



## MEMORANDUM

September 9, 2016

TO: Tribal Housing Clients

FROM: HOBBS, STRAUS, DEAN & WALKER, LLP

RE: ***2013-16 HUD Formula Negotiated Rulemaking Committee Update***

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The final meeting of the 2013-16 Indian Housing Block Grant (IHBG) Allocation Formula Negotiated Rulemaking Committee will take place in Oklahoma City, OK, on September 20 – 21. HUD organized an hour-long call today to prepare for that final meeting. This memo summarizes the issues addressed during that call.

Lourdes Castro Ramirez, Principal Deputy Assistant Secretary for Public and Indian Housing welcomed the participants to the call. Heidi J. Frechette, the recently appointed Deputy Assistant Secretary, Office of Native American Programs, set out the goals and expectations for the call. The purpose of the call is to provide the Committee members with information and tools in advance of the meeting, so we can have a productive two day session in Oklahoma City. HUD will provide a summary of the public comments prior to the meeting.

Heidi indicated that HUD will not follow up on one of the non-consensus items: the application of the adjustment (for reservations/Remote Alaska) to the needs variables aside from AIAN population count. So, the rule will only apply the 4.88% adjustment to the AIAN population variable.

Aaron Santa Anna, from the HUD Office of General Counsel, gave a brief update of the public comments. HUD received 22 separate public comments, although some of them were duplicative. Several of the comments provided constructive suggestions for addressing the “demolished units” issue that was the basis of one of the changes to the proposed rule that came out of the HUD internal clearance process. Many of the comments focused on the various aspects of the Needs variables: the definition of “Indian lands” in Remote Alaska; the adjusters for inaccurate census data; and the volatility control. HUD would like to get through all of the 22 comments during the two day meeting in Oklahoma City, and to that end will be preparing a summary of each of the comments. That summary will be provided to the Committee members prior to the meeting.

Todd Richardson, from HUD’s Policy Development and Research Office, made a brief power point presentation on some of the Needs data issues. The power point is attached.

He will be sending out a set of detailed data runs to the Committee members over the next few days to highlight an issue that has arisen with regard to the use of ACS data and the volatility control.

Todd explained the current data source and volatility control measures that are in the proposed rule. HUD will be using the 2010 Census data to measure the AIAN population variable, and will be applying the 4.88% adjuster to tribes in reservation areas and in Remote Alaska to account for the undercount in Census data. HUD will be using ACS data to measure the other six needs variables. HUD will not apply an adjuster to the data for those variables. The volatility control will be used to ensure that no tribe loses more than 10% of its grant from the base year calculation (using Census 2000) due to the introduction of the new ACS data source, with the funds to be used for that adjustment to come from those tribes who see an increase of greater than 10%. That volatility control continues from year-to-year until the effect is less than 10%.

One issue that arose from the application of the ACS data is that there is now more year-to-year volatility, because the ACS data is based on rolling sampling, and each year ACS generates a new five-year rolling average (which is what the ACS needs variable data is based on). What happens for some of the recipients (which impacts mostly smaller tribes) is that there are significant swings in the IHBG block grant from year-to-year based on the changes in ACS data. On the chart on the last page of the power point, Todd highlighted one example (this is a real example, although the tribes' names are not included for now – but this is the kind of data that will be provided in the upcoming data run). This tribe (the one highlighted in the middle) will see a significant increase in year one over its base year data due to the use of the ACS. Because that increase is over 10%, that tribe will be contributing some of its increase for the volatility control to the tribes that lose more than 10%. In the second year, due to the change in ACS data from the prior year, that tribe has a significant decrease in its grant amount from the first year of ACS, but the amount of the total grant is still more than 10% over the base year grant amount. So this tribe, even though it has lower funding than it had the prior year, will still be contributing to the volatility control. This result was unanticipated, and results from the internal volatility of ACS data. It is an issue that HUD would like to discuss and address at the meeting in Oklahoma City.

Several participants indicated that they would like to have an additional call to discuss technical questions related to the data and volatility control once the data run is circulated. HUD will arrange for such a call to take place sometime next week.

The floor was opened for questions, but no questions were raised, so the call was ended.

Questions regarding this memorandum may be directed to Ed Clay Goodman at [egoodman@hobbsstrauss.com](mailto:egoodman@hobbsstrauss.com) or (503) 242-1745.