic principle and premise.

6           However, the ACS presentation yesterday, I want to  
7 go back a little bit. I wasn't here, but a lot of you  
8 were, understand that the census is a survey as well.  
9 It always has been. And so, the census, the U.S.  
10 census was chosen because it was equitable and it was  
11 accessible. It was a third-party dataset, if you will.

12           And the same arguments we're hearing around the  
13 table around ACS today are the same ones that I  
14 understand members made initially about using census  
15 when NAHASDA came into being. It's not perfect. It  
16 has evolved over time. We get that.

17           But if the census, the U.S. Census Bureau is  
18 evolving and has been working to evolve from the  
19 traditionally known census collection survey to an ACS  
20 model, then I guess I would pose the question what else  
21 is there that there is an available third-party,  
22 accessible, equitable dataset, data collection set that

1 we can tap into and use?

2 I'd also like to suggest that instead of  
3 outrightly rejecting the use of ACS that maybe the  
4 committee spend some time thinking about what the pros  
5 of ACS are versus the cons on ACS, and is there an  
6 ability to crosswalk the two?

7 If there are negatives that you see that you would  
8 like addressed, is there a way to change a weighted  
9 measure, to change a dataset, to ask the U.S. Census  
10 Department to look at how to mitigate the negative that  
11 you might identify so that it more closely aligns with  
12 where you are trying to be?

13 I don't know if that's helpful or not, but the  
14 2000 census we all know is becoming less valid. And  
15 since ACS is an evolution, one would assume and make  
16 the case that ACS is becoming more valid, that one is  
17 diminishing and one is increasing. And I think that  
18 that's a way for us to begin to approach this.

19 If we don't reach agreement, if there's no  
20 consensus about where we start, then consistent with  
21 past practice, HUD will implement the ACS data into the  
22 formula for FY '15 unless the committee agrees, in



1 accordance with committee rules, to do otherwise. We'd  
2 prefer that we talk about this and figure out a way to  
3 come at this issue as a committee. As you know with  
4 working with me in the past 5 years, I would much  
5 prefer to have a consensus around how we approach this  
6 together.

7       The current rules, under the current rules, tribes  
8 are already allowed to challenge data with your own  
9 surveys if you believe that the census and, therefore,  
10 now the alternative potential ACS understates your  
11 population or need.

12       And also if the full committee supports HUD  
13 exploring the issue, HUD was willing to ask the Census  
14 Bureau to price out undertaking a survey that would  
15 meet the specifications developed by consensus by the  
16 tribes. Questions, sampling frame, geographic area  
17 coverage, et cetera. The source of the funding for the  
18 survey and possibly the cost to price it out would be  
19 IHBG, thus reducing funds available for housing  
20 activities for all tribes.

21       But we at least should price it out and think  
22 about it if that's what you want us to do. How much

1 would it cost to do this type of survey every 10 years,  
2 how quickly could Census do the work? Or simply, we  
3 would ask that you clarify specific changes to the  
4 regulations right now and ask the committee to vote on  
5 that.

6 I'm trying to throw out a lot of different options  
7 for your consideration, but basic underlying for me is  
8 that I understand people take votes and resolutions for  
9 whatever their purposes are. But I think at this  
10 table, we need to really be about trying to think as  
11 much outside the box, yet inside some box so that it is  
12 equitable, it is third-party accessible, it is a  
13 standard to which we all agree.

14 And individual sampling or individual surveys by  
15 individual tribes are not apples-to-apples. And trying  
16 to get it there in the way I think this resolution  
17 proposes is an enormous multiyear task, both in costs  
18 and in time.

19 And so, with that, I'm going to end. Thank you  
20 very much for your time.

21 MS. BRYAN: Thank you. Appreciate those words.

22 I'd like to say for the record that we do have a

1 quorum. Thank you.

2 I would also like to take this opportunity before  
3 we break into workgroups to follow that with a letter  
4 of appreciation for the record to the Honorable  
5 Assistant Secretary for Public and Indian Housing,  
6 Sandra Brooks Henriquez, from the Native American  
7 Housing and Self-Determination Act Formula Negotiated  
8 Rulemaking Committee.

9 This letter expresses our appreciation to HUD's  
10 Assistant Secretary for Public and Indian Housing,  
11 Sandra Brooks Henriquez. As part of HUD's  
12 participation in our government-to-government  
13 relationship with 566 federally recognized tribes, she  
14 actively participated in the work of negotiated  
15 rulemaking related to the Native American Indian  
16 Housing and Self-Determination Act.

17 As a child, Secretary Henriquez dreamed of  
18 becoming an obstetrician. And as an undergraduate at  
19 Boston University, she considered teaching. While  
20 pursuing a master's degree in teaching at Harvard, she  
21 started working part time for a relocation consultant.

22 Soon she was working full time at a property

1 management firm. She never looked back. And today,  
2 Assistant Secretary Henriquez has been in the  
3 affordable housing business for more than 40 years.

4 Assistant Secretary Henriquez has dedicated her  
5 life to housing others. Her conviction is that safe  
6 and decent housing is a foundation upon which people  
7 build their lives, and she tells everyone this is God's  
8 work.

9 She brought this same dedication and passion to  
10 her work with tribes. In meetings about regulations  
11 and rules, she took the time to learn about American  
12 Native and Alaska Native people. She demonstrated her  
13 genuine interest in our culture and governance. She  
14 took her time to visit our communities, to see herself  
15 the condition -- to see for herself the condition of  
16 housing in Indian Country.

17 Her sincere interest and approach to us as tribal  
18 people is rare to find in such an important,  
19 influential position. Her engagement at negotiated  
20 rulemaking fully recognizes the value and importance of  
21 our government-to-government relationship. We were  
22 amazed when she suggested we could call her Sandra.

1           So it is with our full respect that we offer our  
2 appreciation to Sandra. You will be missed. And we've  
3 all signed it.

4           (Applause.)

5           MS. HENRIQUEZ: Sit down. Please sit down.  
6 Please, please.

7           It is rare that I am at a loss for words.  
8 Assistant Secretaries aren't supposed to cry.

9           (Laughter.)

10          MS. HENRIQUEZ: Thank you seems to be just too --  
11 two words that are just not too trite. I don't know  
12 how to say thank you to all of you, both for that, but  
13 more importantly for your willingness to take me under  
14 your wing and to show me and to teach me and to guide  
15 me. And to make me feel a part of you in a way that I  
16 never expected. And I -- and all I can say is thank  
17 you to all of you.

18          Thank you to my staff, who have been your biggest  
19 advocates. You have no idea. You need to know that  
20 each of them walks with you in your shoes, beside you,  
21 in front of you, behind you, around you, advocating on  
22 behalf of Native American issues across this nation.

1 I feel such an affinity because our histories are  
2 pretty parallel. You all were here first. I like to  
3 joke with a friend of mine whose people came over on  
4 the Mayflower that she couldn't have -- her people  
5 couldn't have come over on the Mayflower except that my  
6 people were in the bottom rowing across the water.  
7 When I say that to people who want to talk about their  
8 Mayflower heritage in a very down their nose way, that  
9 sort of shuts them up.

10 (Laughter.)

11 MS. HENRIQUEZ: But we share -- we do share --  
12 while you all are first peoples, I like to say we were  
13 second people. And I think that's what warmed me to  
14 wanting to know more and to learn more and to want to  
15 understand more.

16 But thank you. I can't say it enough or loudly  
17 enough or in different ways. Just thank you to each  
18 and every one of you in this room and to your  
19 colleagues across this nation for your embrace of me  
20 while I've been in this job. You have made it a  
21 wonderful experience, and I will carry it with me  
22 always.

1           It has made me humble and privileged at the same  
2 time. So thank you very much.

3           MS. BRYAN: We will now break for hugs and  
4 caucuses -- workgroups, I mean.

5           (Laughter.)

6           (Pause.)

7           MR. DOLLARHIDE: We will meet back here at 3:45  
8 this afternoon for reports from the workgroups.

9           Thank you.

10          (Pause.)

11          MS. BRYAN: Could I have your attention for one  
12 more minute? We are going to meet back in here at 3:45  
13 p.m. for reports from the workgroups to the committee.

14          Thank you.

15          (Recessed at 8:54 a.m.)

16          (Reconvened at 3:50 p.m.)

17          MS. BRYAN: Okay. I see our workgroup chairs here  
18 and our helpers say they're ready. So I'm going to go  
19 ahead and call the meeting to order.

20          Thank you all for your hard work. I know we've  
21 been having some really good discussions and our brains  
22 are really full. Really appreciate it, the good work

1 that we're doing here.

2 We are going to have reports from workgroups to  
3 the committee. Who would like to start?

4 MR. ADAMS: Ladies first.

5 MS. BRYAN: Ladies first. Carol Gore, needs  
6 workgroup.

7 MS. GORE: Gee, thanks, Jason.

8 I want to really start, we handed out a one-pager  
9 that's printed on both sides. It's intended to just  
10 summarize and demonstrate that we actually produced  
11 something today. But I do want to thank in particular  
12 Ben Winter, who helped facilitate a conversation about  
13 pros and cons of a number of different datasets. That  
14 was very helpful.

15 Peggy was in the room. Thank you for that. Also,  
16 Jackie, several others, Glenda, several from the HUD  
17 staff that were extremely helpful. Most of us that sit  
18 at the table are not statisticians, and so we  
19 understand our tribal needs, but we may not understand  
20 how all those numbers come together.

21 How we spent our time today really -- if you look  
22 at that one-pager, and it's up on the screen, the



1 priorities that are at the top of the list here, 1  
2 through 5, really came from our work yesterday. And we  
3 just recaptured them so you would have a good reference  
4 point on the matrix.

5 How we spent our time this morning was first to  
6 review the statute and really look at the intent of the  
7 language in the statute about what we were supposed to  
8 do with the formula, and we did spend about 45 minutes  
9 on that. It was good discussion.

10 Then we moved into brainstorming what are the data  
11 options. You'll see them numbered 1 through 6, and  
12 then you'll see them also in a matrix below. We had a  
13 couple of good conversations about sort of if you look  
14 at the matrix, there are three columns. There is a pro  
15 column, a con column, and also a mitigation column.

16 That third column is intended to suggest some sort  
17 of, if I can't phrase it any other way, a "hold  
18 harmless" concept that the committee thought might help  
19 to mitigate the cons that are in the middle of the  
20 list. Our conversation is incomplete. So I want to  
21 make sure that folks at the committee level and also in  
22 the audience understand that we're not finished with

1 our conversation.

2 As with all groups, this one's pretty large. I  
3 think there's about 50 people in the room. So really  
4 developing a rhythm and making sure that everyone gets  
5 recognized and everyone has an opportunity to have an  
6 engagement and input into the process was important to  
7 our group.

8 I think we'll start moving a little more quickly  
9 starting tomorrow morning. There is some urgency, I  
10 think, with the committee, especially if tomorrow is  
11 Assistant Secretary Sandra Henriquez's final day. So  
12 there's a little bit of urgency for us.

13 I would be happy to go through the matrix with  
14 you. I will point out that, as an example, maybe I  
15 could go through the six so that you understand where  
16 we're coming from. I welcome any help from the  
17 committee members or HUD if I don't represent this  
18 accurately, but I'm going to give it my best shot.

19 So, Number 1 is framed as status quo. But it's  
20 really intended to be a blend of the baseline and the  
21 ACS simulation so that tribes would get the better of  
22 and sort of the squished portion of that as we blend

1 those rates. So that's really the first one.

2 The second one, if you think about the needs  
3 portion of the formula, there are seven variables. The  
4 first variable is the AIAN count. The rest of the  
5 variables are housing conditions and income  
6 eligibility. So what Number 2 means is the AIAN count  
7 would use the decennial 2010 census data. The other  
8 six variables would be -- would come from the ACS data.

9 So that's the second one. Ah, where are we with  
10 Number 3? Number 3, very similar, but different  
11 approach. Substitute AIAN with tribal enrollment and  
12 use ACS data for the next six components of the  
13 formula.

14 Number 4 is really using, developing a new survey,  
15 and that's working with HUD to develop a new survey.

16 The fifth one is to work with Census to clarify  
17 some of our questions to see if the ACS could be better  
18 tailored to some of the concerns that have been voiced  
19 by a number of you at the table and also in the  
20 committee.

21 And the last one is to use self-reported or  
22 clarify with ACS the use of self-identified data. So

1 those are the sets. We spent most of our discussion  
2 time on the first three, less time on the first one.  
3 You'll see more time on the second one, more because we  
4 felt that was our guidance this morning from our first  
5 meeting as a committee.

6 You'll also see that the matrix is more heavily  
7 weighted on the con side than the pro side. That is  
8 not to suggest we don't see any pros. It just means  
9 that we didn't have time to develop that as part of our  
10 discussion this morning.

11 I felt like it was a pretty good discussion.  
12 Tomorrow, we'll spend more time not just talking about  
13 this matrix, but really my goal, if it's the will of  
14 that working group, is to get us down to what are our  
15 two top priorities that we want to work on that could  
16 be brought to this committee. That might be three.  
17 I'm just using two as a holder.

18 But I'm hoping by tomorrow morning we have a  
19 little bit of homework to do ourselves, that we could  
20 come back to the committee and say here's two options.

21 Likely there will be a minority and a majority  
22 position in those options, but I would hope we'd bring

1     them back to the committee.

2             Welcome your participation. Happy to answer  
3     questions. Any additional comments from the rest of  
4     the workgroup, I'd be happy to entertain them.

5             MS. BRYAN: Thank you, Carol.

6             I'd like to open it up for questions of  
7     clarification for those of you who were in the other  
8     group or not able to attend all parts of the needs  
9     discussions.

10            (No response.)

11            MS. BRYAN: So while you're thinking, I'm going to  
12     ask Jason to give his report on the FCAS workgroup.

13            MR. ADAMS: Well, I see where the agenda has us  
14     going until 4:45 p.m. I was hoping you'd go to like  
15     4:40 p.m. or somewhere in there, another 40 minutes.

16            MS. GORE: Don't tempt me, Jason. I could talk  
17     all day.

18            (Laughter.)

19            MR. ADAMS: Well, the FCAS workgroup got started  
20     this morning, and one of the issues that immediately  
21     arose was an issue that was addressed yesterday  
22     afternoon from one of the workgroup members from

1 another region, other than my region, had asked about  
2 the issue that was raised because we are right now --  
3 we ended yesterday talking about the issue of home  
4 ownership units and when they go off the count. And  
5 that was part of the -- in the regulation where we were  
6 at yesterday. I mean the statute language.

7 And so, we wanted to -- and I had failed over the  
8 evening or this morning to ask Rodger to come and talk  
9 to our workgroup about that. And so, we began this  
10 morning immediately asking HUD for that discussion on  
11 the President's budget request language because the  
12 President's budget request language says -- under  
13 legislative and regulatory proposals, it says under  
14 other proposals, "The budget shall propose several  
15 legislative reforms to improve the allocation of grant  
16 funds and strengthen program oversight, including, one,  
17 phasing out of the formula home ownership units  
18 developed under the U.S. Housing Act of 1937."

19 And that was specifically the issue that was  
20 raised as far as that's an FCAS issue. That's  
21 something that needs to come to the workgroup and at  
22 least should have had a stop here at the committee.

1 And so, we thought that it was prudent to bring that up  
2 in the workgroup and start the discussion there.

3 And so, we did start the discussion. Some of the  
4 HUD folks in the room were able to explain that from  
5 their position on the issue, it was what the language  
6 appeared in the President's budget request was a little  
7 different than what they had actually talked about.  
8 But ultimately, they were seeking some type of  
9 legislative fix that would be an issue that would help  
10 for them to clarify the issue.

11 And we are still working within the workgroup to  
12 get some more of the parameters of what the issues are  
13 that they have to address because the statute language  
14 gives some reasonable timeframes as far as when that  
15 conveyance time comes. And if you haven't conveyed,  
16 there are some reasons for that.

17 And so, we had a discussion, but some of the  
18 FirstPic people wanted some time to really collect  
19 their thoughts and some of the paperwork items that  
20 they've been through on this issue and report that back  
21 to the workgroup. And so, we are still waiting for  
22 that work to come back.

1           But in the meantime, we moved ahead and we jumped  
2 to that issue. We actually stepped over that issue  
3 yesterday and went to the issue of when a unit can be  
4 rebuilt under the demolition language that was added in  
5 2008.

6           We suspended that discussion and came back to this  
7 issue and began our discussion, and this is really  
8 specific to 302(b)(1)(B) and (D). And that's where the  
9 two sections talk about when the DOFA date plus 25  
10 years expires, that that unit should come off of your  
11 FCAS count.

12           And so, we had a lengthy discussion this morning  
13 about that issue, and we were working towards -- we  
14 developed this morning also within our workgroup, we  
15 appointed some folks or asked for volunteers to be a  
16 part of the drafting committee within our own workgroup  
17 that would take the concepts that we come up with and  
18 take those to an opportunity to write specific  
19 regulatory language that would be proposed back to the  
20 workgroup and then, from the workgroup, approved and  
21 brought to the committee if, again, there was a  
22 unanimous consent on those issues.



1           So we did -- we worked on the concepts for this  
2 issue, and there was some efforts there. And from  
3 HUD's perspective, they really struggle with the  
4 reasonable efforts clause that's in the statute  
5 language and how that can -- you know, how long are  
6 they supposed to, you know, work with tribes as far as  
7 conveyance of units? We heard some stories that in  
8 some cases there is a lot of different road blocks, and  
9 we heard a lot of different scenarios.

10           And one of the last things is we did have a good  
11 discussion about subsequent home buyers and how that,  
12 you know, is addressed in current regulation as far as  
13 when the clock stops on an MHOA agreement. So I think  
14 we left that issue pretty well -- pretty well discussed  
15 and didn't think that it needed any real reforms as far  
16 as the MHOA and subsequent home buyers.

17           We did go back and talk about the reasonable  
18 efforts and tried to talk through some scenarios and  
19 trying to figure out what could cause these delays in  
20 the conveyance issues. After we exhausted that  
21 conversation, we had some bullet points from that.  
22 Then we decided to move on.

1           Really what HUD was asking for is a date that is  
2     date certain. You know, if it's 25 years, DOFA plus 25  
3     years with an additional 2 years, that there is a firm  
4     date that at some point in time, home ownership units,  
5     for whatever reason, come off of the count so that  
6     they're no longer receiving the money for the unit.

7           Now the conveyance issues can go on, and they can  
8     go on forever in some cases. But to be fair to all the  
9     rest of us, there has to be that date when they convey  
10    or they come off the count. And so, that's really the  
11    issue that HUD is trying to get to the bottom of,  
12    asking for some of the regulatory language on that 2008  
13    statutory language. So we are working on that still,  
14    but we did move on after this morning getting our  
15    thoughts around that issue.

16          Then we moved on to the demolition issue, and that  
17    was raised. You know, that's 3000 or -- excuse me,  
18    Section 302(b)(1)(C), and that statutory language is  
19    specific to, you know, a unit can be rebuilt within so  
20    much -- the specific language in the statute says you  
21    have 1 year to be rebuilt.

22          We are taking some liberties with that in the

1 workgroup as far as expanding when that time period can  
2 happen, and we're going to propose some language here  
3 in short order. We're actually at a place now where  
4 our work -- drafting committee is going to be drafting  
5 some language, and we might have some language on this  
6 issue by tomorrow. So this issue is moving ahead quite  
7 rapidly.

8 We did come back this afternoon after lunch and  
9 finalize the bullets, the specific bullets on that  
10 issue, and I think those are the bullets that we have  
11 up there as far as reasonable timeframe to rebuild.  
12 And those are some of the ideas that we're working off  
13 of as far as how much time, what the issues would be as  
14 far as when that process can begin.

15 We are looking right now at a process that would  
16 be -- it would start with the recipient basically  
17 giving a certification of intent of when that process  
18 will start, and then we will -- then there'll be a  
19 timeframe set in their intent, and we're looking at a  
20 3-year timeframe.

21 And then do you have the five bullets that we were  
22 going to -- there they are. No, that's -- oh, there

1 they are. Okay. On this side. Those are really the  
2 five bullets that we came down to that we are passing  
3 on to the drafting committee within our workgroup to  
4 craft language based on these five bullets.

5 That first bullet is tribes will have 1 year to  
6 certify in writing to HUD that they have taken action  
7 to rebuild. Number two bullet, the tribes have 3 years  
8 from the date of certification to rebuild the unit.  
9 Third one, they will notify HUD through formula  
10 response form when the unit is rebuilt. Four, if the  
11 unit is not rebuilt, it will be removed from FCAS  
12 permanently and no repayment. So during those  
13 potentially 4-year time cycle if you don't get that  
14 done, you won't have to repay the money, but you just  
15 won't get further money for those units.

16 Last bullet is at the end of 3 years, the unit  
17 will no longer be counted as FCAS until the tribe  
18 notifies HUD that it has rebuilt the unit in that 3-  
19 year time period. So those five bullets will be  
20 condensed down into regulatory language that will be  
21 brought back to the committee at some point in time.

22 So, hopefully, by tomorrow, we'll have some

1 language that we will from the workgroup put our stamp  
2 of approval on or not. So that is then we started back  
3 after we had these bullets back to formalizing the  
4 bullets for the other discussion on the -- on the FCAS  
5 units, home ownership units. And so, that's where  
6 we're at now.

7 So I think I've covered everything. I hope if  
8 anybody in the workgroup, if I missed something, please  
9 speak. Don't let me miss anything. But we were busy  
10 trying to get through. We had a lot of good  
11 discussion, a lot of good input from the workgroup  
12 members that are engaged and participating, and so it  
13 seems to be working pretty well as far as the work of  
14 the workgroup.

15 So, with that, I turn it back to you, Co-Chairs.

16 MS. BRYAN: Thank you, Jason.

17 Are there any questions for Jason, clarifying  
18 questions about what he's presented, for those of you  
19 who weren't in the meeting room?

20 (No response.)

21 MS. BRYAN: Okay. I think that puts us a little  
22 ahead of schedule. So I'm going to defer to my -- I

1 have one order of business regarding the letter to  
2 Sandra this morning. I wanted to clarify or add to  
3 that that we were remiss in saying that the gratitude  
4 comes from the 566 federally recognized tribes as well  
5 as the 5 State-recognized tribes.

6 So --

7 MS. HENRIQUEZ: Thank you. Duly noted.

8 MS. BRYAN: I will defer to HUD on this. Is it  
9 okay to have public comment at the time before the  
10 agenda states, as we are ahead in our agenda?

11 MS. HENRIQUEZ: As the co-chair, it is your  
12 discretion.

13 MS. BRYAN: Thank you. So rather than calling a  
14 break, I think I'd like to just continue rolling on and  
15 start the public process, public comment part of our  
16 agenda.

17 So we're going to have the microphone in the back  
18 of the room like we did yesterday. If you have public  
19 comments, please come to the back of the room,  
20 introduce yourself and who you're representing.

21 Thank you.

22 (Pause.)

1 MS. BRYAN: So, for the record, we did open up a  
2 public comment period, and hearing none, I'm going to  
3 move to the summary of day two.

4 We started our day with comments, prayers, and  
5 appreciation. We broke into workgroups. Everybody  
6 worked very hard during the day and got a really good  
7 start and started digging into things. We had our  
8 report-out, public comment, and we will end with  
9 closing prayer.

10 And for tomorrow, we're going to be back here at  
11 8:30 in the morning for our opening prayer.

12 So if I can -- are there any closing comments  
13 before we end our day? Heather?

14 MS. CLOUD: Heather Cloud with the Ho-Chunk  
15 Nation.

16 With the needs group, I guess I'm kind of  
17 struggling with we have a lot of material on our matrix  
18 that deals with variables and data, and to go from  
19 there, it seems as though we're spinning our wheels as  
20 to a data source.

21 I am looking for input from the committee as to  
22 which direction or directions is this workgroup to

1 proceed forward because, as a workgroup, we can't take  
2 any action and say, okay, this is the one that we're  
3 going to do, and this is how it's going to be done.  
4 That ultimately is the decision of the committee.

5 So I would like to hear from the committee members  
6 as to how we're to proceed forward. So that way, I  
7 understand correctly what it is that we're working on.

8 MS. BRYAN: Was your question for the workgroup  
9 chairperson?

10 MS. CLOUD: The question is posed to the entire  
11 committee, as we're going to be the ones that are going  
12 to be voting whether it's a consensus or not on which  
13 one we're going to be looking at to run these factors.

14 And so, which one is this workgroup supposed to be  
15 focused on? So that way, we can dig in deeper because  
16 a lot of the other things are contingent upon this.

17 And if we don't really have a direction on which  
18 one or which ones we're supposed to be going to, Carol  
19 explained, you know, this is what we've come up with.  
20 This is what we're presenting to the committee. I  
21 guess does the committee have input on where we should  
22 be going? That's my question.



1 MS. GORE: I think if I could just clarify, and it  
2 would be very helpful if we have some feedback. So we  
3 have six on the list. They haven't been thoroughly  
4 debated, but I think my sense of the workgroup is we're  
5 ready to get down to what is the data source we should  
6 be using to examine the rest of the work?

7 In the absence of a data source, it's difficult to  
8 move on to the rest of the work. And I think that's  
9 the point Heather is making. So if you have any  
10 particular ideas, whether they're on this list or  
11 completely different, it would help inform our  
12 workgroup, and we would be glad to use that feedback to  
13 help us focus tomorrow morning.

14 And thank you, Heather, for asking that question.

15 MS. BRYAN: Thank you, Heather. Thank you, Carol.

16 So folks who weren't in the needs workgroup,  
17 looking at what they've come up with, committee  
18 members, do you have any suggestions or additions for  
19 this portion of the meeting?

20 It's an awful lot to take in. So, Karin?

21 MS. FOSTER: Well, I'd like to make a suggestion.

22 This is a lot to take in, for those of us who were

1 working all day. I switched workgroups today because I  
2 was interested in this particular issue today.

3 Maybe it would make sense for people to have an  
4 opportunity to take a look at some of these ideas and  
5 consider maybe whether there are other things that they  
6 want to share on a committee level before the workgroup  
7 goes into their work tomorrow. I think we'll be  
8 getting together probably for a session we'll be in the  
9 morning together.

10 So maybe that would be a time to discuss this if  
11 it's something the committee wants to discuss as a  
12 whole?

13 MS. BRYAN: Thank you. I really like that  
14 suggestion, and we will be getting together in the  
15 morning at 8:30.

16 Also reminded me, in the needs workgroup, there  
17 was a lot of data passed out that those of you in the  
18 FCAS workgroup didn't get to see. Is there a place  
19 where some of those handouts will be available for the  
20 just the --

21 MS. FIALA: Everything that was passed out today  
22 will be available on the Web sites. I'll just need a

1 little bit of time after this session is over to be  
2 able to go and post them. So if you go up, all the  
3 workgroup products are under -- on the main site under  
4 "documents," there's a dropdown that says "workgroups,"  
5 and you'll see it's broken out into "needs" and to  
6 "FCAS," and everything is labeled and dated.

7 So you can see the products going all the way back  
8 to the first session of the workgroups, all the way  
9 through tonight. So those will be up a little bit  
10 later. I probably just need some time to run upstairs  
11 and post them up. So --

12 MS. BRYAN: That's perfect. So make sure you  
13 check your portal, and you can see what the other  
14 workgroups were exposed to today.

15 Mr. Adams?

16 MR. ADAMS: Well, to answer your question, I guess  
17 I would like to just say that in my experience in being  
18 a part of this negotiated rulemaking process now for  
19 several years, from the first relook at the formula was  
20 when I first got involved with this, even doing some  
21 research back to the first negotiated rulemaking when  
22 the first rules were set, the regulations were set,

1 that the issue of dataset has been an issue all along.

2 And that first Negotiated Rulemaking Committee was  
3 concerned about the issue so much that there was talk  
4 about trying to develop something else that was tribal  
5 specific. And in lack of that, we settled with census.

6 And that issue came back up to us again at the first  
7 negotiated rulemaking on formula and looking at the  
8 issue again.

9 And at that meeting, specifically, I remember from  
10 the minutes of that meeting I just read recently that  
11 the Assistant Secretary that was at the table was  
12 committed to providing research and study into a new  
13 dataset, and we know that that never happened. And now  
14 there is language specifically in statute that talks  
15 about and there's additional language in the statute  
16 that requires funding for a study into a new dataset,  
17 and that hasn't happened.

18 And so, here we find ourselves again at this point  
19 in time again at another negotiated rulemaking on the  
20 formula trying to figure out a dataset, an issue on  
21 data. And so, I'm concerned that we're again here,  
22 spending our time and our precious time and resources

1 to be here to have a discussion on these issues, and if  
2 we just rehash old ground, redig up old areas, then  
3 we're not really going to get anywhere.

4 My hope is that starting in the workgroup level --  
5 and not participating in it, maybe it's easy for me to  
6 say this. But my hope is that the workgroup really  
7 looks at the intent of the statute and what the intent  
8 of the statute is as far as what the data is supposed  
9 to gather and what the formula is supposed to do. That  
10 is my hope.

11 If we haven't done that or we're not going to go  
12 there, then what's the use of being here? But it's  
13 really my hope that we do that, that that exercise is  
14 done. And if there is a dataset out there that we  
15 haven't looked at, let's find it. If we don't, let's  
16 create one. But let's really look at the intent of  
17 what NAHASDA says.

18 If we've done that and we feel good that we've  
19 done that, then we can all go home feeling that we've  
20 done our job. But until we do that, I don't think  
21 we've done what we're here to do. And so, it's really  
22 my hope that that's what the workgroup is doing, is

1 looking at the intent of NAHASDA and finding that. If  
2 it doesn't exist, then we'll find something that does  
3 to meet the statute.

4 But that's, again, my perspective on the history  
5 of this issue, where we've come from over the years,  
6 and it's really -- it just hasn't gone very far, and I  
7 can't blame anybody but myself. I'm not blaming  
8 anybody here at this table. I'm not blaming anybody  
9 from the past. I can only blame myself. So that's my  
10 perspective.

11 Thank you.

12 MS. BRYAN: Heather?

13 MS. CLOUD: I just want to say thank you, Jason.  
14 The co-chairs did a really great job. We started out  
15 the day kind of trying to figure out where it is that  
16 we're supposed to start, and that was the initial  
17 discussion. That took us through the whole first part  
18 of the morning, and that's kind of where we went in  
19 circles.

20 It's like, okay, well, as we're looking at the  
21 intent, there are so many different components to the  
22 statute. So then do you start looking at the

1 variables, or do you start looking at the data, or do  
2 you start looking at the dataset? You can't look at  
3 any variables until you have a dataset. So then that's  
4 when we started discussing, well, what datasets are  
5 available?

6 One of the things the Assistant Secretary had  
7 mentioned this morning is that if we're going to create  
8 a new dataset, that that would take some time. There  
9 was suggestions to put it in the regulations that a new  
10 dataset be created, possibly having a task force  
11 delegating that task to someone to continue that work  
12 within a specific timeframe. So that's one of the  
13 ideas that we put out there.

14 There was concern as to, you know, as you had  
15 stated already, there's things in the regulation that  
16 aren't being done, and would that be one of those  
17 things in the regulation that are never addressed, and  
18 that's just hanging out there? And at the end of the  
19 timeframe that we specify, if nothing's done, well,  
20 then what do we do?

21 So at this time still even there was discussion  
22 about the numbers, data runs, the committee making

1 decisions on whether they're going to be in consensus  
2 or not with anything that's presented. With some of  
3 the -- as you can see, you're using tribal data or a  
4 new survey or coming up with new matrix is one of the  
5 cons you can see is that we don't have those  
6 information and those numbers available right now. We  
7 are kind of constricted on the timeframe and the number  
8 of meetings that we have left. We do have a lot of  
9 work. We're just barely touching the issues.

10 I mean, this is like the first issue that we've  
11 actually went into discussion, and there's a long list  
12 of things that we need to do. So that's why I'm  
13 looking for clarification, like what does the committee  
14 feel? I think that's a great idea.

15 I brought it up before we close so that way people  
16 will have time to look at it and read through it and  
17 make an informed decision, you know, when we come back.

18 So that way when the workgroup regroups, we can look  
19 at all of these other things that are on the list and  
20 say, okay, these are the variables that we're looking  
21 at. This is the information that we can gather.

22 Because we did start there, and it's kind of like,



1 all right, so then which one is it, or which direction,  
2 or can you narrow it down to two? Because if we look  
3 at each one of these items, data sources that are  
4 possible, and each one of the things that are on the  
5 list, I don't believe that we honestly have enough time  
6 in the amount of sessions to give each one of them the  
7 correct, I don't know, how do you want to say, it's the  
8 proper amount of time for discussion and debate for all  
9 of the things that are on the list for each one of  
10 these possibilities.

11 So that's kind of why I'm looking for input,  
12 feedback from the committee to help us better focus on  
13 what it is that we can come back with tomorrow before  
14 we leave at the end of the session.

15 Thank you.

16 MS. BRYAN: Thank you. Sorry if I went out of  
17 turn. Michael?

18 MR. THOM: Michael Thom, Karuk Tribe.

19 I just wanted to thank our working group for a  
20 learning session for me. I'm a new committee member  
21 and a tribal leader, and I am with Jason leading our  
22 group and HUD representatives answering all the

1 questions, and I think that's what negotiation is,  
2 working together and getting a common goal.

3 So I just wanted to say thank you guys.

4 MS. BRYAN: Thank you, Michael. Earl?

5 MR. EVANS: Thank you for recognizing me, Madam  
6 Chair.

7 In regards to the question posed by Ms. Cloud, I  
8 think a lot of that came out in the session today, and  
9 it reminds me of some discussions we had at the prior  
10 meetings. I think there was some discussion around the  
11 table about possibly coming up with a completely new  
12 formula as opposed to using the current formula. There  
13 was discussions about modifying the formula, et cetera.

14 And I think one of the things that we kept  
15 emphasizing then was we wanted to leave it open so that  
16 we could explore new ideas and new possibilities. So  
17 it's my hope that that those who are among the tribes  
18 who feel that they have better datasets or better  
19 variables or better things to consider than using  
20 anything census related, that they would bring those  
21 suggestions forward so that they can be evaluated,  
22 properly considered within the context of how they're

1 presented, and that the committee can make an informed  
2 decision as to whether or not those things make sense.

3 But I also go back to not only what Mr. Adams  
4 presented earlier, but also what was said in the  
5 working group session today, which is we're here to  
6 draft regulations. So I think, if nothing else, I  
7 would encourage the committee that if we can't come up  
8 with something within a reasonable amount of time, then  
9 at the very least, we owe it to ourselves and to the  
10 tribal nations we represent to develop a regulation  
11 that says what the fallback position is in terms of  
12 what dataset is to be used in order to calculate how  
13 the funds will be disbursed.

14 Thank you.

15 MS. BRYAN: Good. Thank you, Earl.

16 Any other comments, closing remarks?

17 (No response.)

18 MS. BRYAN: I, too, would like to thank HUD. This  
19 is a wonderful process, and all of the folks who've sat  
20 around this table before, it's certainly a great  
21 learning experience.

22 MR. DOLLARHIDE: I will, if there's -- excuse me,

1 if there's no other questions from this committee, I  
2 will go ahead and close this meeting with a prayer.  
3 I've asked Russell Sossamon from the Choctaw Housing  
4 Authority to offer that prayer.

5 MR. SOSSAMON: Almighty God, Sovereign Creator,  
6 loving Father, we stand before you as your children.  
7 We love you, Father, for your word. Your words  
8 promised us your spirit, and we ask that that spirit be  
9 poured out freely so that as your children, we may obey  
10 your example and your commandment and love one another  
11 as you loved us.

12 We ask this in Christ's name, amen.

13 MR. DOLLARHIDE: Thank you, Rusty.

14 And with that, we will go ahead and recess this  
15 meeting if there's no other issues before this  
16 committee, and we will start up again at 8:30 in the  
17 morning.

18 (Whereupon, at 4:31 p.m., the meeting was  
19 adjourned.)

20

21

22