

## **FCAS Group Meeting**

4/23/2014

This work group is open to adding new issues that are relevant to FCAS portion of formula.

**Add this to the list of issues:** Want to address what happens to unit that is destroyed beyond control of HA – what if tribe takes eminent domain of property that unit is sitting on – what happens to subsidy for unit if beyond control of grantee and can't rebuild unit with same footprint. Also problem of needing to move FCAS units because of natural disasters, erosion – can't rebuild unit with same footprint. This is a statutory issue so it is included in issue 4 below.

### **Make changes to matrix (issues that can be both FCAS and Needs)**

- Definition of small tribes –needs issue (minimum needs tribe)
- Use of TDC factor – keep
- Technical corrections – keep
- Review all regulations under subpart D and any statutory changes –covered already?
- 2008 statutory amendments – covered already?
- Tribal needs protection from FCAS draws – keep and vet later
- How many small tribes are there –needs issue
- Comparisons of total small tribes' funding to total funding –request for information
- Agree to variables that will be looked at before doing data runs – process issue
- HUD processes/practices that could be in conflict with proposals – want to put together list of practices that could be in conflict

### **The updated FCAS Matrix List** (as of 3:00pm, September 19, 2013)

1. NAHASDA Assisted Units
2. Data Challenge Procedures
3. Continued use of FCAS factors and definitions
4. Review of all regulations under subpart D and any statutory changes if not otherwise *also covered*
5. Recipients of FCAS money but have no needs
6. HUD processes/practices that could be conflict with proposals
7. Put a time limitation on a grantee expenditures
8. 1000.306 C/Section 8
9. Statutory Section 302.C as it pertains to FCAS funding (not overall funding) – specifically, administrative capacity to spend FCAS money

## **New issues?**

Carol – there are lots of sub-issues that fall below the eight listed issues.  
Her concern: What is FCAS? Does #1 above address this – what units count as assisted units?

**Add to the list: Statutory Section 302.C as it pertains to FCAS funding -- another factor for consideration – performance factor for FCAS – administrative capacity to spend FCAS money -- wants to add this to the list as issue 9.**

## **Priorities**

Suggestions:

- Look at amendments to statute first to specifically determine which are FCAS and which are need, i.e., start with issue 4. Can eliminate issues that aren't FCAS-related. They've already done this.
- Make issue 4 the first issue. But Carol wants to keep opportunity to address low hanging fruit.

## **Prioritized List of Issues**

1. Review all regulations under subpart D and any statutory changes if not otherwise covered
2. Data Challenge Procedures
3. Continued use of FCAS factors and definitions
  - Defining TDC and AEL
4. 1000.306 C/Section 8
5. Recipients of FCAS money but have no needs
6. Put a time limitation on grantee expenditures
7. Statutory Section 302.C as it pertains to FCAS funding (not overall funding) – specifically, administrative capacity to spend FCAS money
8. HUD processes/practices that could be in conflict with proposals
9. NAHASDA Assisted Units

Concern that will take a long time to come to agreement on NAHASDA Assisted Units  
Would prefer to put it at the end.

Suggestion that address something that is lower on the list of priorities if it can be resolved before the end of the week.

**Issue 1: Review all regulations under subpart D and any statutory changes if not otherwise covered.**

Reviewed regulations.

**Discussed 302(b) Factors for determination of need:** (1)(A), (1)(B), (1)(C), (1)(D) and (1)(E). HUD thinks there is no need for regulations around (1)(E).

There are a number of sub-issues in this section of the regulations. Issues in (1)(B) and (1)(D) are interrelated.

**302(b)(1)(C)**

Could add new subsection D to 10318 – could say unit is determined to be rebuilt if certain conditions exist. Discussed saying that money has to be obligated for unit. Problem is that there is no clear definition of obligation, so leaving control over interpretation of obligation to HUD. Need to document intent to rebuild in specified time period. Contract to start work or build is stronger than intent. HUD does not want to monitor compliance.

There are occasions where the tribe can't rebuild in the same place. In this situation, it will take more than one year to rebuild elsewhere because need to find new location, go through site review, acquire land, design units, etc.

Unit deemed to be rebuilt in one year if..... Two scenarios – one if using same site and another if need to find a new site. Need to determine reasonable time with documented progress. Documented progress might be obligated funds, contract, etc. Need to make progress in first year.

PIH notice 2026 – discusses meaning of obligation.

