| **REVISED JULY 30, 2014** | | | |
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| **Item #** | **FCAS Work Group Issue** | **How Issue was Addressed** | **Status as of 7/30/2014** |
| 1 | Review of Subpart D Regulations and Statutory Changes -- Demolition and Rebuilding of units | The work group developed bullets, the drafting committee wrote draft language and the work group revised the language. | Draft language ready for full committee review |
| 2 | FCAS Factors -- 2008 Indian Housing Operating Cost Study/Local Area Cost Adjustment Factors | The work group reviewed the Cost Study, and given its length and complexity requested a presentation summarizing the Cost Study. They discussed how AEL, FMR and TDC are used in the formula, and the strengths and weaknesses of each of these local cost adjustment factors. They also considered a new factor, United States Department of Agriculture (USDA) 515 local area cost adjustment factor, which the study recommended adding. The group is waiting for a response to their TA request for the 515 data, and for HUD to do a run that (1) uses the better of FMR, AEL and 515, and (2) uses FMR and 515. HUD has contacted the USDA to start the process to get current data. It will take several months to get the data via inter-agency agreement process, then aggregate the data and do the analysis. | Still under consideration. Waiting for presentation summarizing the Indian Housing Operating Cost Study; waiting for the simulation using USDA 515 data. |
| 3 | Mutual Help conveyance (units that reached DOFA + 25 but haven’t conveyed) | The group extensively discussed this issue. They discussed the interpretation of “reasonable efforts,” and the range of options for handling units that are not conveyed at DOFA + 25. They looked at categories of reasons that prevent conveyance. They made a TA request for a list of issues that prevent conveyance. Since this area is so challenging, they decided to form a sub-group to address it. | An FCAS sub-group is working on proposed language to present to the work group at the next session. |
| 4a | 1000.306c regarding Section 8 Units | There is a conflict between the statutory language, which says that Section 8 units will continue to be counted, and the regulatory language, which says that Section 8 stock will diminish along with other housing stock. The FCAS work group had an extensive discussion about how to interpret the language about Section 8 units. They decided to recommend removal of regulation 1000.306c because it is inconsistent with the rest of the statute. They will classify this as a technical correction to the regulations. They work group decided that the drafting committee also should develop some preamble language to indicate why they are removing the regulation. | Proposed technical correction to regulation 1000.306c. |
| 4b | Conversions | The work group segued into a discussion of how to count units that converted after FY 1997. The work group discussed the consequences of changing the way converted units are treated and having the subsidy follow the use of the unit. After extensive discussion, the group was unable to reach consensus on changing how converted units are funded. They decided to regulate the existing practice by adding language to 1000.316c. | Draft language ready for full committee review |
| 5 | Recipients of FCAS money with no or low needs | The work group reviewed the two TA requests that provide data to address this issue. They discussed whether tribes with no needs should receive funding, and also whether tribes that no longer have FCAS should receive funding. The work group submitted a TA request to determine which tribes don’t receive their grants, and how much money goes back to IHBG as a result. After studying the issue, the group determined that 1996 hold harmless language prevents them from coming up with regulatory language that affects recipients that get FCAS money but have no needs. | Studied issue but nothing to present. |
| 6 | Time limitation on grantee expenditures | The group discussed the ramifications of the new appropriations language from 2012 on that put a time limit on funds that are allocated. HUD and tribes want to craft a regulation regarding unexpended balances in order to justify continuing to get at least the same level of IHBG funding. They discussed how to deal with loss of funds because they aren’t expended within the time limit. HUD said that they can’t recapture money from tribes that already have been allocated money. However, they can reduce or suspend future grants for tribes that have not expended their funds in a timely manner. The TA request for LOCCS balances was filled and the group discussed the data. The group also discussed a draft proposal on how to handle this issue. They addressed a number of aspects of the proposal including threshold (what would trigger this rule), and expressed concern about the due process provisions. The work group revised the proposal and all but one work group member approved it. The one dissenting vote was because of the implementation date. | A sub-group will address the 1000.336 issue before the Scottsdale session. All but one work group member approved the incomplete proposal. |
| 7 | Statutory Section 302C as it pertains to FCAS funding – other factors for consideration | Statutory language says that they will “consider” other factors in the funding formula. The work group discussed other factors, particularly administrative capacity. They also discussed whether they should give bonuses to tribes that are facing challenges. They extensively discussed challenges related to geographic distribution, and made a TA request for BIA roads data and IHS water and sewer data that might help them measure geographic dispersion. They also discussed infrastructure and how costs are inflated in rural areas. A major concern about adding another factor was that money would come from Needs. | Still under consideration. Waiting for BIA and IHS data. |
| 8 | HUD processes and practices that could be in conflict with current practice | The work group made a TA request for applicable guidances and notices, and reviewed them all. The only process/practice that is out of step with current regulations is 98-19, which was addressed in item 4b. | Completed. |
| 9 | NAHASDA assisted units | The work group discussed the definition of NAHASDA assisted units and what would happen if these units were subsidized. They made a TA request for the number of units developed or acquired under NAHASDA. They want this done separately for rental and home ownership units. They also made a TA request for the history of preamble language regarding subsidy for NAHASDA units from previous Negotiated Rulemaking sessions. | Still under consideration. |
| 10 | Data challenge procedures | The work group reviewed three sections of the regulations. For Section 1000.336, regulation relating to challenging data or HUD determination, HUD provided information showing that since 1998 there have been no challenges to TDC or FMR data. The work group decided that since there have been no challenges, there is no need to change this regulation. However, if they include a new cost factor, they will need to amend the regulation to include it. For Section 1000.315 and 1000.319, the group determined that no changes are needed. | Studied issue and no changes needed. |